



SEN. CRAIG V. HICKMAN, SENATE CHAIR  
REP. JESSICA FAY, HOUSE CHAIR

MEMBERS:

SEN. LISA KEIM  
SEN. MIKE TIPPING  
SEN. RICHARD BENNETT  
SEN. JILL C. DUSON  
SEN. JEFFREY TIMBERLAKE  
REP. AMY ARATA  
REP. H. SAWIN MILLETT, JR.  
REP. MARK BLIER  
REP. ANNE MARIE MASTRACCIO  
REP. MARGARET M. O'NEIL

MAINE STATE LEGISLATURE  
GOVERNMENT OVERSIGHT COMMITTEE

**MEETING SUMMARY**  
**March 24, 2023**

**Call to Order**

The Chair, Sen. Hickman, called the Government Oversight Committee to order at 9:30 a.m.

**ATTENDANCE**

Senators: Sen. Hickman, Sen. Keim, Sen. Duson, Sen. Bennett  
Absent: Sen. Tipping, Sen. Timberlake

Representatives: Rep. Fay, Rep. Arata, Rep. Mastraccio, Rep. Millett, Rep. O'Neil, Rep. Blier

Legislators: Rep. Salisbury, House Chair, Criminal Justice & Public Safety Cmte.

Legislative Officers and Staff: Peter Schleck, Director, OPEGA  
Jen Henderson, Senior Analyst, OPEGA  
Kari Hojara, Analyst, OPEGA  
Sabrina Carey, Secretary, OPEGA, GOC Clerk

Others: Heather Johnson, Commissioner, DECD  
Phoenix McLaughlin, Tax Incentive Policy Manager, DECD  
Steve Lyons, Director, Maine Office of Tourism  
Karen Carberry Warhola, Director, Maine Film Office

## Introduction of Committee Members

The members of the Committee introduced themselves.

## New Business

(To watch this meeting - the recorded Live Stream can be viewed here: <https://legislature.maine.gov/Audio/#220>)

- **Meeting Summary**

The March 10, 2023, Meeting Summary was accepted as written.

(A copy of this document can be found here: <https://legislature.maine.gov/doc/9938>)

- **Maine Fire Marshal**

(A copy of the letter from the CJPS Committee can be found here: <https://legislature.maine.gov/doc/9926>)

Sen. Hickman invited the House Chair of the Criminal Justice and Public Safety Committee, Rep. Sue Salisbury, to address the GOC on the CJPS Committee's thoughts on the Maine Fire Marshal's recent confirmation. Rep. Salisbury introduced herself. She shared that the CJPS Committee voted eight to four to confirm Richard McCarthy to the position of State Fire Marshal. She explained that prior to the confirmation hearing, the committee chairs were made aware of some long-standing concerns regarding the Fire Marshal's office, including some concerns that rose to the level of a formal complaint to the Maine Labor Board which was reported in the news. She stated that she had received phone calls from both current and former employees expressing reservations about the confirmation of Mr. McCarthy who has been at the Fire Marshal's Office for the past twenty-two years. A lot of the concerns that were raised refer back to the previous administration so some of those concerns have been alleviated with this new Fire Marshal in place. She explained that the concern from current and former employees about the lack of care for fire victims and unresponsiveness to employee complaints and community needs was something that the Committee raised to the nominee and the Commissioner of Public Safety. Rep. Salisbury shared that there were Crisis and Counseling Center reviews that had done some interviews with some of the members in the Fire Marshal's Office that showed a trend of employee dissatisfaction and some workplace hostility so it would be important to review the Fire Marshal's Office to make sure that longstanding issues did not continue. She noted that the Fire Marshal and the Commissioner of Public Safety stated they would be willing to work together with OPEGA and whatever resulting investigation that may happen.

Rep. Mastraccio asked what the status was of the complaint that was filed with the Maine Labor Board.

Rep. Salisbury answered that the complaint was previously resolved.

Rep. Mastraccio asked whether a review would be looking at ongoing issues within the Fire Marshal's Office.

Rep. Salisbury clarified that the CJPS Committee is concerned that there were some continuing issues even with the new administration.

Rep O'Neil asked if Rep. Salisbury would give more detail about the subject matter and scope on the previous investigations in 2018 and 2021 and what kind of issues there were.

Rep. Salisbury answered that the Crisis and Counseling Centers did reviews because some of the type of work in the Fire Marshal's office can be traumatic while investigating fires and the realization that some employees could be deeply impacted. There were surveys to determine what the needs were and if they needed resources. At the time of the last round of these interviews, only the Fire Marshal was made aware of the results, so they were not widespread as to what could be done to address some of the concerns that were raised. She suggested that if the interview surveys were to continue, the results and recommendations should be more available to the administration.

Rep. O'Neil summarized that the investigations were related to workplace trauma but as the process went, these work place issues came up.

Rep. Salisbury stated that yes, there are two issues, the nature of the job and work place issues. She stated that it would be good to separate the two and look into them individually.

Rep. O'Neil asked if Rep. Salisbury had any more information that she could provide about the workplace culture and the things that people raised at the confirmation hearing.

Rep. Salisbury stated that there were concerns that it was a workplace that was not open to people who would be willing to express any concerns about the workplace, including with respect to words like misogyny and hostile. There were concerns of the fire victims and the impacts on the communities not being taken seriously at meetings. There are instances where there had been complaints made by community members through a process that allows someone to call and say there is a building that needs attention from the Fire Marshal, but have gone unnoticed, resulting in a fire, which was pretty serious.

Rep. Millett asked if the primary concern is about the individual or the culture of the office, or both.

Rep. Salisbury answered that it is a bit of both. There is concern because he has been in the office for so long and that the workplace culture had continued, would he be able to make those changes.

Rep. Millett stated that he wanted a sense of the entire CJPS Committee's perception. He asked if the Committee still had a divided view of the Fire Marshal.

Rep. Salisbury stated that the people that voted in favor were comfortable with Commissioner Sauschuck and his awareness and understanding that the CJPS Committee was concerned about these issues and wanted them to be addressed.

Rep. Arata asked if the Maine Labor Relations Board was still doing any investigation of this Department.

Rep. Salisbury answered no.

Rep. Arata asked if the employee making a complaint could go to the Maine Labor Board to express concerns.

Rep. Salisbury answered that the person wanted to remain anonymous at this time because the Office is smaller and it may be more obvious who it was if official complaints were made.

Rep. Arata asked if this person approached the Maine Human Rights Commission with the concerns about misogyny.

Rep. Salisbury stated that was the approach taken by the person who moved to a different department.

Rep. Blier asked how many employees work for the Fire Marshal's Office.

Rep. Salisbury stated that she did not know the total number.

Rep. Blier asked if any of the complaints came from any current employees.

Rep. Salisbury answered yes, one of them is a current employee.

Sen. Duson summarized her understanding of events and stated that doing an OPEGA Review may be an appropriate next step after this confirmation. She thought that the assurance from Commissioner Sauschuck and the new Fire Marshal that they would address these issues made her a yes on this confirmation and the OPEGA Review would put the implementation of a performance review in the hands of a third party.

Rep. Salisbury stated that she too felt more comfortable with the Commissioner's assurances that the message had been received and Mr. McCarthy indicating that he would welcome a review.

Rep. Arata stated that what she would like to do is give the new Fire Marshal a chance to make corrections. She also shared that there were other organizations within government such as the Maine Labor Relations Board and the Maine Human Rights Commission who could address these issues. She stated that she would like to see a report from those entities and that the committee could revisit the topic after giving the office a chance to address their own course.

Rep. Mastraccio thought there was something in between going in the Human Rights area and some kind of full blown OPEGA Review. She suggested that Commissioner Sauschuck may have been aware of some of the issues and appointed Fire Marshal McCarthy thinking that he would be able to handle those issues. She

suggested asking OPEGA to preliminarily explore what kinds of actions they are taking and reporting back to the Committee would be sufficient to know whether they should go forward with a deeper review.

Sen. Hickman stated that in any Committee it is difficult to vote against any nominee for anything. He stated that he has several employees who work for the Fire Marshal's office in his district so he had received phone calls asking him not to confirm. He understood that it was up to the representatives to vote on behalf of the workers who went on record about the situation. Sen. Hickman asked for more explanation on lack of care for fire victims and workplace hostility, listed in her letter. He stated that he personally has had a fire on his property before that had received a press release before his own family had known about it and was surprised the Fire Marshal's office had acted in that fashion.

Rep. Salisbury stated that the person talked about meetings where there was laughing and joking in discussion about fire victims but there was no reference of a specific fire or incident.

The Chair, Sen. Hickman invited Director Peter Schleck to join the Committee.

Rep. Fay asked Director Schleck if he could let the Committee know what their potential options were.

Director Schleck suggested that there may be a role for OPEGA to start with an invitation to all employees of that office to meet with OPEGA in a confidential setting to gather the range of concerns, by allowing the employees to speak individually and confidentially.

Rep. Mastraccio stated that this option was what she thought would be most appropriate, easiest and potentially more effective in getting the Committee information in a timely manner.

Sen. Keim stated that she felt the committee was making a premature move where the leadership is brand new and had offered many assurances that they will take this on and that if they want to find outside counsel that was entirely appropriate. She suggested that the Committee could call the Fire Marshal's Office back to ask what changes have been made and let the process play out a bit before taking OPEGA staff time.

Rep. Fay stated that there are two ways of looking at this issue: Let the Fire Marshal settle in and take the lay of the land, versus have a new person train a fresh pair of eyes on the situation which might help changes come along. She stated that because the new Fire Marshal has been in the organization it makes sense to give that person some extra tools to do their job. She asked how much time, space and personnel would OPEGA need to dedicate to this, and what impact it would have on OPEGA's ability to do the other work that has already been tasked.

Director Schleck answered that there are times in OPEGA's work where they are putting one thing down to pick up another for a moment to be as efficient as possible and maximize their resources. He stated that this initial phase would only be a two-person job, to speak to the Fire Marshal's employees. He suggested that this may help the new administration because if they had sent out an internal survey, they may get employees who will question who in the office will know what they write, and whether anything will actually be done about it.

Rep. Arata asked that if they sent out surveys, wouldn't that reflect the last leadership situation.

Director Schleck described some of the questions they would ask the employees to understand the office culture and then report back to the Committee with whether they think there is something more that needs doing.

Rep. Mastraccio stated that the Commissioner and the new Fire Marshal seemed to be welcoming this kind of dialogue because they think it will make the people in their office get everything out in the open to see where they should go. She reminded that it would not be some big review, just taking a look to see if this is sufficient to satisfy the issues and maybe clear the air to move forward productively. The Fire Marshal's Office is extremely important to everyone in the state so it does not do any good to just wait for someone to seek out Maine Human Rights or some other organization.

Rep. Blier stated that he agreed with Rep. Arata that it may be too premature to do an investigation at this point. He suggested letting the new administration have an opportunity to do an investigation and correct the issues.

Sen. Duson stated that she appreciated the request for a recommendation from OPEGA staff as to what might be a less extensive approach to assessing the concerns in the office. She stated that her inclination is for intercession by OPEGA, as she had previously been a Director of a bureau under the Department of Labor and

was recruited to that position when an OEPGA Review had just been authorized. She entered that leadership role knowing there was an OPEGA Performance Review going on and stated that the report that OPEGA provided was instrumental in her ability to understand the problems and turn the agency around with a management improvement plan. She also stated that it is an opportunity to provide the new Fire Marshal a third-party assessment of the concerns. She suggested that it would be a tool that the new Fire Marshal and the Commissioner said they would be interested in.

Sen. Hickman stated that he wished he had an institution like OPEGA to perform the kind of workplace survey that the director has set forth when he was a former Human Resources Manager. He stated that he did not see this request as investigating the previous administration, but saw it as how to improve the workplace and making sure the services of the Office of the Fire Marshal are delivered on behalf of and to the people in a way that is beneficial to everyone. He thought that it was not necessarily about the Fire Marshal himself but about the office of the Fire Marshal and it would be great for someone else to be able to interview them knowing full well that things said will be in confidence and that it could be helpful in moving this forward.

Sen. Keim stated that they hired someone to do their outside investigations in 2018 and 2021 and thought they were capable of assessing that again and that the Committee was just premature.

Rep. O'Neil stated that she felt confident in Director Schleck stating that this could be managed within resources and is a low investment of time. She felt that this did not feel duplicative as Rep. Salisbury stated that those two previous surveys had to do with workplace trauma related to the traumatic nature of the work and not on the more systemic issues within the workplace. She sees this as an opportunity to share information that might be helpful in the transition and her orientation would always be to do something small earlier rather than let it balloon into a bigger problem.

Motion: To allow the OPEGA Director to conduct an initial interview series to gather more information on the Fire Marshal's Office

(Motioned by Rep. Mastraccio, seconded by Sen. Duson, motion passed with 7 yes, 4 no) (Sen. Bennett and Sen. Tipping voted on the motion in the allowed time frame in accordance with the GOC's Rules.)

- **OPEGA Report on Maine's Visual Media Incentives**

(A copy of the Report can be found here: <https://legislature.maine.gov/doc/9940>)

(A copy of Maine's Visual Media Incentives Statutes can be found here:

<https://legislature.maine.gov/doc/9941>)

(A copy of DECD's letter to the GOC can be found here: <https://legislature.maine.gov/doc/9958>)

OPEGA Senior Analyst Jen Henderson and Analyst Kari Hojara joined the Committee to present the OPEGA Report: Maine Visual Media Incentives.

(A copy of the PowerPoint presentation can be found here: <https://legislature.maine.gov/doc/9983>)

Rep. Mastraccio asked if someone who is a YouTuber would be included the way the incentives were currently written.

Ms. Henderson answered that they wondered the same thing and noted that was part of the reason they are suggesting a revisiting of the categories of eligibility. She noted that when the types were listed in statute, some of the things that people are using now for media were not even conceived of and certainly not widespread. She suggested that would be something the Legislature could decide, whether they want to incent that to attract production here in Maine or not.

Rep. Mastraccio asked for clarification on how the certification process works with one employee.

Ms. Henderson answered that the Commissioner's signature is also required for certification. Her understanding is that the Maine Film Office does the processing and then the Commissioner gives the stamp of approval.

Rep. Arata asked if the annual administrative costs included travel or not as it seemed that the travel costs were substantially higher in another section of the Report.

Ms. Henderson confirmed that yes, the travel costs are more. She explained that they ask the agencies to tell them what they estimated on administrative costs, so it is their estimates. She stated that the travel is not necessarily specific to the incentives, as it is for the Film Office as a whole.

Rep. Mastraccio asked if Maine Cabin Masters and businesses that were Maine based, had an easier time to make it in Maine rather than go somewhere else for business.

Ms. Henderson answered that they did not speak to the Cabin Master's Production, but did find that the incentives were helpful in their ability to take on more contract work and employ people.

Rep. Mastraccio asked if the production just had to be produced in Maine to receive the incentive.

Ms. Henderson responded that the production can involve filming or pre and post production things like voiceover work.

Rep. Mastraccio asked why certain productions were exempted.

Ms. Henderson stated that OPEGA also had that question so they looked for some internal guidance about what would allow an exemption and there is a place where statute directs the Film Office to promulgate rules but no rules have been promulgated to date and they did not find any internal guidance documents or other materials that would help everyone understand how those decisions were made and ensure they are made consistently. She explained that they could see handwritten notes sometimes to what the reason was for exemption.

Sen. Hickman asked for confirmation that the statute was enacted in 2006.

Ms. Henderson answered yes.

Sen. Hickman then asked if the statutes required rules to be promulgated or allowed rules to be promulgated.

Sen. Hickman then stated that it does look like it does require that those rules be adopted and that part of statute was amended in public law in 2009.

Rep. Mastraccio stated that it seems that this topic is always brought up around tourism, but that it does not seem to be the way it has played out, as they haven't used it a lot for tourism.

Ms. Henderson explained that they found that the way the incentives are structured now, does not necessarily target productions that would most likely generate tourism and that the incentives were initially constructed somewhat broadly to try and hit all of the goals.

Sen. Keim asked if they were checking to see how much the Film or producer even spent and whether someone checked to see if the claim is accurate, even based just on money spent.

Ms. Henderson answered that they could not confirm that anyone is sitting with that data going through it for the statutory requirements and whether the production still met the statutory requirements or did things change along the way so that maybe it would now longer to be able to be certified based on what is known after.

Sen. Keim asked for clarification whether people would get the incentive based on if the production met the criteria and the amount of money that they would spend, and wanted to know whether someone ensures that the amount of money supposed to be spent was spent.

Ms. Henderson stated that most productions provided a fairly detailed summary of their expenses once completed and there was no documentation to show that either Maine Revenue Services or the Film Office was routinely confirming that expenses qualified for the credit and doing a final stamp of approval that this amount of expenses is appropriately the basis for the credit. She explained that usually in statute where there is shared administration there is typically clear designation of which entity shall approve the authorized amount of certified spending that the entity will pay out. The two administering agencies do not appear to have sought clarity about that point to date.

Rep. Mastraccio asked if there was any possibility that this had to do with the absence of rules or if it just was that the statute isn't clear.

Ms. Henderson answered that there are a lot of factors, including that it is not a lot of money and it can be tempting to not spend a lot of administrative effort when there isn't a lot of money at stake. She stated that they think there is still a minimum standard that the administration is required, if there is an incentive in place, to be mindful that participation could change. She stated that the lack of clear agency responsibility in these areas did create the risk that benefits could be provided to ineligible productions or in incorrect amounts without documentation and clarity about responsibility, and the conditions create opportunities for inconsistent treatment of participants.

Sen. Keim asked if there is any sense on how they are making eligibility decisions and if they were fairly or unfairly done.

Ms. Henderson answered that there were very few productions that were not accepted and there was not always an adequate procedure to ensure they met certain requirements. She stated that there was no evidence for any applicants excepted or denied that they provided proof of insurance and that they were fully financed. She explained that there was concern that there is potential for inconsistent treatment.

Rep. Fay asked if there was a copy of the application form that is available.

Ms. Henderson said they would get that to the Committee.

Sen. Keim asked who is taking trips.

Ms. Henderson answered the Maine Film Office staff.

Sen. Keim then asked how many are in the Maine Film Office.

Ms. Henderson answered one person.

Rep. Arata asked about whether the travel included 2020 when the country was shut down and prohibited from traveling and asked when and where did they travel.

Ms. Henderson answered that they mainly saw things like Film Festivals and conferences with other Film Offices around the country.

Rep. Fay asked for clarification on the amount of money spent per trip.

Ms. Henderson noted that it is listed as forty-six trips since 2013 and the dollar amount listed is just for the last four years.

Rep. Mastraccio stated that she wanted clarification on the money spent traveling because if it was eighty-six thousand dollars in two years.

Sen. Keim asked about the outreach to entities out of the country and what amount of money was spent on that when there has only been one production from overseas.

Ms. Henderson answered that they would defer to the Department as they were not able to get much clarifying information on that.

Sen. Keim then asked if the stakeholders found that the office is not making good outreach to the people in the industry here in Maine.

Ms. Henderson answered that in discussions with stakeholders in the state, OPEGA got the sense that there was not a strong connection between in-state stake holder groups and the Maine Film Office.

Sen. Keim then asked about out-of-state stakeholders and whether there was any assessment on connections being made in other places.

Ms. Henderson answered that they were looking at the out-of-state travel and what could be understood about the types of promotion activities that were happening.

Sen. Duson asked if OPEGA could provide the Maine Film Office's annual report.

Ms. Henderson confirmed they could do that.

Rep. Mastraccio asked about the annual report that the Maine Film Office submitted to the Taxation committee and if they could have a copy and asked for clarification that the Taxation Committee had actually reviewed the annual report.

Ms. Henderson answered they would try to get that information for the work session.

Rep. O'Neil asked if they could go over the two different parts of the credit so that they can understand how the credit is being targeted relative to who is eligible for it.

Ms. Henderson answered that the two parts are the credit and the reimbursement which is a direct payment.

The credit is non-transferable, non-refundable and is accessible only to entities that have a State of Maine Income Tax Liability, so it is less attractive to out-of-state entities. The wage reimbursement is available regardless of Tax Liability because it is not part of the Tax filing or connected to income taxes.

Rep. O'Neil stated she was curious to see the targeting to other states and how many people out of state are taking advantage versus in-state.

Ms. Henderson answered that roughly fifty percent was in state versus out of state.

Rep. Fay asked if there was a history of why the Tax Credit was originally situated in the Maine Office of Tourism.

Ms. Henderson answered they would need to get back to the Committee with that information.

Rep. Mastraccio stated that she recalled the Maine Film Office conversation back in 2013 that the incentive was put forth as a tourism type of incentive and to promote Maine.

Sen. Keim wanted to better understand the structure of the Maine Office of Tourism and the Maine Film Office. She asked who pays for the salary of the one employee in the Maine Film Office, the Film Office or the Maine Office of Tourism.

Ms. Henderson stated that she did not know the answer to that and would have to get back to the Committee.

Sen. Keim then asked if they looked into the structure around the employee's roles and the estimated costs.

Ms. Henderson answered that they did not spend a lot of time trying to verify the precise administrative costs. They asked the Maine Film Office to estimate it as a point of data, but it was not a pivotal piece of information in the evaluation and so they did not spend a lot of resources to try and understand that. They did try to understand why the incentives were a small part of the Office's work because it seemed that they exist as a tool to promote filming in the state and that they should be deeply enmeshed in the work of the Office. She stated that OPEGA did not get a clear understanding of that nor which individuals within the Maine Office of Tourism were involved in the actual processing of applicants and the processing of materials.

Sen. Keim asked if the organizational structure could be shared with the Committee.

Ms. Henderson stated that OPEGA's understanding is that the staff of the Maine Film Office do essentially all of the processing of the materials. She understood that the Maine Office of Tourism is not involved at all as to who should qualify for the incentives, who gets certified, collects data or anything of that sort. She clarified that the MRS does their own separate work which is the receipt of the claims for benefits and the processing of those claims.

Sen. Keim asked if the one person in the Maine Film Office was classified as an employee of the Maine Office of Tourism.

Ms. Henderson believed they were an employee of the Department of Economic and Community Development falling under the supervision of the Maine Office of Tourism.

Sen. Duson asked if OPEGA was able to interview the one staff person.

Ms. Henderson answered yes.



Sen. Duson asked if the Maine Office of Tourism or the Maine Film Office had the opportunity to see a copy of the report prior to the meeting and if OPEGA received any comment or additional information from them that is not in the Report.

Ms. Henderson answered that the agencies are provided a courtesy draft where a draft is provided to the administering agencies and then OPEGA accepts informal comment from them about whether they believe anything is inaccurate or have new information. Statute also requires that OPEGA send a draft to Agencies to allow 15 days for them to prepare a formal written comment which, if provided, is required to be included in the back of the Report. In this case, OPEGA did not receive any written comments from the Department's offices.

Rep. Mastraccio asked if the Taxation Committee was invited to the GOC Meeting and was wondering if anyone expressed interest, or was watching from home.

Rep. O'Neil stated that she wanted to go back to the wage reimbursement to get a better explanation of exactly what gets reimbursed and get clarity on whether the reimbursement counts for only up to fifty thousand dollars or if the total salaries are under fifty thousand dollars.

Ms. Henderson understood that the reimbursement counts for anything up to fifty thousand dollars, and anything excess of that does not count. When they make the application, the total cost of production expenses needs to be at least seventy-five thousand dollars.

Sen. Bennett asked if they found any information regarding the utilization of other states' programs and which are the highest used in terms of expenses to those states.

Ms. Henderson said they would look into that for the Work Session.

Sen. Hickman asked if the OPEGA Office used a lot of time and resources to get the information needed to put this Report together and if that was stated anywhere in the Report.

Ms. Hojara answered that it was on page twelve of the report.

Sen. Hickman summarized the section, stating that Maine Film Office was unable to readily report a complete count of applicants or incentive users to OPEGA during the course of this Tax Expenditure Evaluation. It took three months and multiple requests to provide eighty-one applications and fifty-one final reports from production dating back to 2012. It remains unclear if all forms have been provided to OPEGA. Sen. Hickman asked if the OPEGA staff was surprised by this or if they have seen anything similar in any evaluation of a program.

Ms. Henderson answered that this was not typical of their experience in evaluating other Tax Incentives.

Rep. O'Neil was interested in understanding what Maine's credit does versus what other state's credits do in terms of wages and total expenses.

Ms. Hojara answered that it varies quite a bit state to state and is difficult to characterize as a general rule.

Ms. Henderson shared that there is a high degree of variability across the states in percentage rates, which applies to what kind of expenses are eligible. Sometimes some states specifically attempt to target very specific types of productions or productions that feature the state in a particular way or ones that are taking place in specific geographic regions in the state.

Rep. Mastraccio stated that when reading the statutes now, it is not clearly written on how they are going to evaluate it, or what can be expected of it. She suggested that they can learn from this report, to use these recommendations as a roadmap on how to fashion statute that will do what they want it to do.

Sen. Duson stated that it can be easy to draw a line between the challenges of implementing this Tax Incentive in an effective way and the challenges of whatever might be going on in the Maine Office of Tourism and DECD. She stated that she looked forward to hearing from the department. She hoped that the Report can be considered within the department and there will be opportunities to assess and evaluate what is being done going forward without attaching it to one person.

Rep. O'Neil asked how much granular data does OPEGA have about the jobs metric, including the individual companies and how many jobs were applied for reimbursement and how much did people get paid.

Ms. Henderson stated that they do have information from the Film Office on jobs, data and connection with each production but did not consider that to be at all reliable. She shared that there was not a uniform way to fill out the form as they saw productions filling them out in a variety of ways that did not always seem to add up. She shared that there is additional data at Maine Revenue Services but believed it was confidential taxpayer information.

Rep. O'Neil then asked for more information on whether the industry used temp agencies, and whether that makes it hard to measure the job.

Sen. Hickman invited Commissioner Heather Johnson of DECD, and Steve Lyons, the Director of the Maine Office of Tourism, to join the Committee for questions.

Commissioner Johnson stated that they were concerned with the Report. She stated there were places they agree and think that with the findings, some changes being worked through within the office can be lined up with the findings. She stated that they have commissioned a study to look at film in the state and one of the key findings is whether the programs have an impact or not. She explained that the study will look at how content has changed over the course of the last ten years to focus on where is Maine's unique opportunity. She explained that they are interviewing thirty different industry providers across the state and hope that report will come back with key areas for them to focus on around growing film in Maine. She stated that when she got to DECD in 2019 there were no automated systems, so even bigger Tax Credits did not have automated IT systems behind them that people would have confidence in. She stated that in comparison to some of the other programs that her Department administers, this was late in the queue because of the number of productions and the impact. She noted that statutorily, one of the things they do is their Annual Report which should cover outreach and activity not just incentive activity. She noted that they would be clearer on that in the future.

Sen. Bennett asked the Commissioner if they should have the incentive if it does not have the impact wanted. Commissioner Johnson answered that having a film incentive is important as an opportunity and could use improving. She stated that there were a handful of production in the process currently so she would not want to change the landscape for them without them having time.

Sen. Bennett asked if she was leaning towards a total revamp or replacement of this incentive.

Commissioner Johnson answered, that they would like to agree to outcomes and put those in the bill so they agree on what is being tracked and executed.

Rep. Mastraccio asked if there was a bill coming forward about this and if the department will make sure that they are involved with that and to use OPEGA to help put in the parameters for evaluation so everyone is on the same page. She stated that they need to always be in the process of evaluating what is being done and not be afraid to do so.

Sen. Hickman asked Mr. Lyons if there was anything he wanted to say.

Mr. Lyons answered that there has been a lot of discussion about the Film Office itself and that there is a lot more than the Incentive Program involved in running the office. He shared that it is meeting productions and interacting with people who may or may not decide to come, running reports, and spending time out in the field talking to the film people that may be planning to come here. He stated that the Film Incentive Program was meant to incentivize people and production companies to film in the state. He noted that the Film Office happens to be located under the Maine Office of Tourism and explained that the benefit they see from the Film Incentives involve primarily when the productions come and stay in hotels, eat in

restaurants or hire catering companies, and rent or purchase equipment. He noted that is an important part where they do benefit from a tourism perspective.

Sen. Bennett asked if they could bring data about the impact of this unique industry on the points raised for the Work Session.

Sen. Keim noted that the Commissioner stated they were doing a review and interviewing stakeholders and wanted to know the scope of this review, who is doing the work and how much it costs.

Commissioner Johnson answered that they went through the state's procurement process to provision out this research study.

Mr. Lyons added that they hired a company that specifically evaluates film production programs throughout the world and they will evaluate Maine's production capabilities. They will look at what production companies are here; what opportunities are available for improved incentives and evaluating the strengths weaknesses and opportunities for the film industry in Maine. He shared that it will enable them to have a basis for how some of the initiatives should move forward and how the programs can improve.

Sen. Keim asked if the Film Commission was new.

Commissioner Johnson answered that there historically was a Film Commission, but that it needs to be revived as it has gone dormant and has no one on it.

Sen. Keim then asked why they would be moving forward with an overpriced infrastructure program that is the automated system instead of just promulgating rules.

Commissioner Johnson clarified that those are two separate things. She explained that promulgating rules will help them better define eligibility and other things by having a piece of infrastructure that helps track and automates, takes ambiguity out of the system and create consistency. She explained that they are modernizing that department for the other tax credits as well.

Rep. O'Neil asked for some clarifying information about the Visual Media Production Expense and how that is calculated. She asked for any information on duration and how the office has been calculating the expenses.

Sen. Duson asked if the analysis that is planned would include review of some recommendations to the offices around informing changes that might be in the oversight or operational rules.

Commissioner Johnson stated that the current scope of work is focused on where opportunity lies and how does that look and how they would take advantage of those opportunities.

Sen. Duson noted the bill LD 1075, stating that it looked like the incentive would go up to twenty-five percent which is a much larger incentive, which would lead to a busier set of tasks.

Commissioner Johnson stated that they would make sure to look at the oversight activities including marketing. She stated that they would need to have that staffed appropriately because it would become a competitive incentive.

Sen. Hickman stated that he was struck by the lack of identifying if certified projects remained certified throughout the process and why that has not been nailed down.

Commissioner Johnson stated that she would bring the process flow to the Work Session to look at that process.

Sen. Keim asked who pays the one employee at the Maine Film Office.

Commissioner Johnson stated that she believed that it would be under the Special Revenue Fund that is Tourism, but that it would come from the State as DECD does not write checks, they are a State of Maine Employee.

Sen. Keim stated that she sees two individual issues; whether the tax incentive is valid based on measurements and whether there has been gross mismanagement of this Tax Incentive. She stated she would like to get more information to look at those issues. She asked for more information on how much

travel is taking place in the Maine Film Office and who is overseeing that as to how much money is spent and whether it is valuable.

Commissioner Johnson stated that they would get as much of that information as possible for the Work Session.

Rep. Mastraccio stated that there have been multiple administration changes but there probably has not been much change in how things worked. She suggested creating a new bill in the future to create more confidence that it will be administered and have a system to evaluate what it does.

- **Pine Tree Development Zones**

Commissioner Johnson invited Phoenix McLaughlin to join her at the table to help answer questions about Pine Tree as he is the expert on the existing Pine Tree Program and the transition in modernization that is being processed.

Commissioner Johnson stated that Pine Tree was created try and attract investment and expand business investments in Maine. She stated that it has been adjusted a couple time for different reasons, rules have been propagated multiple times and adjusted. She stated that they are looking to modernizing and improving the bill this session to really think about what today's economy looks like and what is needed in order to make sure there are investments in the local communities and strengthening the work force.

Rep. Mastraccio stated that she had pressed about the Pine Tree Zones because she did not know that the administration was going to put in a bill that would basically segue Pine Tree Zones out and do something there. She explained that she would not be pressing that OPEGA do a full evaluation of Pine Tree Zones.

Mr. McLaughlin shared that the Pine Tree Development Zone program is Maine's leading business incentive program that is offered. He explained that it offers a ten-year business certification and over that time it offers three main benefits, an income tax credit, a sales tax exemption and effective wage reimbursements through the employee tax increment financing program. He shared that the way a business qualifies is by adding new jobs that meet certain qualification standards in terms of income and benefits. He stated that at the end of 2022 there were one hundred thirty-five active certifications in the program across one hundred twenty-eight companies. He shared that there were eleven approvals of companies that applied and joined the program so it is valuable for those who can participate. He added that it also requires job growth by adding new jobs. That requirement, he felt, was part of the reason companies have had to leave, because they are trying to hire but can't for an expended time.

Mr. McLaughlin stated that the Pine Tree program has been evaluated a few times since put into place. He explained that there is new legislation being proposed that looks at some modernization.

Rep. O'Neil asked for clarification on the final decision with Pine Tree.

Sen. Hickman answered that Rep. Mastraccio said that she is now aware that there is a bill that would make significant changes or even phase Pine Tree out, so it is not necessary to continue talking about the program that may not longer be there.

- **Public Comment on Next Four Tax Expenditure Reviews**

(A copy of all Tax Public Comment can be found here: <https://legislature.maine.gov/doc/9946>.)

Ms. Hojara explained the process for Tax Expenditure Reviews being approved.

**Peter Gore** – Mainstream Solutions on behalf of Bath Ironworks. (Testimony starts on page page 10 of the Public Comment)

Sen. Hickman suggested that they wait to vote on these so the Committee can fully read all the Public Comment that was sent in.

Sen. Bennet asked if the evaluation objectives are laid out for OPEGA for the evaluation list right out of the statute and that performance measures that attend to each one of those are unique performance measures in statute for each Tax Incentive.

Rep. Mastraccio requested that OPEGA give the Committee recommendations on how to put these things together and see how they fit into what the Committee is looking at.

## **Director's Report**

Director Schleck explained that at the next meeting the Committee would be having a Public Hearing for the Maine Film Incentives report. He also stated that they would have the second Report in the OCFS Case File reviews. He shared the Sen. Tipping sent a letter request so they will talk about that, also.

## **Unfinished Business**

None.

## **Next GOC meeting date and planning**

The next GOC Meeting will be held on April 14, 2023 at 9:30 AM.

## **Adjourn**

The Chair, Sen. Hickman, adjourned the Government Oversight Committee meeting at 1:30 PM on a motion by Sen. Hickman, Second by Rep. Fay.