SEN. JUSTIN CHENETTE, SENATE CHAIR
REP. ANNE-MARIE MASTRACCIO, HOUSE CHAIR

MEMBERS:

SEN. PAUL T. DAVIS, SR.
SEN. LISA KEIM
SEN. NATHAN LIBBY
SEN. LINDA SANBORN
SEN. JEFFREY TIMBERLAKE
REP. KATHLEEN R.J. DILLINGHAM
REP. AMY ARATA
REP. H. SAWIN MILLETT, JR.
REP. MARGARET O'NEIL
REP. TERESA PIERCE

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

Meeting Summary
April 12, 2019

Call to Order

The Chair, Sen. Chenette, called the Government Oversight Committee to order at 9:07 a.m. in the Burton Cross Building.

Attendance

Senators:	Sen. Chenette, Sen. Davis, Sen. Keim and Sen. Timberlake Joining the meeting in progress: Sen. Libby and Sen. Sanborn
Representatives:	Rep. Mastraccio, Rep. Millett and Rep. O'Neil Joining the meeting in progress: Rep. Arata Absent: Rep. Dillingham and Rep. Pierce
Legislative Officers and Staff:	Danielle Fox, Director of OPEGA Jennifer Henderson, Senior Analyst, OPEGA Amy Gagne, Analyst, OPEGA Etta Connors, Adm. Secretary, OPEGA
Executive Branch Officers and Staff Providing Information to the Committee:	Laura Fortman, Commissioner, Department of Labor Laura Boyett, Director, Unemployment Insurance Program, Department of Labor

Introduction of Committee Members

The members of the Government Oversight Committee introduced themselves.

Summary of March 8, 2019 GOC Meeting

The Meeting Summary of March 8, 2019 was accepted as written.

82 State House Station, Room 107 Cross Building
Augusta, Maine 04333-0082
TELEPHONE 207-287-1901 FAX: 207-287-1906

New Business

No new business

Unfinished Business

Sen. Chenette noted that Commissioner Fortman could not be at the meeting until later in the morning so asked the Committee if agenda items could be taken out of order. Members agreed and moved to "Continued discussion of Pine Tree Development Zone report pursuant to PL 2017, c. 440."

- **Continued discussion of Pine Tree Development Zone report pursuant to PL 2017, c. 440**

  - **Possible legislative action**

    Director Fox said at the last GOC meeting the Committee discussed the statute governing Pine Tree Development Zones (PTDZ) and the provision that was enacted last year directing OPEGA to do a review of specific performance measures by January 2021. She referred the Committee to the draft legislation in their notebooks to review for the purposes of discussion that removes the language that OPEGA's report be due by January 2021 and is nonspecific about when legislation based on that report could be introduced.

    Sen. Chenette said from the Committee members discussion at the last meeting, they thought the structure that OPEGA is already directed to follow by the direction of the GOC for review of PTDZ programs made more sense than setting a specific date or structure in statute. By removing the specific date of January 2021 it would allow the GOC to set priorities and the direction for OPEGA to do the PTDZ program review.

    Rep. Mastraccio said if the GOC decided to move forward with the PTDZ program draft legislation, it will be heard as a regular bill in the Innovation, Development, Economic Advancement and Business (IDEA) Committee which is an iteration of the former Labor, Commerce, Research and Economic Development (LCRED) Committee that voted on the legislation.

    Motion: That the Government Oversight Committee approves moving forward with the draft Pine Tree Development Zone report legislation. (Motion by Rep. Mastraccio, second by Sen. Keim)

    Discussion: Sen. Timberlake was absent the last GOC meeting and asked for further information regarding the change in PTDZ legislation. Director Fox said the GOC establishes a schedule of tax expenditure reviews. OPEGA proposes a schedule according to statute that lumps tax expenditure reviews in a way that makes sense and lumps programs with similar objectives together. That is the baseline of what OPEGA is directed to do by statute. OPEGA completed a review of the PTDZ program based on a schedule established by the GOC in 2017. Separate from the GOC's work, legislation was considered last year that wanted another review of the PTDZ program within two years of the review OPEGA had just done and that is not consistent with the way the GOC sets the schedule of tax reviews. One of the major intents of that legislation was to give new performance measures for when the PTDZ program is reviewed again. The draft legislation just eliminates the date OPEGA will review the PTDZ program that the GOC set up and recognizes the structure the GOC has always followed of scheduling tax expenditure reviews rather than legislation doing that.

    Rep. Mastraccio added that the PTDZ program was due to expire in 2018 so it was a negotiated attempt to extend the PTDZ program for a 3 year limit versus the 5 years that was requested and the additional requirements for evaluation were inserted. She thinks it is important that now the IDEA Committee understands why OPEGA is not going to be able to accomplish what the LCRED asked be done in the time period of January 2021.

Rep. Millett asked if the GOC was in any way sending a message to the IDEA Committee that the GOC thinks the PTDZ program ought to be extended longer than the original LCRED Committee's decision last session. Rep. Mastraccio did not think the GOC was and the IDEA Committee needs to understand the difficulty of what the LCRED Committee asked OPEGA to do in the legislation they passed last year in a session when the Committee was trying to extend the PTDZ program because they did not want to leave any new Administration without that tool.

Vote: The above motion passed by unanimous vote 10 -0. (Sen. Sanborn voted on the motion when she arrived at the meeting.)

- **Request for review of Maine Commission on Indigent Legal Services**

Director Fox noted that the GOC wanted to wait until the Sixth Amendment Center's (Center) report n on Indigent Legal Services (MCILS) was complete before discussing Sen. Keim's MCILS review request. The Center's report was presented to the Judiciary Committee on April 4th and copies were provided to the GOC. The Center did look at the MCILS program overall with a view towards the design of the system in terms of providing representation to indigent defendants. The report also raised issues with regard to financial oversight and Director Fox referred to Finding 8 and Recommendations 4 and 5 of their report.

Director Fox noted that there may be opportunity regarding the financial oversight of MCILS where the GOC may want to build upon what the Center's report said. The report does say there should be greater financial oversight, although it does not necessarily say how to do that. Issues cited were over billing by attorneys who are vendors for the system and the GOC may want to look at the root causes of that over billing. The reason(s) there were so many invoices that exceeded 40 hours (or whatever benchmark the GOC thinks is reasonable) and will look at the reasons why there were so many billings in excess of those hours. Another question raised by the Center's report, but not answered, is how and why there are billings in excess of $60, the statutory hourly rate for vendors within MCILS and why hourly rates were paid in excess of the $60. There is also a contract for defense services in one county which is unique and is not how it is structured in other parts of the State. A review could look at why that exists and how is it overseen.

Director Fox referred to the letter the GOC previously received from John Pelletier, Executive Director of MCILS, indicating that MCILS had challenged a group of attorneys on some of their overbilling which resulted in an attorney doing a self-audit and finding that double billing occurred, which is going to result in reimbursement to MCILS. The GOC may want OPEGA to look at what audit processes or controls does MCILS have in terms of ensuring that overbilling does not happen or that there are appropriate checks on those that are being paid for their services. She said that is one area where there may be opportunity for the GOC to direct OPEGA to evaluate and look at potential future risks so if the Legislature decides to change, or direct the design of the way indigent legal services are provided, a review may help inform that process and put in place appropriate controls and checks to ensure that effective financial oversight by the Commission, or however it is structured, can occur.

Director Fox said there is another issue raised with regard to screening of those who might be entitled to receive indigent legal representation. The Center's report focused mainly on the concerns of employees of MCILS doing the eligibility screening rather than someone independent. There is limited resources in terms of paying attorneys to represent indigent clients and looking at how that screening occurs to ensure that those receiving the representation are indeed indigent and entitled to the representation.

Rep. Mastraccio asked if vertical representation would be an issue in the billing and something the GOC would look at. Director Fox thinks that would probably be seen during OPEGA's preliminary research and, at that point, the GOC could decide if it was something they wanted OPEGA to look at further.

Director Fox was trying to give the GOC ideas of things the Center identified as problems, but did not necessarily identify the root causes of those problems or provide specifics in terms of how to address and put appropriate checks in place so financial oversight can occur.

Rep. Mastraccio said when listening to the Center present their report it was clear that there is a substantial amount of money that probably does not have any oversight, but that was not addressed in the Center's report. Director Fox agreed and said during preliminary research OPEGA would look at that issue broadly and then drill down to more specifics.

Sen. Keim noted that the Center's report said "On top of this, these attorneys may also work on private cases." and they bring that up as a concern because oversight of how many cases and time the lawyers are spending on these cases. They looked at the Federal Defender Services Division and found that the same attorneys that rose to the top with high billing were also taking cases in Federal Court. She thought if the attorney has a substantial private practice and are taking on a lot of indigent legal services hours than that should be looked at.

Director Fox said OPEGA would be looking at financial oversight very broadly. The above suggestions were examples of opportunities for the GOC to see where OPEGA would not be duplicating efforts of the Center's report and area where they raised questions, but did not identify the root causes or lay out a blueprint of how to provide that level of financial oversight that the GOC might want to see.

Rep. Mastraccio said at today's meeting all the GOC was going to vote on is whether they want to go ahead with the preliminary research which means they will be voting to put the topic on the work plan and begin the preliminary research so the Committee can then decide what the scope of the review would be.

Director Fox said OPEGA would plan how they will conduct their preliminary research and then would come back to the GOC with recommended scope questions.

Sen. Keim said the Center's report points the GOC in the right direction and she thinks they can make good use of the investment the Legislature has already put into MCILS by further tackling the topic. She thinks there are a lot of unanswered questions.

Motion: That the Government Oversight Committee add Maine Commission on Indigent Legal Services to the GOC's work plan. (Motion by Sen. Keim, second by Rep. Mastraccio)

Discussion: Rep. Millett asked if the Chair could restate the motion so he knows exactly what he is voting on. Sen. Chenette said the motion is adding the preliminary review of Indigent Legal Services regarding the financial piece to the work plan so that OPEGA can begin preliminary research, bring that information to the GOC and then they will vote on approving the scope of a full review. The GOC is beginning a process to review MCILS based on the recommendations of the Sixth Amendment Center's report. Rep. Millett said in 2009 the Legislature took the responsibility for assuring that the truly indigent defendants had right to counsel away from the Judicial Department and was impressed by the proposal of retired Justice Robert Clifford. He does not want to move away from that constitutional oversight requirement. Rep. Millett's background since that time has been on a financial oversight side and is why he asked for clarity. He has looked at the Center's findings and recommendations and has no problem with any of them. However, he does not want to lose sight of the lack of quality oversight by the current structure and the lack of serious fiduciary controls over billing. He agrees with OPEGA doing an extended review of the financial components of the Center's findings and recommendations.

Sen. Chenette thought Rep. Millett made a good point and said it is his understanding that OPEGA will dig a little deeper than the Center's report provided. Specifically, there are no mandatory audits from the Commission and that is a red flag. OPEGA may have specific recommendations on what the financial oversight and structure could look like because the Center's report did not articulate concrete steps regarding auditing and oversight.

Sen. Keim referred to effective representation brought up by Rep. Millett because there is significant concern about that issue as well. The Judiciary Committee will be looking at how to ensure effective representation. The financial piece is concerning, but also are people getting the representation they need. Perhaps that should or should not be included in what the GOC is asking OPEGA to review. Sen. Chenette thought the financial piece is very correlated with the effective service that is being provided, or the lack thereof. When you are talking about workload, the number of cases, the amount of money to one attorney and some overbilling issues, it seems from the Center's report that there might be individuals that are not meeting with clients on a regular basis because of the workload and other factors and there might be a financial component to that. He thinks if OPEGA can dig deep and understand, not only the financial component, but maybe a potential solution, it might start to open a conversation about does that then alleviate some of the workload issues and the amount of cases individuals can take on.

Sen. Libby wondered if at the time the GOC was looking at the scope for the review if the State Auditor's Office could be a resource.

Vote: Motion passed by unanimous vote 10 -0. (Sen. Sanborn voted on the motion when she arrived at the meeting.)

- **Progress report on ReEmployME System review**

Director Fox said the ReEmployME System review was assigned to OPEGA last year after reports of concerns with the implementation and rollout of the ReEmployME System (System). OPEGA provided the GOC a memo with some of their concerns with regard to what was being found during preliminary research and thought at this point it might be helpful for the Committee to get an update from the Department of Labor's (DOL) Commissioner on how things are currently functioning with the System.

Sen. Chenette recognized Commissioner Fortman.

- **Laura Fortman, Commissioner, Department of Labor** (A copy of the Commissioner's testimony is attached to the meeting summary.)

Commissioner Fortman thanked the GOC for inviting her to the meeting. One of the issues that came to her attention was the unemployment insurance system (System), the concern about it and the fact that the GOC/OPEGA were looking into the matter. She was delighted that was happening because it is much easier to come into a situation where someone has done some of the groundwork, especially in a complicated program. The Commissioner was looking forward to some guidance and advice on how she could move forward.

Commissioner Fortman thinks there are two issues at DOL that have to be addressed. One is culture and what is happening with the people at DOL and the other is the technical aspects of the program. The first thing she did in regard to workplace culture was to bring back on staff the former Director of the Unemployment Insurance Program (UIP), Laura Boyett. The other hire she made is Deputy Commissioner Kimberly Smith. She also sent out an email to DOL staff letting them know she wanted to hear from them what they were experiencing, areas that improvements could be made and what things were going well. The Commissioner held a meeting with the shop stewards because understands that some folks might be reluctant to come directly to management. Her goal was to open lines of communication.

Sen. Chenette said it appeared that DOL was testing the System for a year and a half and would assume during that time staff were seeing what the new System looked like on their screens and would have gotten comfortable with it before it rolled out. He asked if DOL staff were not included in seeing what the System looked like. The Commissioner said, although she was not there so could not say exactly when they started

looking at the screen, she thought it was a smaller test committee that was working on it and did not know when the full team was exposed to the new screens.

Rep. Mastraccio asked if there was pressure from the vendor to implement the System at that time because of a money issue. Commissioner Fortman would not say it was the vendor representative, she would say that it was pressure for the funding. It was federal funds and time limited. If people had the choice, they would have preferred delaying the rollout.

Rep. Mastraccio asked if State funding was used to pay for training that was a direct result of the early roll out. Commissioner Fortman said it is not State funding, it is federal funds that the State receives to perform the functions. There was also money the State received from the Reed Act before the recession hit that was still available to draw down. No State dollars were used in the training or administration of the System.

Rep. Mastraccio said in December 2017 the System was rolled out and legislators were having a difficult time communicating with the Administration in 2018. The Commissioner said any employer tax dollars that come into the unemployment insurance trust fund can only be used to pay benefits and the administration of the program is federal dollars.

Sen. Libby noted a concern heard was that it appeared the Administration had a preference for using temporary workers as opposed to filling permanent positions during the period of crisis and asked if that practice is continuing. Commissioner Fortman said there still are temporary workers employed at DOL and if they are there for more than a year DOL would be turning them into full-time positions so they do need to be temporary position. Workloads are at levels that can be handled and the wait-times for people calling in have gone down.

Rep. Mastraccio noted that some people did not have computers and asked how well is it advertised by DOL that individuals can sign up for unemployment compensation by phone. Commissioner Fortman said there is nothing about the unemployment system that is easy, so does not want to make it sound like it is simple. If there is anything they can do to improve its user friendliness, they are open to it. When someone files their initial claim, they receive a packet of information and their options for filing their claim are listed. They can file their claim on-line, call in or use paper.

Sen. Libby noted that the wait times for calls is moving in the right direction and asked what the Commissioner's wait time target is. Commissioner Fortman said if DOL can get down to 5 minutes that would be good and said there have been days recently that people have been able to get through immediately. He asked if DOL can get to the 5 minute wait time goal with existing staff. Ms. Boyett said they can during the summer and fall when unemployment claims are lower, but during the winter months no.

Sen. Libby knew that DOL was having trouble with the System and there were several payments made to the vendor to try to correct issues and asked if State dollars were used for those payments. Commissioner Fortman said no, but noted State dollars could be used on UIP, but DOL has not, up to this point, gone to the Legislature to request State money to help fund this program. As the federal dollars continue to shrink, Maine and other states are working with their federal partners to try to figure out if there is another mechanism for identifying how they get those funds because if it continues at the same rate, at some point it does become unsustainable.

Sen. Chenette asked if there was any indication that the vendor was responsible more than DOL staff when it came to some of the issues with the System roll-out. If the vendor was at fault in any step in the process if there is a way to get money back, even though it may be federal dollars that could be re-appropriated to utilize for the same mission. Commissioner Fortman had not dug into that issue, but would think it would be whatever the procurement agreement is. It is not unusual to include those kinds of performance measures in the procurement document. She said there is ongoing maintenance and systems upgrades by the vendor so

there is an ongoing relationship in order to make sure that the systems are maintained, upgraded and enhancements are made so that relationship is continuing. The US Department of Labor is very happy with how this is happening and it is the only consortium model that has been successful.

Rep. Millett asked how the GOC and OPEGA staff can be helpful in the technological interface of where DOL is now and where State policy makers want to go in the future because they all want to be helping people get their claims processed in a timely way and a friendly portal is key. He noted that the GOC has four members on the Appropriations and Financial Affairs Committee and that Committee has an opportunity and obligation to work on DOL's budget and finalize it in the contexts of are there resources there to adequately move forward in a positive way. He asked if OIT is helping DOL interface their improvements with the vendor. He would appreciate any recommendations the Commissioner might have for where she needs help and the GOC can zoom in on whatever they think OPEGA could do to be helpful.

Rep. Mastraccio noted that OPEGA did a review on OIT and that some of the report recommendations have never been implemented and that many of the same problems just keep cycling. The GOC has gone over that report several times since she has been on the Committee and thinks it may be a good time to review it again. This GOC needs to have a discussion regarding technology so she does not think they are ready to remove the ReEmployME System topic from the work plan.

Rep. Millett agreed and thinks the GOC needs guidance before next fall because technology is a good part of it.

Director Fox thought it might be helpful to have more discussion because OPEGA's role is not usually one of a consultant on best practices unless something has already been implemented and are not technical or interface experts. Further discussion regarding what OPEGA's involvement would be, if any, would be welcomed.

Sen. Chenette said the vendor is being paid for maintenance and improvements in an ongoing relationship and would assume that they are supposed to be "the experts" not OPEGA or anyone else. He asked where the vendor was preparing DOL for the challenging times of the year and prepping the systems to handle the workload. Commissioner Fortman said there is a team working on the System which is made up of a combination of DOL staff and the consultants. She would be happy to either have Ms. Boyett, or someone from her staff, give an overview to the Committee if that would be helpful. The team has weekly meetings doing exactly what Sen. Chenette talked about.

Rep. Millett thought it might be helpful if the Commissioner was available for the next GOC meeting for further discussion. Other members of the Committee agreed.

Motion: Move to table the discussion on ReEmployME System pending hearing from Laura Boyett, Director of the Unemployment Insurance Program. (Motion by Rep. Mastraccio, second by Sen. Davis, passed by unanimous vote 10-0.) (Sen. Sanborn voted on the motion when she arrived at the meeting.)

The members of the Committee thanked Commissioner Fortman for being at meeting, providing information and for answering their questions.

- **Continued discussion of prioritizing annual work plan**

Director Fox referred members to the revised GOC-Biennial Plan for Program Reviews and Projects. (A copy is attached to the Meeting Summary.)

One topic on the Stand-by List that the GOC voted on earlier in the meeting is the Maine Commission on Indigent Legal Services topic which was moved to the Approved section of the work plan.

The Director was looking for the GOC to be making decisions regarding prioritizing or taking topics off the work plan. Sen. Chenette noted that the Tax Expenditure reviews are in a different ordering process so will not be included in the discussion.

Sen. Libby noted that on page 4 of the work plan there are two topics, Public Utilities Commission and Publicly Funded Programs for Children (birth to age 5) that are over five years old and wondered if a topic has not made it to the research phase in five years, perhaps the interest has waned on those items and the Committee might consider taking it off the work plan.

Sen. Chenette thought it would be helpful to know why a topic was added to the Stand-by List. He referred to the PUC topic, noting there are currently a lot of interesting dynamics currently at work with the PUC, but probably not based on the initial scope the GOC voted on to add the topic to the Stand-by List. Director Fox said OPEGA has done very little work on the topics and no actions have been taken besides discussion by the

Motion: That DHHS Audit Functions, Public Utilities Commission and Publicly Funded Programs for Children (birth to age 5) be taken off the work plan. (Motion by Sen. Libby)

Rep. Mastraccio said she would second the motion if Sen. Libby would agree to a friendly amendment that he look at other topics, noting that the sponsor of the Maine Law Enforcement Agencies Undercover Operations is on the GOC and would like to have that topic taken off the work plan. She would also remove from the Stand-by List the Maine Power Options and Independent Living Services topics. Sen. Libby agreed to Rep. Mastraccio's friendly amendment to his motion.

Sen. Chenette restated Sen. Libby's motion.

Motion: That the GOC remove all of the items on the Stand-by List in addition to the Approved – Pending planning topic of the DHHS Audit Functions. (Motion by Sen. Libby, second by Rep. Mastraccio.)

Discussion: Sen Keim asked if the topics came in as a specific request from someone saying there is a problem here and look at these or are they topics that got put on the list as low-level requests. Director Fox said they were added to the work plan before her time with OPEGA. Topics come before the GOC in various ways and she could provide the Committee with that information.

Sen. Timberlake referred to the DHHS Audit Functions topic and did not know if it included where the Fund for a Healthy Maine money is spent and thought there were programs at DHHS that should be audited.

Sen. Chenette asked if Director Fox had clarification of whether the DHHS Audit Functions topic included the Fund for a Healthy Maine. Director Fox did not have the information. Sen. Chenette asked if other members had hesitation regarding taking the DHHS Audit Functions off the work plan. Director Fox said if OPEGA has a lack of potential projects they would come back to the Committee with perhaps a more current concern of a program. The DHHS Audit Functions is an approved project so there was a Committee discussion, but does not refer specifically to a Fund for a Healthy Maine. The GOC could bring the topic back with a more specific request.

Sen. Timberlake would like to have the DHHS Audit Functions topic pulled from the motion until the Committee can have a report back from Director Fox of whether it includes the Fund for a Healthy Maine.

Sen. Keim asked if the GOC could vote to remove everything on the Stand-by List and then wait for a report back from Director Fox regarding the DHHS Audit Functions topic.

Sen. Libby said the DHHS Audit Functions topic was vague and put on the work plan in 2013. He did not know if the original discussion involved the Fund for a Healthy Maine. Director Fox said OPEGA would be looking broadly at all DHHS Audit Functions for all of their programs so would be looking at the way the

Department, as a whole, audits each of their programs and would not necessarily be specific to the Fund for a Healthy Maine.

Rep. Mastraccio suggested taking the DHHS Audit Functions topic off the Approved – Pending planning section and put it on the Stand-by list. Sen. Timberlake said he would agree to that.

Sen. Libby said if Rep. Mastraccio, the seconder to his motion, would agree to withdraw the motion, he would move to withdraw his motion to make another one. Rep. Mastraccio withdrew her second on the previous motion.

Motion: That the Government Oversight Committee remove 5 topics on the Stand-by List – 1. Maine Law Enforcement, 2. Independent Living, 3. Maine Power Options, 4. Public Utilities Commission and 5. Publicly Funded Programs for Children (birth to age 5) and move the DHHS Audit Functions to the Stand-by List. (Motion by Sen. Libby, second by Sen. Davis, passed by unanimous vote 10-0.). (Sen. Sanborn voted on the motion when she arrived at the meeting.)

Sen. Chenette noted that the Committee will wait for more information before deciding what to do with the Special Project: Office of Child and Family Services. He asked the Director if it would be helpful if the GOC prioritized their top three projects. Director Fox said working on two projects is the best way to manage OPEGA's resources, but if the Committee wanted to prioritize their top three topics that would be helpful.

Sen. Chenette said from previous meetings it seemed like the CPS: Out of Home Placements for Children Removed from Care by DHHS/OCFS would be their top priority. Rep. Mastraccio thinks Maine Commission on Indigent Legal Services would have to take precedent over the Maine Citizen Initiative Process which is still in Fieldwork. Director Fox said if the Committee agreed that the three projects with priority are the CPS: Out of Home Placements, Maine Commission on Indigent Legal Services and Maine Citizen Initiative Process, OPEGA could find a way to keep all of them moving at the same time.

Motion: That the Government Oversight Committee agrees that the three topics on the work plan with the highest priority are the CPS: Out of Home Placements for Children Removed From Care by DHHS/OCFS, Maine Citizen Initiative Process and Maine Commission on Indigent Legal Services. (Motion by Rep. Mastraccio, second by Sen. Davis, passed unanimous vote 10-0). (Sen. Sanborn voted on the motion when she arrived at the meeting.)

Report from Director

- **Status of projects in process**

OPEGA is in fieldwork on the **Maine Citizen Initiative Process** review and anticipates have a report to the GOC this calendar year so if there were actionable recommendations they could be taken up in the Second Regular Session. The **Reimbursement for Business Equipment Tax Exemption to Municipalities (BETE) and Reimbursement for Taxes Pain on Certain Business Property (BETR)** is in fieldwork and perhaps at the next meeting OPEGA will be able to give the GOC more information on the status of that review. Depending on where things go with the **Pine Tree Development Zones** report legislation, OPEGA will begin work on **Maine Capital Investment Credit** review if the date is removed on the second PTDZ report due date. Also ongoing in accordance with statute is the latest **Expedited Tax Expenditure** review which is focused on charitable tax exemptions and should be a discussion agenda item around July 2019.

Planning for upcoming meetings

Sen. Chenette said they heard from DHHS Commissioner Lambrew that she would like to bring with her to the meeting the new Director of OCFS, Dr. Todd Landry. He will start his new job at DHHS on April 29th. The Commissioner and Dr. Landry have been working together to develop their plan for improvements of OCFS, as

well as the system as a whole and the Commissioner asked if the GOC thought it would be better to have them both at the meeting when they presented their action plan for improvements.

Rep. Mastraccio noted that the GOC had originally scheduled Commissioner Lambrew's report back for the April 26th meeting, but said it would be rescheduled to May 10th. She and Sen. Chenette discussed the need to meet on April 26 and if members agreed, the April 26th meeting would be cancelled. Also because the May 24th meeting is the Friday before Memorial Day, suggested moving that meeting to May 31st. Sen. Chenette said the next two meetings will be May 10 and May 31. Members of the Committee agreed.

Director Fox noted that Laura Boyett, Director of UIP at DOL will also be at the May 10th meeting.

Next GOC meeting date

The next GOC meeting is scheduled for Friday, May 10, 2019 at 9:00 a.m.

Adjourn

The Chair, Sen. Chenette, adjourned the meeting at 10:55 a.m. on the motion by Sen. Davis, second by Rep. Millett, unanimous.

Maine Department of Labor

Information for Government Oversight Committee Meeting
Re: OPEGA Review of the ReEmployME System

4/12/19

Unemployment Insurance (UI) Program Overview & Purpose

- The unemployment insurance program was implemented in the late 1930's in response to the hardships experienced in the Depression because of widespread unemployment.

- It was created to protect workers and communities from the adverse impact of unemployment. Its purpose is to provide a temporary financial safety net for individuals who are out of work through no fault of their own as well as act as an economic stabilizer for communities during economic downturns.

- It is a federal & state partnership program governed broadly by federal law. Federal law requires that individuals must be able to work, available to accept work and actively seek work each week in which a benefit claim is filed to receive benefits. Maine law adds more specificity around eligibility requirements.

- It is an *insurance* program, not welfare or an entitlement program. The law establishes a set of eligibility requirements that must be met for an individual to receive unemployment benefits. Unlike general public assistance programs, there is no assessment of the individual's financial needs in determining benefit eligibility.

Background for New UI Benefit & Tax Systems

- Maine had 2 separate UI systems that were extremely old. The benefit system was at least 25 years old during the last recession and the code was written in Cobalt - a very old computer language that is rarely taught or used in modern systems. The UI tax system was even older and *extremely* brittle. Any changes to either system typically caused serious and costly functionality issues across the system.

- Both systems were at high risk for collapsing which would have meant the loss of all ability to process claims, pay benefits or collect employer contributions. Due to the age of each, neither could be modernized to extend their life cycles. Technically, both systems were well beyond any expected life cycle making them essentially unsupportable.

- At the time, the average combined cost of a new UI benefit system and a new UI tax system nationally was approximately $100 million. Additionally, the success rate of developing a new UI computer system from scratch was around 20%. Therefore, Maine looked for a newly modernized state UI system that had been successfully implemented. Mississippi's system met this objective and a review of their system was very positive in terms of meeting Maine's needs.

- A long-term objective in replacing these systems was to find a more cost-effective means of support. Technology costs to support these systems had risen to a point beyond what a single state could afford. Maine made the decision to enter into a consortium project with MS & RI initially to expand the MS system into one that could be shared by multiple states. Approximately 70% of the core operations of the UI operations are common across states. In the consortium model, Maine would share the costs required to support the core system, cloud environment and maintenance with the other states and then each state would individually pay for the 30% of the programming that is unique to that state (Maine did not adopt MS laws or policies in the new system). The consortium model is expandable to include additional states, CT plans to come on board in 2020 and we are in talks with OK to come on board as well. (RI had to stop work at one point due to a leadership change but has expressed an interest in completing the project to onboard down the road).

- The consortium used the vendor that had built the MS system because of their expertise in the system architecture and experience in building a business rules engine required to make a shared, multi-state system work. Although there were other consortium projects taking place nationally with different vendors – several that started before the ME, MS & RI consortium, - our consortium has been the only successful one to date.

Rollout of New Benefit System

- Maine began staff testing the new benefit system functionality in February 2016 and tested a full 1 ½ years before implementation. Testing consists of using the program's most experienced subject matter experts among staff to literally test every piece of functionality programming to ensure that it functions as expected. The staff testing began after the vendor had done system-wide testing.

- Although the testing performed well, Maine had hoped to do additional testing before rolling out the new benefits system. However, procuring a cloud environment had taken longer than expected leaving Maine in the position of having to move forward or risk the federal funds provided for this initiative expiring. (The consortium received $90 million in federal grant funds to build the consortium system). If Maine had postponed the rollout, there would not have been funds available to build the new tax system.

- Maine made the decision to implement the new benefits system in December 2017. It was not ideal to rollout a new benefits system at that time of year as historically, Maine's unemployment demand doubles beginning in December through March. Winter workloads are always difficult to manage due to staff and funding limitations and longer wait times to get through on the phone are generally experienced during the winter months.

- Implementing a system that is unfamiliar to the public and new to the staff at the highest workload time of the year created issues that overwhelmed the clients using the system as well as those trying to assist them. It was a perfect storm.

Current Operational Status of the ReEmployME Benefits System

- Any new system – especially one as complex as an unemployment benefit system – is going to have unanticipated bugs or glitches that require fixing after rollout, despite extensive pre-implementation testing.

- Additionally, there is an adjustment period for those using the system – for both customers and staff (think about the adjustment period that you go through when Microsoft puts out a new version of Word or Windows).

- The initial system defects identified following the roll out of the new system that impacted workers and caused benefit delays have been resolved. However as with any complex system, additional issues or glitches still come to light. Desired changes also get identified over time as the system is used. The bureau has in place a process for collecting and prioritizing issues and changes identified by staff and users of the system so that they can be scheduled for the system support team to address. These are initially triaged to determine whether they represent actual defects (where the system does not function as expected), or desired enhancements or even represent a need for additional user training. Priority is given to system defects and user training. Enhancements are considered based on cost, return on investment and the availability of resources to accomplish the task.

- Time delays in getting through to the phone system to speak with a claims representative have also dropped significantly compared to the months initially following the implementation of the new system:

	2017- 2018 # Calls	2017 - 2018 Average Wait time	2018-2019 # Calls	2017 - 2018 Average Wait time
December	6,694	38:01 minutes	8,682	19.52 minutes
January	11,056	38:01 minutes	9,198	21:56 minutes
February	7,775	33:35 minutes	8,602	16:01 minutes
March	9,853	23:53 minutes	7,701	9:21 minutes

- Call times continue to come down and there are periods of time throughout the week where individuals calling UI can get through to a claims representative immediately. Wait times during the summer and fall months are generally measured in seconds.

- Of the calls received, approximately 12% involve a request to reset someone's system password because they have forgotten it (this seems to track with password resets requested using the old benefit system as well).

- The primary challenge in getting this number down through the heavy workload months of the winter is staffing. The UI program is federally funded using a workload model based on a state's unemployment rate and claim numbers. With the unemployment rate in Maine being so low, new claims being filed are also at record lows as is the bureau's administrative funding.

- Assuming no absences, we have 15 claims representatives to answer the phones for the entire state and 18 adjudicators who resolve eligibility issues to determine if benefits can be allowed.

Assessment of Current Level of Customer Service Provided Individuals Filing Benefit Claims

A. *Efforts Taken to Improve Service Levels*

- Cross-trained all adjudicators claims processes.
- Mondays are the heaviest call volume day so all adjudicators staff the phones that day with the claims staff. Tuesdays are the next highest volume day so ½ of the adjudicators staff the phone with the claims staff.
- Set up a two-tiered phone system to triage the calls coming in between those with information needs and those with specific claim concerns or problems:

    - Tier 1 is staffed by temporary workers (up to six through the busy period from November through mid-April), as well as merit staff. Merit staff provide all claims services for callers. Temporary workers are restricted as to the work they can perform by federal law and primarily deal with general information inquiries. Calls taken by temporary workers that require a merit staff help are transferred to Tier 2.
    - Tier 2 staffed by experienced claims representatives and adjudicators only.

- Customers filing unemployment claims can now access their own claim account information online 24 hours a day, 7 days a week.

B. *Customer Messaging Portal (CMP)*

- Implemented an online Customer Messaging Portal (CMP) for claim issues or questions. Customers that want to use the online system or do not want to wait to talk to claims staff by phone, can submit their questions or issues online through the customer messaging portal using weblinks on both the MDOL & UC websites. Most CMP entries come through the weblinks but the MDOL reception staff also submit them from callers.

- The main reception desk for MDOL also can enter information received from callers into the CMP for follow up. Individuals going into CareerCenters that require additional UI assistance leave messages on a dedicated phone line to be followed up by the contact person of the day. These calls are also entered into the CMP queue so that they receive attention in the order received.

- Cases are assigned to claims representatives for follow up. Typically, they are resolved within a couple of hours of receipt, usually in the afternoons when the telephone lines are not open to the public. Most are responded to by email per customer request, others receive call backs.

- The CMP has greatly improved the centers ability to manage inquiries that used to be taken on paper and accumulated until someone was able to get to them. It reduces duplication of inquiries (which used to result in multiple staff working on the same issue) and strengthens security of sensitive information. Additionally, all inquiries submitted in this fashion are logged and tracked to ensure that they are handled in as expeditious a manner as possible. Cases are responded to in the order received. This has also improved timeliness of response.

- The Customer Messaging Portal is available 24 hrs a day, 7 days a week. Some recent statistics for inquiries and speed to Resolve:

Month	CMP Cases Created	Ave. Speed to Resolve*
Jan-19	1973	4.1 days
Feb-19	1188	.75 days
Mar-19	699	.5 days

* The average speed times include inquiries filed after business hours either at night or on the weekend - when received during the week, the cases are typically resolved within a couple of hours of filing or in the same day.

Description of Claim Filing and Work Search Reporting Methods

A. ***Methods for Filing Claims***

- Individuals wishing to file initial or weekly claims can do so online, by telephone, and by paper (although receipt of paper claims is rare, these are typically temporary claims for annual business/plant maintenance shutdowns where the claims for employees are filed by the employer – these are referred to as 'greenslips').

- Initial claims filed over the phone are done with the assistance of a claims representative using the same claim filing screens that an individual would use filing an online claim. Weekly claims filed by telephone can be done with the assistance of a claims or by using an automated telephone application which is available 24 hours a day, 7 days a week.

- For January through March 2019, 59.5% of initial claims were filed using the online system, 30.2% were filed by telephone with a claims representative, and 10.3% were temporary claims (greenslips) filed on paper.

- For January through March 2019, 85.5% of weekly claims were filed online, 6.5% by telephone with a claims representative, 6.4% used the automated telephone system and 1.6% were on paper (greenslips).

B. ***Work Search Reporting***

  - Federal law requires individuals to actively seek work each week in which a claim is filed to be able to receive unemployment benefits.

  - When an initial claim is filed, all claimants are sent information by mail that outlines the process and available options to file their weekly benefit claims and work search efforts.

- Under the new benefits system, there are 3 ways in which an individual can provide their weekly work search efforts:

  - Online as part of their weekly claim application. The weekly claim cannot be completed without including the individual's work search efforts for that week.
  - Claimants call the 800# to file their complete weekly certification with a claims representative including the work search details.

  - If individuals file their weekly certification using the automated telephone claim application (IVR), they receive a letter with options for submitting their work search activities to complete the weekly claim. The can provide their work search activities to a claims representative by telephone, provide this detail online or mail or fax in their work search activities.

    - Between January and March of 2019, 7,328 weekly claims were filed using the IVR. To report their work search, 54.7% of these used the online system, 24.8% reported work search activities by phone to a claims representative, and 20.5% did not report their work search efforts. These individuals would have been scheduled for a fact-finding interview with an adjudicator to determine if the work search requirement had been met before benefits could be paid.

C. *Access to Claim Account Information & Online Activities*

- Under the new benefit system, individuals filing unemployment claims have expanded access to their own account information. They can now access the following information online 24 hours a day, 7 days a week:

  - Benefit year start and end dates.
  - Weekly Benefit Amount (WBA) they will receive for weekly claims filed
  - Maximum Amount of Benefits for Claim Benefits (MBA) that is available during their benefit year
  - Remaining balance of benefits
  - Verification of waiting week served
  - Claimant Identification Information
  - Base period earnings used to establish benefit eligibility as well as weekly and maximum benefits payable
  - Week claim certification(s) received but pending payment
  - Weekly claim certification(s) received, processed and paid
  - All correspondences sent to the claimant, including monetary decisions, nonmonetary decisions, medical forms, B-17 requests for approved training, etc.
  - View and print 1099G (form issued by January 31st each year showing benefits paid in the prior calendar year and amount of taxes withheld for federal or state taxes).
  - History transcript of claim activity

- Individuals also have expanded ability to update their contact information, payment options and create or change a PIN number

- Online applications allow individuals to file initial and weekly claims for regular benefits, dislocated worker benefits and extended benefits (when activated) as well as report their work search activities. Additionally, individuals can file appeals of benefit eligibility decisions denying benefits online.

New Unemployment Insurance Tax System

- The new UI tax system went live on 11/16/2018 and has gone very smoothly.
- Over 95% of existing employers created their portal accounts in the first 3 to 4 months.
- Over 90% of new employers have registered with the UI program using the online, self-service registration application.
- Over 90% of the contributions received to date have been paid electronically.
- Under the prior UI tax system, employers could not access any account information. Employers can now log into their account to see report and payment history, account information and any correspondence between the business and the department. They can submit inquiries, file their tax and wage reports, make amendments to reports and make online payments. They can also perform account maintenance activities such as address changes or requests to close an account.
- Employer feedback has been very positive on ease of use and having direct access to their own account information.

Maine Department of Labor Website: Key Links to Unemployment Program Information

For Claimants

Frequently asked questions:
www.maine.gov/unemployment/claimsfaq/

Videos:
www.maine.gov/unemployment/videos/

- What should I do if I become unemployed?
- I just filed my unemployment claim. What's next?
- Unemployment benefits: Responsibilities
- Unemployment filing: Common mistakes
- Earning money while collecting unemployment benefits
- How to appeal an unemployment decision
- The unemployment appeals hearing process
- What do I have to do for work search?

Forms:
www.maine.gov/unemployment/claimants/

Online Unemployment Insurance Guide:
www.maine.gov/unemployment/uiguide/

Online ReEmployME step-by-step system guide:
www.maine.gov/unemployment/reemploymeguide/

For Employers

Frequently asked questions:
www.maine.gov/unemployment/employersfaq/

Videos:
www.maine.gov/unemployment/videos/

- How to register for unemployment tax
- How to create a ReEmployME employer account
- Protect your business from higher unemployment taxes
- Employer account maintenance demonstration for unemployment insurance tax

Online Services including State Information Data Exchange System (SIDES):
www.maine.gov/unemployment/employers/

Forms:
Systems Guide for the Employer Portal Account and Unemployment Tax forms:
www.maine.gov/unemployment/taxpublications/

Procedural and technical guidance for payroll providers:
www.maine.gov/labor/unemployment/payrollservices/

www.maine.gov/reemployme

MAINE DEPARTMENT OF LABOR
Bureau of Unemployment Compensation

RE EMPLOY ME
Unemployment System Alliance Partner

The Maine Department of Labor provides equal opportunity in employment and programs.
Auxiliary aids and services are available to people with disabilities upon request.

04/19

Government Oversight Committee –Biennial Plan for Program Reviews and Projects (updated 3/25/19) Prepared by the Office of Program Evaluation and Government Accountability					
Project Topic	**Responsible Agency**	**General Scope**	**Detailed scope available?**	**OPEGA phase**	**GOC vote on project re: biennial plan 4/12/19**
Approved* GOC has voted to direct OPEGA to conduct the following reviews/projects					
Maine Citizen Initiative Process Request Received: 10/2/2017 GOC approved: 11/9/2017	Sec. of State Governmental Ethics & Election Practices ME Legislature	Trends in activity and characteristics for people's veto and direct initiatives over time; geographic distribution of signatures collected on efforts qualified for ballot; and potential opportunities for improved efficiency, transparency and accountability in the referendum process.	Yes Approved: 1/26/2018	Fieldwork	
CPS: Out of Home Placements for Children Removed from Care by DHHS/OCFS Per GOC: 3/22/2019	Dept. of Health and Human Services / Office of Child and Family Services Various entities, providers	Assess the availability and types of out-of-home placement options; the extent to which hoteling occurs; the recruitment, retention, training, and licensing of foster parents; responsibilities of foster parents; the extent to which OCFS provides various supports to foster parents.		(awaiting GOC prioritization, additions, subtractions of approved projects)	
Follow-up Survey: OCFS Frontline Workers Per GOC: 3/22/2019	Dept. of Health and Human Services / Office of Child and Family Services	Gather perspectives of OCFS staff (intake, assessment, permanency) subsequent to DHHS implementation of changes using replicated survey questions from the initial project; evaluate staff views of work load, quality of work, adequacy of resources, job satisfaction, among other factors.		Planning	
ReEmployME System Request Received: 3/9/2018 GOC approved: 3/23/2018	ME Dept. of Labor Office of Information Technology	Maine's involvement in the four-state unemployment system consortium; development and implementation of ReEmployME system; and DOL response(s) to post-implementation issues experienced by claimants and potential claimants.		Preliminary Research (direction pending scheduled DOL comment before GOC)	

Special Project: OCFS Per GOC motion:6/28/2018	Dept. of Health and Human Services / Office of Child and Family Services	Assess status of DHHS child protective strategic initiatives (presented 5/18) and impact of those initiatives on noted areas for concern or improvement.	No	Paused per GOC vote 3/22/19 (pending update from DHHS)	
Tax Expenditure Evaluation: Reimbursement for Business Equipment Tax Exemption to Municipalities (BETE) Reimbursement for Taxes Paid on Certain Business Property (BETR) Per statute: 3 MRSA §998	Maine Revenue Services Municipal Government	Fiscal impacts, effectiveness of program design; extent to which program is achieving intended purposes and goals; extent to which program is coordinated with, complementary to or duplicative of other programs with similar purposes and goals.	Yes Parameters approved:	Fieldwork	
Tax Expenditure Evaluation: Maine Capital Investment Credit Per statue: 3 MRSA §998-1001	Maine Revenue Services	Fiscal impacts, effectiveness of program design; extent to which program is achieving intended purposes and goals; extent to which program is coordinated with, complementary to or duplicative of other programs with similar purposes and goals.	Yes Parameters approved:	Planning (not yet active)	
Expedited Tax Expenditure Review: Charitable exemptions Per Statute: 3 MRSA §998-1001	Maine Revenue Services	Fiscal impacts, administrative costs; extent to which it is consistent with and effective in implementing broad tax policy; effectiveness of design; adequate mechanism to ensure compliance by intended beneficiaries.	See 3 MRSA §1000		
***Pine Tree Development Zones** pursuant to P.L. 2017 ch. 440 30-A MRSA §5250-P (2) (LD 1654 from 128th Legislature) Not approved by GOC – enacted as legislation separate from established tax expenditure review schedule. <u>Statutory due date:</u> 1/15/2021	Dept. of Economic and Community Development Maine Revenue Services	Fiscal impacts, effectiveness of program design; extent to which program is achieving intended purposes and goals; extent to which program is coordinated with, complementary to or duplicative of other programs with similar purposes and goals. GOC and OPEGA shall consider public policy objective of PTDZ as described (new) under 30-A MRSA §5250-P (2)(A) and performance measures listed in (2)(B).	See 30-A MRSA §5250-P(2)		Would require statutory change to remove or change report date
Approved - Pending planning GOC has voted to direct OPEGA to conduct these projects – but inactive due to GOC prioritizing other projects					
DHHS Audit Functions Request Received: 2/2013 GOC approved: 4/16/2013	Dept. of Health and Human Services	Effectiveness of DHHS audit functions in identifying and addressing fraud, waste and abuse in programs administered by the department.	No	No action	

Substance Abuse Treatment Programs in Corrections System Request Received: 3/27/2009 Placed on stand-by list: 3/27/2009 GOC approved: 8/23/2017	Dept. of Corrections Dept. of Health and Human Services / Substance Abuse and Mental Health Services	Effectiveness and/or cost-effectiveness of programs in rehabilitating participants and reducing recidivism.	No	No action	
Recently Completed OPEGA reviews presented to GOC in this calendar year (2019)					
CPS Special Project: OCFS Frontline Worker Perspectives	Dept. of Health and Human Services / Office of Child and Family Services	Gather input and perspectives from OCFS caseworkers and supervisors on factors impacting staff retention and effectiveness and efficiency in child protective work.	No	Presented: 2/22/2019 Endorsed: 3/22/2019	
Tax Expenditure Evaluation: Employment Tax Increment Financing Per Statute 3 MRSA §998	Maine Revenue Services Dept. of Economic and Community Development	Fiscal impacts, effectiveness of program design; extent to which program is achieving intended purposes and goals; extent to which program is coordinated with, complementary to or duplicative of other programs with similar purposes and goals.	Yes	Presented: 1/25/2019 Endorsed: 2/8/2019	
Stand-by List Requests for reviews that GOC considers potential projects (by vote) – but not yet voted by GOC directing OPEGA to conduct					
Maine Commission on Indigent Legal Services Request received: 2/2017 Added to stand-by: 3/2017 (new request by Sen. Keim for rapid review 2/22/19)	MCILS	Effectiveness of the commission in meeting its mission and economical use of resources. (2019 request provides more specific recommendations for scope)			
Maine Law Enforcement Agencies Undercover Operations Request received: 2/17/2017 Added to stand-by: 4/28/2017	Various law enforcement agencies	• Approval process for undercover operations • Oversight of undercover operations • Controls on the length of the operations • Funding for undercover operations • The role of the AG, if any, in approval and oversight			

Independent Living Services Request Received: 5/19/2016 Added to stand-by: 4/14/2017 (taken off list of approved projects)	Dept. of Labor Dept. of Health and Human Services	• Alignment of programs and resources with needs of eligible client population • Efficient use of resources • Compliance with State and federal program and funding requirements • Coordination among programs • Effectiveness of programs and services in support of independent living			
Maine Power Options Request received:2/17/17 Added to stand-by: 2/17/17	ME Municipal Bond Bank ME Health and Higher Education Authority	• Effectiveness of the program in meeting intent • Effectiveness and transparency of RFP and contractor selection process for electricity supply • Public transparency of MPO activities and decisions			
Public Utilities Commission Request received: Per GOC after report on PUC 9/2013 Added to stand-by: (taken off list of approved projects and removed to on-deck)	PUC	Assessment of extent to which the PUC independently assesses risks and costs associated with ensuring safe, reasonable and adequate electrical services.			
Publicly Funded Programs for Children (birth to age 5) Request received: Per GOC after report on Child Dev. Services by OPEGA 7/2012 Added to stand-by: 9/2012	Dept. of Education Dept. of Health and Human Services	Strengths and weaknesses, including gaps, overlap and coordination, in the State's current programs for children birth to 5 years of age.			