



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**  
**June 26, 2024**

**Call to Order**

The Chair, Sen. Hickman, called the Government Oversight Committee to order at 9:35 a.m.

**ATTENDANCE**

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

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

Legislative Staff: Peter Schleck, Director, OPEGA  
Jen Henderson, Senior Analyst  
Kari Hojara, Senior Analyst  
Justin Purvis, Secretary, OFPR

Others: Elizabeth Frazier, Pierce Atwood (representing Twin Rivers)  
Victoria Foley, Legislative Affairs, Department of Economic and Community  
Development  
Karen King, Senior Director of Marketing and Commercial Excellence  
Twin Rivers Paper

## **Introduction of Committee Members**

Sen. Hickman began with a moment of silence for former Gardiner City Council member Terry Lee Berry. 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 – May 15, 2024**

(A copy of this Meeting Summary can be found here: <https://legislature.maine.gov/doc/11019>)

The Committee accepted and approved this meeting summary.

## **OPEGA Report Presentation (postponed)**

Sen. Hickman invited Ms. Henderson to join the Committee to discuss the postponement of the scheduled OPEGA Report – Evaluation of the Paper Manufacturing Facility Investment Credit.

Ms. Henderson shared that the office would not be able to present the report as planned and the anticipated next steps. She noted that new information had been received the day prior regarding the amount of qualified investment connected with the credit. The qualified investment amount is the basis for the calculation of the credit and is integral to the evaluation of the credit. As this information is important to make sure the report is accurate, Ms. Henderson suggested the office take time to understand the new information and bring a revised report if necessary to the Committee at a later date. Ms. Henderson explained that the information OPEGA had as the basis for the evaluation from public reporting and shared with OPEGA by the company was different from the amount of qualified investment that was certified. OPEGA became aware of the difference yesterday. There is a roughly eleven-million-dollar difference between the qualified investment that was reported and the qualified investment was certified. OPEGA is not suggesting anything untoward is happening, but that it is prudent to understand the difference to present an accurate report.

Sen. Hickman asked if this was the first time something like this had happened where OPEGA had pulled a report ahead of a presentation.

Ms. Henderson answered that yes, to her memory, that was the case. Generally, OPEGA’s reports are a point in time analysis of a program and OPEGA understands that situations can shift once reports are out in the world, but this situation was different because the qualifying investment amount really matters to the evaluation.

Rep. Mastraccio appreciated the offices choice to take time to edit if necessary to present an accurate report. She asked if it was typical that the certifications would be completed before the end of the fiscal year so that OPEGA could take this into consideration for future evaluations.

Ms. Henderson answered that this credit is unique in that it does not have a time limit in the statute from when the investment is made to when the final certification has to occur. Sometimes there is a certain number of days, months, or years that are allowed before that final certification occurs. In this case, OPEGA was not sure when the company would seek certification.

Rep. Millett asked for clarification on the eleven-million-dollar difference.

Ms. Henderson explained that the qualifying investment figures in the annual report from February totaled to roughly thirty-five million and the total qualifying investment certified from DECD in the certification of completion is twenty-three million leaving an approximate eleven-million-dollar difference. Ms. Henderson directed members to both the annual report and the certification of completion. Ms. Henderson wanted to be clear that OPEGA was not saying the eleven million dollars in investment had not happened. OPEGA was hearing from Twin Rivers that the eleven million dollars in investment had happened but that the company was

not seeking certification for that investment yet. Ms. Henderson said that OPEGA was still becoming familiar with the details and that any questions on that matter would best be directed to representatives of Twin Rivers Paper.

Rep. Millett asked if there was any limit to the number of prior years that can be aggregated to reach that qualified investment number.

Ms. Henderson answered that the statute defined the qualified investment has to have been made after January 1, 2019 and before December 31, 2023 so the period for investment is clearly defined there and has ended.

Rep. Mastraccio asked if there was the opportunity for the company to talk to DECD about why the investment didn't qualify.

Ms. Henderson said her understanding was that this was not necessarily a situation of denial by the agency at all but may be a situation about the timing of the company seeking the certification.

Sen. Hickman invited representatives for DECD and Twin Rivers join the conversation.

Victoria Foley of DECD and Elizabeth Frazier of Pierce Attwood, representing Twin Rivers Paper, introduced themselves.

Sen. Hickman asked Ms. Foley and Ms. Frazier to explain what was happening with the credit.

Ms. Frazier said that Ms. Henderson properly articulated the situation reiterated what Ms. Henderson had said. She noted the timeframe for spending for the investments was indeed the between 2019 and 2023. She noted that the company had spent the thirty-five million but there was one piece of equipment costing eleven million dollars that has not been installed or put into service. There is an open-ended opportunity to claim credit for amounts spent during the time period. She explained that the statute states that the credit cannot be claimed until the purchased items are put into service. She shared that Twin Rivers had intended to use this new machinery before Covid affected the market conditions leading to the company not implementing the new purchase. The company still intends to use this product as the market is expected to move back in the direction it was before Covid. The company would seek to amend the certificate of completion to claim credit for that remaining amount at that time.

Sen. Hickman asked if the Committee could know more about the piece of equipment.

Ms. Frazier stated she wished she could share more but it would put the company at a competitive disadvantage to share publicly.

Rep. Mastraccio clarified that the statute states that the money can be certified for the tax credit as long as it is eventually put into use because it was purchased during the designated timeframe.

Ms. Frazier answered yes.

Sen. Duson asked if there was a cost to install the equipment and whether that was included in the credit.

Ms. Frazier answered that yes there would be a cost but that Twin Rivers would take that cost directly.

Sen. Bennett asked what the equipment would mean for employment at Twin Rivers.

Ms. Frazier answered that the credit was designed to modernize the mill and ensuring longevity and will be responsive to a new and growing market and it is anticipated it would keep the mill up to that market speed and competitive across the country. This is a piece of equipment that would be responsive to a growing market. In terms of employment, it would help with retention and keeping the mill modern and running.

Ms. King introduced herself as the Senior Director of Marketing and Commercial Excellence at Twin Rivers Paper added that it would help the mill maintain a competitive edge and adding equipment to the machines to shift the type of grades that the company is focused on. Ms. King also introduced John Graves as the Vice President of Group Operations at Twin Rivers Paper in Madawaska.

Sen. Bennett asked where the equipment is now.

Ms. King answered that it was delivered to the facility just not installed making it a deferred expense that they will file for claim of once installed.

Rep. Arata thanked Twin Rivers for investing in Maine and hoped they would continue to do so in the future. Ms. King said that Twin Rivers is committed to Maine and thanked the State of Maine and DECD for investing in Twin Rivers Paper and their employees.

Sen. Hickman asked if there were any additional thoughts from Ms. Foley.

Ms. Foley of DECD thanked OPEGA for a good working relationship, noting the last-minute shifts in information regarding this expected report and the quick communication between both offices.

Rep. Blier asked if there was a time frame to have the equipment installed to achieve the credit.

Ms. Foley answered that Ms. Frazier might have a better answer but it appears that the credit has some “open ended-ness.” As long as the purchase was made during the qualifying period it could potentially be certified once installed.

Rep. Mastraccio added that it was her understanding that if we’ve reached the time limit for when Twin Rivers Paper could claim the credit and they hadn’t installed the equipment yet, they would be out of time to seek credit for that investment, so there is some time pressure for Twin Rivers to do so.

Ms. Foley agreed that is correct.

Sen. Bennett mentioned the Public Hearing for the report, once presented, and asked if they would review the concerns raised in the report draft.

Sen. Hickman noted that because the report essentially does not exist at this point and OPEGA will have to take the information received and an entirely different evaluation that will be presented.

## **Director’s Report**

Director Schleck thanked the committee for their patience and understanding of the current situation regarding the now postponed report presentation.

Director Schleck then noted the letter from Rep. Fay requesting a review of the state’s procurement processes. (A copy of this letter can be found here: <https://legislature.maine.gov/doc/11024>)

## **New Evaluation Request**

Rep. Fay shared that there have been a number of high-profile questions and concerns about procurement and how that has happened in state government. She noted that the last time this system was evaluated was in 2008 and that a lot has changed since then but there is some basic background work that has been done and could be revisited to allow the Legislature to come up with solutions and make the system better. She is requesting that the Committee allow OPEGA to come up with scoping questions for a potential review for the Committee to discuss.

Rep. Mastraccio suggested looking at the past OPEGA report on the topic to see if the recommendations were followed so the Committee could discuss those past points in comparison. Rep. Mastraccio thought looking at the prior report could impact scoping questions for a potential new review.

Director Schleck stated that OPEGA was seeking to put Rep. Fay’s request before the Committee today and that OPEGA would bring the background of the previous report to the next meeting to have a more in-depth discussion to talk about future actions. He also noted that DAFS Commissioner Figueroa sent a letter to the Committee that had just been received and that the Committee would be able to consider that ahead of the next meeting when the Committee could talk about the next possible actions. He noted that this could include talking to each Committee Member about their thoughts and perspectives as well to include them into the scope.

Rep. Mastraccio stated that she would prefer those kinds of discussions to happen in a meeting.

Director Schleck confirmed that the office would not be taking any actions unless and until the Committee directs them to do something specific. The first step was putting the request letter before the Committee, then they will review the response from the Commissioner and the past report from 2008 at the next meeting.

Sen. Timberlake agreed that this topic needs a discussion, noting the State Museum building and the costs of those renovations could be compared to what a new building would have cost instead.

Sen. Duson asked if the Department response to the past report that would have been in the form of a management improvement plan or action plan.

Director Schleck noted that in the basic review of the files from 2008, there was some indication that basic follow up was done and responsive to the report, and that information can also be delivered for next meeting.

Sen. Duson asked for the Department to review the changes made since the first OPEGA report and provide information that could help inform recommendations to the Committee.

Sen. Bennett shared concerns reiterating Rep. Fays points and also including the procurement of the HR system, and the rationale for no bid contracts. He noted that there are a lot of things to this topic and the Committee should invest time up front to explore exactly what questions they want answered otherwise it could be a large amorphous review not well aimed to produce a solution.

Sen. Hickman noted his other Committee found that some business entities that get contracts with the state are very well represented by lobbyists, except that under the definition of lobbying and state statute, that is not lobbying activity that is reportable to ethics and Committees of oversight. Sen. Hickman noted that Maine is unique in this way. He notes that there may be a statutory change worth looking into in this regard.

Rep. Fay noted that the conversation is emblematic of having some scoping guidance and having the conversation based on a framework that OPEGA staff might be able to help with so it does not become a huge project especially not without direction. Rep. Fay asked if a motion was needed for OPEGA to prepare for the next meeting.

Director Schleck did not think it was necessary if OPEGA was only being asked to gather information or summarize information already extant. If the office were being asked to do new research or take additional steps, then a motion may be needed.

Sen. Hickman invited Ms. Trundy to join the committee and walk them through the Department's response to Rep. Fay. (A copy of that document can be found here: <https://legislature.maine.gov/doc/11028>)

Ms. Trundy noted that the decision to send an initial response to the letter was to convey to the Committee that the Department is willing to have a very open and robust conversation about procurement. She noted that the Department may be able to easily answer some questions regarding the processes and principles, laws and rules that they operate under. She noted that she understands the interest, there is a lot of money involved, but she believes the Department may be able to answer questions.

Rep. Millett stated that the response letter addressed the numbers 2 and 3 of the 7 bullets fairly well, but suggested that number 1, although being a critical issue, was not addressed perhaps due to lack of time. He noted that having these conversations does not require a motion or a specific study in his view but it involves the continued communication between all parties. The opportunity to have this conversation in a future GOC meeting would be well worth it.

Sen. Hickman's mentioned that he didn't think procurement was attended to all the time because it's not high profile until it is, but it involves a lot of money and is worth considering.

Sen. Tipping noted he is interested in the greater good of the state in awarding contracts. He is interested in the contracting around non-medical transportation and logistic care being awarded to for profit companies that are invested heavily into lobbying and political contributions and the effect that has on the non-medical transportation providers that are nonprofits in the state.

## Other Business

Director Schleck noted a letter from Sen. Timberlake to the Office of Child and Family Services.

(A copy of this letter can be found here: <https://legislature.maine.gov/doc/11027>)

Sen. Timberlake stated that the letter is pretty self-explanatory. The letter expresses concerns that the Department hired a consulting firm to do work that he thought had already been done. Sen. Timberlake expressed that did not understand the reasons the Department would not try and implement previous recommendations before hiring a consulting group for around two hundred forty thousand dollars. Sen. Timberlake has not seen expected changes yet occurring.

Sen. Hickman asked what Sen. Timberlake is expecting in return of this letter.

Sen. Timberlake stated that he was asking for an official response from Director Johnson.

Sen. Duson asked if she missed the Management Review Report from PCG or if it was in the works.

Director Schleck thought it was completed and distributed but stated he would make sure it gets resent to the Committee.

Sen. Hickman stated that this is a review that Sen. Duson as the chair of the Blue-Ribbon Commission may have.

Rep. Millett stated that he does not remember seeing the PCG Report, but the letter comments on the PCG Report and also reiterated the desire for a response from the Department including an update on the tragedies that continue to happen. He suggested a structured discussion down the road in terms of what is happening to address the concerns that Sen. Timberlake has continued to receive from constituents.

Sen. Hickman noted that the Chairs would take that request into future meeting planning.

*The Committee stood at ease until 11:00 when the Public Hearing for the Evaluation of the Credit for Maine Shipbuilding Facility Investment was scheduled to begin.*

## Public Hearing - OPEGA Report: Evaluation of the Credit for Maine Shipbuilding Facility Investment

(A copy of the Report can be found here: <https://legislature.maine.gov/doc/10957>)

Sen. Hickman introduced the public hearing on the Evaluation of the Credit for Maine Shipbuilding Facility Investment.

**John Fitzgerald** – VP/General Counsel, Bath Iron Works

(A copy of this testimony can be found here: <https://legislature.maine.gov/doc/11025>).

Rep. Mastraccio stated that she believed it is in the company's favor to have a running tally of investment even if it exceeds the amount of investment required. She appreciated more information rather than less because it is very easy to justify the Credit that was given to the Shipyard. She noted a visit there and shared how impressed she was with the large numbers of workers and the amount of work that has gone into creating jobs that are appropriate for people to work because it is a hard place to work.

Mr. Fitzgerald stated that they agree but that there is a point where it starts to get uncomfortable about the amount of information out there based on the competitive situation and having a competitor who buys the same materials and it comes down to the competitive bidding. He stated that because of that competition, they are always trying to figure out each other's costs which can be used for bids for projects. He noted that the competitor competes for one third of their work, while BIW competes for 100% of their work. This allows their competitor to spread out costs across projects which BIW cannot do.

Rep. Mastraccio suggested there must be a way to provide the Legislature with that information that doesn't cross the line as the information helps the Legislature make decisions regarding the potential of future tax credits.

Sen. Tipping noted a sheet for the Shipbuilding Facility Investment Credit with some yellow bars and some numbers (referencing the required annual reports). He asked if there was additional information that was submitted that providing more details on the investment claimed for the credit.

Mr. Fitzgerald stated he did not believe so because there is no separate requirement other than providing the raw data.

Sen. Tipping asked if this particular credit made a difference in the awarding of any particular Naval contract.

Mr. Fitzgerald answered the Navy does consider the support of local communities but that making a one-to-one correlation between the credit and a contract is difficult. But they do know that BIW's costs are higher than the competitor and BIW pays higher property tax and the credit is part of the fabric of how they try to bid the lowest price.

Rep. Blier asked if there were any things within the state that are a hinderance that the Legislature could potentially help BIW with to become more competitive.

Mr. Fitzgerald stated that workforce development and supporting the work force is absolutely a primary importance to BIW sharing that they have projects ongoing with childcare, housing and transportation of staff. He notes that the state is doing things in this regard, but they can always use more help. He noted that the latest Naval contract has proposed a shipbuilding workforce initiative that allows BIW to propose projects that support their workforce and which the Navy will also invest in and encourage BIW to have community partners in those projects. He clarified that the process with the Navy is how they are currently investing in childcare, housing and training efforts.

Rep. Fay asked if the childcare initiative was inclusive of family care of parents or other family members of workers who are not children.

Mr. Fitzgerald noted that they are trying to provide solutions to the large number of childcare issues that their workers have as they know they eight hundred eighty children under the age of six that belong to their workforce. A lot of the solutions are coming from generational help. The housing initiative is aimed at developing housing that makes sure that people between eighty and one hundred twenty percent of the average median income will only pay one third of their income towards housing. Mr. Fitzgerald noted they are sensitive to the needs of their employees.

Sen. Hickman noted that the OPEGA report states that DECD should take additional steps to confirm compliance with requirements for job quality and preference for Maine companies. He asked if there is group health insurance and how much they contribute to that and the retirement plans.

Mr. Fitzgerald answered yes, they have insurance but does not know how much BIW contributes, but would get the answer for the Committee. He shared that the employees have different variations due to the bargaining units, but they all have pension and a 401K with company match.

Sen. Hickman asked if there was a way to share that information with OPEGA.

Mr. Fitzgerald answered he would get that information as well.

Sen. Hickman asked if there were any work force satisfaction assessments that are conducted other than retention.

Mr. Fitzgerald replied yes and noted that parking is an issue with the workforce. He shared that it is perennially a challenge. Ultimately though, job satisfaction is measured by retention rates.

Sen. Hickman asked if the Human Resources Division actively reaches out to employees to gather feedback on what would make the workplace better for them.

Mr. Fitzgerald stated yes and that is how BIW knows there are over eight hundred children of staff. Half of the staff would like their childcare close to home, half would like childcare close to work. With employees in 15 counties that means BIW could have childcare in Bath and other regional communities. He noted the transportation pilot program. The employees are represented by five different unions who are not shy about needs. He emphasized that BIW wants to know what the employees want and need because they are very hard

jobs that take a physical toll and have significant safety challenges. He stated that they can have all the fancy equipment and buildings in the world but the ships won't get built without the people.

Sen. Hickman asked if he objected to any of the recommendations in the OPEGA report.

Mr. Fitzgerald answered no.

Rep. Arata thanked BIW for providing jobs and investing in Maine.

Sen. Hickman closed the public hearing and noted that the Work Session on the report is expected at the next GOC meeting.

### **Next GOC Meeting Date and Planning**

The next GOC Meeting was scheduled for July 17, 2024.

### **Adjourn**

Sen. Hickman adjourned the Government Oversight Committee meeting at 11:35 a.m. on a motion by Rep. Mastraccio seconded by Rep. Blier.