



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
August 16, 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. Duson, Sen. Tipping, Sen. Timberlake
Absent: Sen. Bennett, Sen. Keim

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

Legislative Staff: Peter Schleck, Director, OPEGA
Sabrina Carey, Secretary, OPEGA, GOC Clerk

Other Legislators: Sen. Reny, Marine Resources Committee

Others: Nicholas Barth, Sen. Reny's Constituent, Newcastle ME

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 – July 7, 2023**

The July 7, 2023, Meeting Summary was accepted as written.

(A copy of this document can be found here: <https://legislature.maine.gov/doc/10192>)

- **Sen. Tipping Request for Review – State Psychiatric Facilities**

Sen. Hickman recognized Sen. Tipping to start the discussion around this Request.

Sen. Tipping briefly reintroduced the letter from the Labor and Housing Committee that requests the GOC and the HHS Committee to look into some issues with crisis outreach and service workers and employees working at Riverview and Dorothea Dix Psychiatric Facilities regarding assaults from patients. He explained that the members of Labor and Housing felt it was important to bring this to a broader attention.

Rep. Arata noted that it seems to be an issue related to staffing and that there is not enough work force stating she was open to suggestions of a limited research but did not think it would require a full review.

Rep. Fay stated that she would like to see that the money recently received for implementation of new security measures be followed to make sure that happens in a timely manner. She suggested that it may be a better fit for the HHS Committee to keep an eye on. She noted that the HHS Committee through the course of bills proposed related to the hospitals heard directly from staff and union representatives about the challenges of this work. She added that the HHS House Chair, Rep. Meyer shared that HHS had not had time to discuss the topic yet.

Rep. Millett stated that he did not think this fit comfortably into the framework of the normal scope of work and suggested Director Schleck could come up with some options to look at safety and staffing and healing. He stated that he liked options B, C and D on the review request memo provided by Director Schleck.

(A copy of this memo can be found here: <https://legislature.maine.gov/doc/10239>)

Sen. Tipping explained that the Labor and Housing Committee heard testimony for a number of pieces of legislation about staffing levels at most of the medical facilities in the state for one bill or another and the LBHS Committee decided this was one that needed its own method of being addressed. He noted that it was suggested to include the GOC because of the work that OEPGA had done in the past regarding these facilities. He agreed that it would be great to have the HHS Committee take action on the issue and for the GOC to stay engaged in some way

Director Schleck understood that the Committee had many options for this and summarized that it seemed the Committee wanted to check in with the HHS Committee to see if they want to do something with it. He also suggested that OEPGA could do some preliminary research which would involve checking with the agency liaison to see if the Department wants to comment on the issue.

Rep. Millett stated that he liked the two step process of referring the issue to the HHS Committee to look at the staffing safety and the healing parts and ask them to follow up with a response.

Rep. Fay stated that she liked Rep. Millett's suggestion because it keeps the issue at the forefront but puts the responsibility with the HHS Committee as it seemed like a policy discussion. She noted that the HHS Committee was also meeting on September 20th so any response may need to be presented in October.

Motion: To send a letter to the HHS Committee regarding the LBHS Request for Review about Riverview and Dorothea Dix Psychiatric Facilities to see if they can look into the substantive issues of the Request letter, and respond to the GOC with potential recommendations for moving forward by October, and also respond to the LBHS letter explaining the GOC's next step.

(Motion by Rep. Millett, second by Sen. Tipping, motion passed with unanimous yes)

(Rep. Mastraccio, Rep. O'Neil and Sen. Bennett voted in accordance with the GOC Rules)

- **Sen. Reny Request for Review – Maine Environment and Natural Resources Stewardship**

Sen. Hickman invited Sen. Reny to join the Committee and present her Request for Review.

Sen. Reny introduced herself and summarized her Review Request that was brought to her by a constituent.

(A copy of this Request can be found here: <https://legislature.maine.gov/doc/10215>)

Sen. Keim asked Sen. Reny why she thought to come to the GOC instead of putting a bill in.

Sen. Reny explained that she had put a bill in, but that the response from some of the agencies was that they were overextended and concerned about the time, effort and staffing needed.

Sen. Timberlake questioned whether this was an OPEGA issue or more of a policy issue. He suggested that maybe the bill has to go further than a resolve to pass, but agreed it leaned more towards policy work.

Rep. Fay stated that she served on the Environment and Natural Resources Committee for two terms and explained that she agreed that this issue is an important policy discussion. She advocated for a cross jurisdictional conversation to bring people together to discuss the issue but it doesn't seem to require an OPEGA investigation.

Sen. Hickman asked if Sen. Reny could explain one of the included documents dated April 14, 2023 regarding some guidance ideas to facilitate the purposes and goals of LD 1393.

Sen. Reny stated that her constituent wrote that in collaboration with another person.

Rep. Millett asked for the current status of LD 1393 and asked if it was carried forward.

Sen. Reny stated that it was not carried forward.

Rep. Millett suggested that a piece of legislation that established some sort of commission engaging the four Agency Commissioners, and the Constituencies they serve, to look at ways in which formal coordination might be achieved in the future. He suggested a broader bill be resubmitted for next year's legislation.

Sen. Hickman read out loud part of the request stating that 'Maine has more land trusts than most states and there is currently no oversight to audit those land trusts. There are numerous hints that there is a need for some form of accountability from conflicts of interest, easement violations, mismanagement of financial gifts, ethical violations, unfounded and unachieved claims to justify mergers. The national certification process is self-policed and not an effective means of oversight.' He then asked Sen. Reny for examples of what the 'hints' are.

Sen. Reny stated that she would have to defer to her constituent who wrote that.

Sen. Hickman invited the constituent, Nicholas Barth, to join the Committee discussion.

Mr. Barth introduced himself as a resident of Newcastle, Maine, and retired from his longtime work in Natural Resources and Environmental Protection, including work in New York State in the 1970's. He explained that at that time, this type of review was mandated by law in New York to bring all the natural resource agencies together into one agency called the Department of Environmental Conservation. He stated that in terms of land trusts in Maine he was up to date with the current structure in the Mid Coast area but not statewide. He noted that some of the land trusts have taken a different path away from the basic mission of land trusts and more towards a provider of outdoor recreation. He explained that it has been fifty years since there has been any review or evaluation of the aqua agriculture program in Maine and the initial rules and regulations do not line

up with the way the agriculture program is today. He agreed with Rep. Millett that there was a policy concern here but stated the question was how to tackle the problem.

Sen. Hickman summarized that it sounded like the Department of Marine Resources was a priority for Mr. Barth. Mr. Barth stated that he could discuss others but suggested that OPEGA could dig into it and he would be willing to provide any other requested materials.

Rep. Blier asked for clarification on what his vision for Maine Trust Lands would be since mentioning that the mission may have changed to allowing recreation.

Mr. Barth stated that the current land trust in the Mid Coast is dedicating a significant part of its budget to actually providing facilities for people to recreate on their lands. He stated that he was not against multiple uses of most lands, but in some cases, there are sensitive ecological features to be careful of.

Rep. Fay was curious about the last time that the Department of Marine Resources was evaluated by the Marine Resources Committee. She stated that there was a GEA Review done of the Department of Marine Resources during the 130th Legislature. She suggested the Committee take a look at what that Legislature came up with. Mr. Barth stated that the kind of reviews that have been done of agencies by their Legislative Committees seem to be superficial and don't get to the root core of the issues. He stated that there are kickbacks from the special interest groups, recreation groups and boaters who are using the lands.

Sen. Timberlake asked for further explanation of the statement regarding kickbacks.

Mr. Barth apologized for using that word and clarified that he just meant that there have been concerns expressed by some users that others are using lands for things other than agricultural purposes.

Sen. Hickman asked if these were private land trusts.

Mr. Barth answered that there are private and nonprivate land trusts.

Sen. Timberlake brought up the statement that talks about easement violations, mismanagement of finances and ethical violations. He asked for examples or proof of those broad statements.

Sen. Hickman agreed with Sen. Timberlake but shared that the private trust lands do not fall under the jurisdiction of the state in that regard, so the suggestion is that there needs to be some type of independent committee to look at the self-policing of these trust lands. He clarified that the Committee needed to decide what to do with this Review Request and to determine if there is a role for the Government Oversight Committee in looking at a comprehensive review of all the natural resource programs and departments. He shared that his question is, are the missions of the Departments as they were established in statute, being met by today's administration.

Sen. Timberlake liked Rep. Fay's point that the Department had been reviewed by the Marine Resources Committee in the 130th Legislature and just thought it was concerning when people make big public statements without any proof. He stated that Sen. Reny could go back to the Marine Resources Committee and ask if they want to do a review, and thought that is where this issue belongs.

Sen. Tipping agreed with some of the questions and statements made by others on the Committee. He noted some testimony for LD 1393 where the Department of Environmental Protection testified that they felt this kind of broad survey may not be the best use of Department resources but that there was an important goal of enhancing coordination among these state natural resource agencies. He suggested sending a letter to the agencies asking how they are currently coordination or how they may have plans to do more in the future.

Sen. Hickman agreed that suggestion was within the Committee's normal practice and jurisdiction.

Rep. Fay stated that she did not know if the GOC was the right place to have this discussion as she felt it was a better discussion for the policy committees.

Director Schleck stated that he appreciated the Committee comments that this was really more of a policy discussion and not really for OPEGA. He suggested that typically, the Office of Policy and Legal Analysis would be the office to staff a study group to allow for that policy facilitation.

Motion: To take no further action with Sen. Reny's Request for Review at this time
(Motion by Sen. Timberlake, second by Sen. Keim, motion passes with unanimous yes)
(Rep. Mastraccio, Rep. O'Neil and Sen. Bennett voted in accordance with the GOC Rules)

- **OPEGA @ 20 Initiative Introduction**

Director Schleck introduced and presented the OPEGA @ 20 Initiative to the Committee.
(A copy of this memo can be found here: <https://legislature.maine.gov/doc/10218>)

Rep. Millett asked how this proposal would be used. He asked for an expected timeline, scope, cost and the audience for this proposal, in connection with how it would go out for possible bid.

Director Schleck answered that organizations like the National Legislative Program Evaluation Society could be consulted for suggested candidates to be facilitators and cost information would be better understood through competitive bidding. The timeline would be for completion during the second session of the 131st Legislature.

Sen. Duson stated that she liked the idea, and suggested an additional best practice overview of what other states are doing, to look at other OPEGA like agencies in other states, comparatively.

Sen. Timberlake questioned what we would want to be accomplished with this as the group that sits around the horseshoe two years ahead may have a different mindset and avenue that they are looking for or want. He did not see an advantage of going out and doing this study or spending a lot of time or money on reinventing a wheel that already exists.

Sen. Duson stated that many organizations have a five- or ten-year operational plan to review the outcomes and incorporate a cycle of feedback on the results to adjust the plans. She liked the idea of the national organizations providing a peer review process and thought it is an opportunity to do a regular cycle about good management and continuous improvement that is not complaint based. She stated that no matter how the Committee changes there is still a base set of goals and objectives within the staff of OPEGA about running a strong office and providing the best service to the GOC.

Director Schleck stated that he wanted to listen and learn about the Committee and the process with Reports, and whether there are opportunities to consider the presentation of information. He stated that as an office that frequently writes to other people about their policies and procedures, he would like to make sure the OPEGA policies provide opportunities for the Committee the way that the Committee needs. He stated that the office also has a lot of things going on and thought it may be more practical to have someone outside of the office facilitate these conversations.

Rep. Arata stated that she was impressed with the Director's qualifications and his experience and that he was selling himself short and thought he was capable of leading and doing this sort of evaluation and that they do not need to hire an outside consultant, especially without knowing the cost.

Sen. Hickman asked what the OPEGA Staff think about this idea.

Director Schleck stated that the staff overall had a desire to get feedback in an organized way that also does so in the context of statute. He noted that he could do more digging on what this would really cost.

Sen. Hickman stated that it was his first term on the Committee so he did not have the context of others who had been there longer, but he noted that he had some questions about the statute that governs the work of the Committee and OPEGA. He suggested a survey of statutes that govern other programs in other states to look at the structure in comparison. He stated that some type of third-party review of the work of OPEGA at the twenty-year milestone is not a bad idea but wondered if there were funds available. He stated that he did not know if there was a way to evaluate OPEGA's functions and bring recommendations to the Legislative Council for changes.

Sen. Tipping stated that it must be difficult for Director Schleck regarding these managerial matters to have a Committee for a boss. He stated that he agreed with Sen. Duson that this sounds like some type of five-year report or plan. He asked for some information about how the Director intends to take the identification of opportunities to increase effectiveness or meet unmet needs and actually implement that, and how the results of this kind of survey would actually be used in a concrete way to make change over time.

Motion: To TABLE this discussion.

(Motion by Rep. Fay, Second by Sen. Duson, motion fails, 4 yes, 5 no)

Additional Discussion:

Sen. Keim stated that if it's not broke, don't fix it. She appreciated the strive for excellence but she did not see the need for this type of deep dive. She liked what Sen. Hickman said about looking at the statutes and going over what Government Oversight is supposed to do.

Director Schleck understood and clarified that this was about the process of continuously being interested in improvement.

Sen. Tipping stated that in terms of staffing, he thought that if OPEGA is asking for some review of their work and their practices that they should take that seriously and give them the chance to come back with information about how it might fit into the budget and how this might be used to improve their work.

Rep. Arata stated that as the Director, Schleck has the authority to conduct these reviews internally without asking for permission, and without writing a report, as an ongoing management improvement.

Sen. Duson stated that if the Committee is not going to approve this request, that she hoped Director Schleck could use other resources to keep engagement and do peer reviews within the National Legislative Program Evaluation Society.

Director Schleck confirmed that the office does have ways of conferring with similar offices across the country and those engagements will continue.

Rep. Millett stated that he was against the tabling motion and was more inclined to go with the motion of taking no action. He stated that it would be preferable if it became more a review from an internal perspective as opposed to comparing Maine to other states, which he thought to be worthless and a waste of money. He stated that they could look into whether the Committee is adrift based on dealing with Child Protection too much the last few years and liked that they have just redefined the taxation process and are getting good feedback from that. He suggested finding a better way to address things without spending any money.

Sen. Hickman asked if there was a mechanism that the staff can address what they are trying to accomplish, but confirmed it was not the will of the committee currently to have the consulting come from out of state.

Director Schleck stated that he would go back to the office and consider the matter further.

Motion: To take no further action with the OPEGA @ 20 Review suggestions

(Motion by Rep. Arata, second by Sen. Timberlake, motion passes with 6 yes, 5 no)

(Rep. Mastraccio and Sen. Bennett voted in accordance with the GOC Rules)

Director's Report

Director Schleck mentioned the offices current ongoing work including the Maine Veterans Home's issue that remains important with the lot of money the Legislature has graciously been providing MVH for stabilization funds. He recapped the requests of the Committee regarding this topic and confirmed the work was still being done and that he will have a report back for the Committee at the next meeting.

Sen. Hickman asked Director Schleck if there was enough time for OPEGA to do a more thorough analysis of the operations of the Maine Veterans Homes and not just their finances.

Director Schleck answered that OPEGA would be prepared to do that for the Committee, but he wants to contemplate that initial concept of an idea, which does not exclude the others.

Sen. Timberlake asked if OPEGA has jurisdiction over the Maine Veterans Homes because he understood it may be federally run.

Sen. Hickman stated that on the Veterans and Legal Affairs Committee last session, they were reviewing LD 2001 and one of the lawyers requested an opinion from the Attorney General because the Committee didn't have any jurisdiction to do what it was doing. He clarified that the Attorney General's Office replied with a three-page brief that stated that the Maine Veteran's Homes is a creature of the Legislature and therefore there is allowed legislative oversight. He also noted that they are licensed as nursing care facilities so they also have oversight from the Department of Health and Human Services.

Director Schleck confirmed that the State Auditor has been invited to the next meeting to give an update on his role and the extent of things he can work on. He also updated the Committee on their law court oral arguments on the Committee's appeal to clarify the Committee's rights to access confidential records sharing that the date would be the first week of October. He explained that this case was chosen to be presented in a local high school. He noted the upcoming Reports regarding the third and fourth child death case file reviews. He then confirmed that he is working on getting the comprehensive follow up data from DHHS on call wait times which should be coming for the next meeting.

Sen. Hickman suggested they ask for the information by a specific date and time so that responses have a time stamp on them.

Director Schleck shared that there had been some changes to the Tax Expenditure Review Process within OPEGA and with the TAX Committee and the GOC, so there will be an update at a future meeting to go over those changes.

Rep. Millett asked if the Committee was still receiving quarterly updates from the Maine Commission on Indigent and Legal Services (MCILS).

Director Schleck reminded that at the end of the last year, the Committee decided that they did not expect any further reporting from MCILS.

Next GOC meeting date and planning

The next GOC meeting will be on September 20, 2023 at 9:30 AM.

Unfinished Business

None

Adjourn

The Chair, Sen. Hickman, adjourned the Government Oversight Committee meeting at 11:52 AM on a motion by Rep. Millett, Second by Rep. Fay.