



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
September 20, 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, Sen. Keim
Absent: Sen. Bennett

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

Legislative Staff: Peter Schleck, Director, OPEGA

Others: Sharon Fusco, CEO, Maine Veterans' Homes (MVH)
Don Lagace, Jr., Chairman, MVH Board of Trustees
Matthew Dunlap, CIA, State Auditor

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 – August 16, 2023**

The August 16, 2023, Meeting Summary was accepted as written.

(A copy of this document can be found here: <https://legislature.maine.gov/doc/10249>)

- **Maine Veteran's Homes**

Director Schleck presented a recommendation for continued work on this matter, with a specific scope, based on initial review to date, which originated based on the complaint of the former MVH Controller.

Sen. Hickman invited the Maine Veterans' Homes CEO, Sharon Fusco, and Chairman Don Lagace to join the Committee discussion.

Ms. Fusco introduced herself and gave a brief overview of the timeline of her becoming part of the Maine Veterans' Homes and her steps taken towards figuring out the issues within the MVH.

Rep. Millett appreciated that Ms. Fusco took the current issues seriously upon entering her position.

Sen. Hickman stated that the complainant shared that she thought the MVH Board of Trustees may not be receiving all of the information necessary to do an appropriate job of overseeing the functions of the MVH. He asked Mr. Lagace if he felt he was receiving enough information to properly oversee the MVH.

Mr. Lagace stated that he felt from the Board perspective he felt that they received a year end financial audit brief every year he has been on the Board. He stated that as a Board, they have been trying to have a deeper dive while trying to stay away from operational aspects--staying at the strategic level.

Rep. Mastraccio stated that she has been through many audits and asked if Mr. Lagace and the Board had any reportable things maybe relating to past audits. She stated that there are usually things flagged to keep aware of as potential issues and wondered if all the things flagged in the audits were taken care of.

Mr. Lagace stated that he believed they had received all the information needed to do their job as Board Members in the past communications with the MVH attorneys, accountants and the chief financial operations person.

Ms. Fusco added that the audits that she reviewed have shown that the Board and MVH staff have acted upon any past potential reg flags found in those audits.

Rep. O'Neil asked if any of the whistleblower's complaints were flagged in previous audits.

Ms. Fusco stated that she would have to go back and reread the lengthy complaint and did not want to speak inaccurately.

Motion: To approve the recommendation set forth in the September 20, 2023, Memorandum from the OPEGA Director to the GOC, to have OPEGA continue work by assessing MVH's internal controls over spending in relation to budgetary limits and related processes, working in tandem with the office of the State Auditor, as deemed necessary.

Discussion:

Sen. Timberlake asked what the price of having this size audit done would cost.

Director Schleck answered that there would be a process of putting out requests for proposals and stated that the discussion of potential help from the State Auditor is something that he would want to pursue before spending for an outside auditor.

Sen. Timberlake asked what the estimates would be.

Director Schleck explained that part of the process would be to see what the potential professional auditors would request as payment to compare. He shared that there is a substantial amount of money that the Legislature has given to the Maine Veteran's Homes and believed there should be adequate assurance measures to ensure the millions of dollars are being managed properly. He also reminded the Committee that there are already substantial sums set aside for this type of outside help (contracting with consultants) for OPEGA Reviews.

Sen. Timberlake stated that he had a hard time moving forward without knowing how much money would be spent.

Sen. Hickman asked Director Schleck to explain the process for spending money that has already been allocated by the Committee.

Director Schleck explained that OPEGA submits a budget for the Committee approval. The Committee may modify but otherwise recommends approval to the Legislative Council. The Legislative Council ultimately approves the OPEGA budget. He explained that there is a substantial carryover balance for OPEGA for consultants and that there is plenty of money that could be used. OPEGA only uses this money when additional assistance is needed to expand resources or if it's a capability that OPEGA doesn't have. He summarized that historically and by statute, once the Committee allocates the funds for this consulting budget, the Director can use the resources as necessary to get the Committee's requested work done.

Sen. Hickman asked if this meant it was discretionary.

Director Schleck answered yes but assured that the Committee's thoughts would be considered going forward. He stated that it was also certainly an option if the Committee wanted to wait until OPEGA could properly fit the work into their own schedule without outside consultants.

Sen. Hickman asked what the balance was for consultants.

Director Schleck answered that the carry over balance was in the realm of eight hundred thousand dollars that have been allocated for OPEGA consultants over the years and had not been used.

Sen. Duson asked if the suggested motion focused on internal financial controls instead of the Veterans' care because that is what the complaint focused on.

Director Schleck confirmed that the complaint was focused on those internal controls and not about patient care. He added that it could be found that improper or lack of spending controls or delayed spending somehow affects the patient care.

Sen. Duson asked if the audit of internal controls leads to issues of impact on patient care, would that be another discussion of potentially changing the scope.

Director Schleck answered yes. He stated that hypothetically if there are aggravating factors that are affecting the patients care then it would be able to be rescoped to be reviewed, if the Committee directed that be done. He also stated that the CEO of MVH has been communicating regularly and shared information as requested.

Sen. Duson assumed that since BerryDunn has been the auditor of MVH for a number of years that OPEGA would go with someone else if a consultant was indeed engaged.

Director Schleck emphasized that because that firm have remained with MVH for a while, and initially were part of an internal review of the former Controller's complaint, OPEGA would seek out others to assist.

Rep. Millett asked if it would be appropriate if the Committee saw the proposals for the RFP and approved the choice with the Director. He understood the allotment of the money but wanted to know if there would be Committee approval.

Sen. Hickman stated that the Committee could do that but worried about being redundant in approving something already given approval within the previous vote to approve the budget. He stated that he was not worried about the cost of making sure that the millions of dollars given to the MVH is being used properly. He also explained that he did not know the answer of whether the Committee has the ability or need to vote to approve the final price of the use of consultants by OPEGA.

Rep. Mastraccio stated that she thought voting on the cost of OPEGA consultant use was a micromanagement that was not needed but thought that this first step towards a review needed to be done. She reiterated that the money has already been approved for this use and did not feel another vote would be necessary.

Rep. Arata stated that she thought the next agenda item would help inform whether the State Auditor would be helpful in getting this review done, instead.

Sen. Timberlake appreciated the comments but reiterated his concerns.

Sen. Hickman stated that this complaint should be taken seriously to make sure that these homes stay open.

Sen. Timberlake agreed that this issue should be looked into but stated that OPEGA cannot go forward until the RFP goes out for bid and money won't be spent until it comes back, so he just wants to know what it costs before making a final vote.

Sen. Keim asked when the last time the GOC spent money to get an outside audit.

Director Schleck answered that there have been times, at the Director's discretion historically based on previous practice and statute, there are times where they have retained consultants and that has not been a part of the conversation at the committee level. He apologized for creating any confusion by mentioning the use of consultants (the recommendation to the Committee sought only approval of the revised scope and confirmation that the matter remained a priority). He again stated that it is also fully the prerogative of the Committee to say that they want to wait until OPEGA has completed the Child Protection Review processes and can devote internal staff.

Sen. Keim stated that the process seemed unfamiliar and felt uncertain about making this decision about retaining outside consultants when they still haven't heard anything from the State Auditor.

Sen. Hickman reminded that the motion is to direct the scope of the work as Director Schleck has recommended and stated there is no reason why the Director cannot share with the Committee the final bid if he goes with a consultant. He explained that the motion is not approving or disapproving any amount of money to be spent.

Rep. Fay stated she was also curious about the history of hiring outside help and thanked Sen. Keim for initiating that conversation. She emphasized that approaching this with a sense of urgency was important considering they are expecting a new supplemental budget will be presented to the Legislature in the new year and the previous spending decisions for the MVH have been in the multimillions. She stated she was in support of the motion but suggested the Committee could wait until after hearing from the State Auditor before moving forward with the vote.

Sen. Hickman invited the State Auditor to join the Committee discussion.

Rep. Mastraccio explained that in her seven years on the Committee, they have never once revisited potential consultant payments after allocating the overall budget to the Director to use as deemed necessary. She stated that she likes having information come back but that she would probably never vote for a motion on how much OPEGA spends on a consultant to do their work because that is not the Committee's role.

State Auditor, Matthew Dunlap introduced himself. He explained that he and Director Schleck had prior conversation about this issue and whether his office could help or had time to help. He explained that they were just beginning to get busy with the reviews of the State's financial statements for the fiscal year that ended on June 30th 2023. He added that they are busy with this audit due on March 31st 2024, but after that there is some time. Depending on the scope of the review they may be able to help sooner. He stated that an audit is not a bad thing and that the greatest amount of work they do is to help agencies become more efficient, comply with the criteria set forth in law, and use good common-sense business practices.

Sen. Hickman thanked Mr. Dunlap and quoted the Statute (Title three, chapter 37, section 996) that explains that the State Auditor *shall* assist the Committee and office with program evaluations if the Committee and the

Director determines such assistance is necessary. He then asked if the office would charge the agency or the Committee for those services.

Mr. Dunlap stated that he would want to explore that and look into that a bit more but assumed that depending on the scope, that this review would not punch a hole in their budget.

Sen. Keim reiterated that the Statute says *shall* and asked if that meant the Committee could compel the Auditor's Office to help with this investigation.

Mr. Dunlap confirmed that would be his understanding of the meaning but that his office would still need to prioritize deadlines on things that are required by statute.

Vote:

(Motioned by Rep. Mastraccio, Seconded by Sen. Duson, motion passed with 10 yes, 1 no)

- **Presentation by the State Auditor**

(Documents shared from the State Auditor can be found here: <https://legislature.maine.gov/doc/10302>)

Sen. Hickman invited the State Auditor, Matthew Dunlap to rejoin the Committee discussion.

Mr. Dunlap reintroduced himself again and suggested the Committee ask him questions they want answers to.

Rep. Fay asked how the State Auditor's Office functions and for a broader overview of what is done and how they work with different departments. She wondered how people approach his office with concerns.

Mr. Dunlap gave a brief history of the creation of the State Auditor's Office. He explained that they give reasonable assurance that the State's financial statements are accurate and truly represent what they purport to represent. He explained that the State draws a tremendous amount of federal award and grant money which all have conditions.

Rep. Arata asked how refined their examination of the State finances is and if they are comparing receipts or if it was broader.

Mr. Dunlap answered that they do sampling on a schedule and they have a number of formulas that are utilized depending on what is being looked for.

Rep. Arata asked how many times whistleblowers go to his office.

Mr. Dunlap answered that they manage the State's Fraud Hotline which began as legislation that was designed to protect the whistleblowers and turned into the hotline. He stated that the most common way of finding something out would be someone calling to complain about an activity happening within their office. He explained that people that commit fraud often cover their tracks and are sometimes pretty good at it so the most frequent way of detecting something like that is someone actually states that they think someone else is doing something wrong.

Sen. Tipping asked if Mr. Dunlap felt that there were other areas other than the Veterans' Homes where he anticipated working with the Committee or OPEGA on specific matters over the next while.

Mr. Dunlap stated that he would need to talk to Director Schleck further but he did not anticipate anything specific other than the potential MVH review, at this time, but recognized probably yes in the future on other matters that may come up.

Rep. Fay asked if there was a particular schedule where they go through particular agencies or is it random.

Mr. Dunlap explained that the process can be done in a couple different ways. He shared that the federal award programs require audits on a certain schedule and the major ones are done every year. He explained that they did a project on procurement cards where they ended up needing the Attorney General's Office's assistance, which also did their own investigation that became a criminal investigation, and shared a document to illustrate their office's work on that and their preliminary findings. He noted that it took many years to find this issue because the p-cards work like petty cash and if its under the threshold it is not scrutinized.

Rep. Mastraccio asked how much fraud was estimated over the nine-year period at issue in this case.

Mr. Dunlap answered that it was estimated to be around two and a half million dollars.

Sen. Duson wondered how useful the audits are in terms of turning it into action by the oversight agency.

She noted certain summaries of audit findings that stated that internal controls over hospital and long-term care facility audits needs improvement. She thought that was a great response with good direction to the agency, but the agency disagreed and said they did not have to send those reports each year. She noted the follow up was that the auditors said routinely that yes, the agency did need to do those reports. She asked if the agency had now been doing those.

Mr. Dunlap answered that they would find out within this year's review. He noted that the point of LD 1215 is to give legislators this information so they can follow up with the agencies.

Sen. Duson stated that she believed that the GOC and the agencies are the customers of the audits.

Sen. Hickman asked how he works with the Office of the Controller.

Mr. Dunlap answered that they work with the controller on all of their audits but especially the financial statements. He explained that the query that caused their office to do the p-card transaction work originated in the controller's office.

Rep. Fay asked if there is always a management disagreement statement or if they ever thank the auditor for pointing something out.

Mr. Dunlap shared that he was to meet with the IDEA Committee regarding three findings issued to the Department of Economic and Community Development where there was agreement with the findings and they were working to correct them. He noted that most of the time agencies agree with their findings.

Sen. Hickman asked for clarity on whether this was just for federal grants.

Mr. Dunlap answered yes it relates to the single audit.

Rep. Millett stated that the audit findings with the management disagreements were interesting and wondered if the sampling was some of the more serious things because of the costs associated with the items.

Mr. Dunlap answered that in his understanding, those are all of the disagreements.

Rep. Millett asked if there were any things besides the ten management disagreements that he wanted to share with the Committee.

Mr. Dunlap explained that Rep. Fay asked him there to do an overview of the work and give an insight of the office, not to highlight any issues they need to be aware of.

Sen. Hickman asked who audits the State Auditor.

Mr. Dunlap answered that they have a triennial panel peer review with National Association of Auditors, State Auditors, Controllers and Treasurers.

Sen. Hickman asked if the Office of the State Auditor audits the Offices of the Constitutional Officers or if they have a similar peer review.

Mr. Dunlap answered that the office is empowered to audit everything.

- **Customer Call Wait Times – DHHS Data on OCFS Calls**

Director Schleck explained that the Health and Human Services officials who would have been able to speak to the Committee about this information are giving the quarterly update for the Office of Child and Family Services in front of the Health and Human Services Committee and could not be in both places. He suggested that they digest the information and have someone come back to the next meeting for questions.

Rep. Fay asked if there was any additional information coming from other phone lines and suggested they could also discuss that in the future if there is more there.

Director Schleck explained that he had taken the liberty of requesting the Department move things along by providing a list of the other call types so the Committee could indicate preferences as to what should be presented sooner than later.

Sen. Tipping stated that he hoped they get additional information that goes broader and deeper than what was received as a first response. He noted that the federal government contacted the state and said that Maine is one of sixteen states where the call center wait time is so extreme that it is "impeding equitable access to assistance and the ability for people to apply for or renew Medicaid" and stated that they may be in violation of federal law.

Sen. Timberlake stated he would like to know who people are calling to get shorter times because he has not heard any times like that from his constituents. He recalled a situation with a constituent family who seemed to never get responses from the Department. He stated that the responses should explain how long it took for the entire issue to be solved, not just the phone to be answered off hold. He asked if this concept was a part of the request for more information.

Director Schleck recalled that this may not have been in the template of questions calling for resolution in terms of outcome.

- **State Psychiatric Workers – Response to GOC from HHS Committee**

Sen. Hickman reminded the Committee of the origin of this letter and asked if the Committee members had any thoughts or questions or discussion points related to this item or whether they should move it to the next meeting in October.

Rep. Fay suggested waiting to see when the HHS Committee is meeting to discuss this topic and follow up after that.

Sen. Tipping stated that there seems to be a theme heard from the workers at Riverview that the reports to the HHS committee are conflicting with what he hearing anecdotally. He shared about multiple instances that had been reported to him over the last month.

Director's Report

Director Schleck introduced a letter that Sen. Keim sent regarding Public Guardianships.

Sen. Keim explained the reasons for her letter and suggested the Chairs and Leads send a letter to the HHS Committee suggesting and asking if they would look into this issue first before the GOC would consider any full review. She noted that it was a serious topic that needed to be brought forward but thought that it should go to the jurisdictional policy committee first.

(A copy of this letter can be found here: <https://legislature.maine.gov/doc/10301>)

Rep. Mastraccio stated that this suggestion of Sen. Keim was a good idea. She asked for clarification that it does not need to be an Agenda item to vote on this matter.

Sen. Hickman stated that they can vote on this matter.

Motion: To send a letter to the HHS Committee following Sen. Keim's letter about adult guardianship issues. (Motioned by Keim, Seconded by Mastraccio, unanimous yes)

Next GOC meeting date and planning

The next GOC meeting will be on October 18, 2023 at 9:30 AM.

Unfinished Business

None

Adjourn

The Chair, Sen. Hickman, adjourned the Government Oversight Committee meeting at 11:53 AM on a motion by Sen. Hickman, Second by Rep. Fay.