



SENATOR CRAIG V. HICKMAN, SENATE CHAIR
REPRESENTATIVE JESSICA FAY, HOUSE CHAIR

MEMBERS:

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

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
October 16, 2024

Call to Order

The Chair, Senator Hickman, called the Government Oversight Committee to order at approximately 9:32 a.m.

ATTENDANCE

Senators: Senator Hickman, Senator Keim, Senator Bennett, Senator Duson, Senator Tipping, and Senator Timberlake

Representatives: Representative Fay, Representative Arata, Representative Mastraccio, Representative Millett, Representative Blier, and Representative O'Neil

Legislative Staff: Peter Schleck, Director, OPEGA
Jen Henderson, Senior Analyst, OPEGA
Kari Hojara, Senior Analyst, OPEGA
Virginia Ryan, Temporary GOC Committee Clerk

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: [October 16, 2024 GOC Meeting](#))

Meeting Summary – September 18, 2024

(A copy of this Meeting Summary can be found here: [September 18, 2024, GOC Meeting Summary](#))

The Committee accepted and approved this meeting summary, subject to the correction of the spelling of Representative Mastraccio’s name in one place in the draft.

Riverview and Dorothea Dix Psychiatric Centers

Senator Hickman invited Senator Tipping to introduce the request from Representative LaRochelle and Representative Bridgeo, for an OPEGA review of worker safety and related issues at Riverview and Dorothea Dix Psychiatric Centers. A copy of the letter from these Representative’s may be found at the following link:

[September 3, 2024, Request from Reps. LaRochelle and Bridgeo re: Dorothea Dix and Riverview Psychiatric Centers](#)

Just before Senator Tipping spoke, Senator Hickman also explained how at the prior Committee meeting on September 18, 2024, a Motion to Table this item until the Committee’s November 2024 meeting received a vote of 5-3 in favor, from among those Members present at the time of the vote. Following the September 2024 meeting, three Members, Senator Duson, Senator Tipping, and Representative O’Neil, recorded votes in the negative in the time permitted, resulting in the Motion not prevailing, by a vote of 6-5. One absent Member did not record a vote in the time permitted.

Senator Tipping, who along with the House Chair (Representative Roeder) of the Labor and Housing Committee (and on behalf of that Committee), had made a similar request for review in 2023, renewed his Motion for an OPEGA review of this matter in light of the new request. Senator Tipping cited the example of the prior Committee and OPEGA work regarding the State Fire Marshal’s Office as an appropriate analog for the proposed effort here.

Senator Hickman next requested that Director Schleck discuss OPEGA’s outline of a suggested approach to this matter, a copy of which may be found at the following link, and the Director did so:

[OPEGA Suggestion re: Riverview and Dorothea Dix](#)

Senator Tipping cited the prior testimony of workers at these facilities, during an appearance before the Labor and Housing Committee, and that the subsequent meeting before the Health and Human Services Committee did not include workers but had presentations by administrators. Moreover, Sen. Tipping referenced the suggestions in the September 3, 2024, letter from Representative LaRochelle and Representative Bridgeo that current perspectives by workers portray a more negative set of conditions.

Senator Tipping thanked Director Schleck for the suggested approach and indicated that it would also be helpful to consider contractor staff, including in relation to permanent staff vacancies, and further, how the recent suggestions about staff perspectives do not appear to align with data from the prior year which may have suggested improving conditions.

Senator Tipping, in response to questions from Senator Hickman, indicated he would rely on OPEGA to seek to offer some context for the data obtained, and that at least some input from the staff themselves would be appropriate.

Representative Mastraccio stated her preference for something more than data, as well, and in terms of information from individual staff, that there be an approach other than self-selection. Representative Mastraccio also asked how soon this work could be accomplished, and suggested February 2025. The Director agreed with the feasibility of such a timeline.

Senator Duson also asked whether, through OPEGA, DHHS management could provide a management summary of policy and program change, if any, and how management is measuring progress.

Senator Tipping then asked if Representative LaRochelle and Representative Bridgeo could share with the Committee about their recent meetings with staff. Senator Hickman then invited the Representatives to do so.

Representative LaRochelle spoke first and described their visit with facility personnel. Concerns included with respect to staffing, or lack of staffing, and dangerous conditions. Representative LaRochelle expressed her hope that staff would be able to share those perspectives through the recommended review and thanked the Committee for its consideration.

Representative Bridgeo spoke next and expressed shock at what he heard from facility staff and expressed the need for an expedited review.

Senator Bennett asked about the reference in the Representative’s letter to possible resistance by facility management to staff organizing, and whether this referred to collective bargaining or something else.

Representative Bridgeo acknowledged that this was a union environment, and that it was not completely clear what was meant, but that he was concerned about staff fears of retaliation for raising concerns.

Representative Arata stated that she would like any review to consider the context in which the injuries occurred, the nature of the injuries, and how it can be a delicate balance between staff safety and patient rights. Representative Arata also expressed an interest in a tour of the facility.

Motion and Committee Vote

Senator Hickman asked if there was a Motion.

Representative Mastraccio moved that the Committee direct OPEGA to perform an initial inquiry consistent with the Committee discussion today and report back to the Committee by February 15, 2024. The motion was seconded by Senator Tipping. The motion was approved unanimously by all Committee Members.

Public Hearing: Maine Paper Manufacturing Facility Investment Credit

(A copy of this report may be found at the following link: [Evaluation of the Credit for Maine Paper Manufacturing Facility Investment](#))

Next, Senator Hickman opened the public hearing to receive comment on OPEGA’s report, “Evaluation of the Maine Paper Manufacturing Facility Investment Credit.” The written testimony submitted may be found at the following link:

[October 16, 2024, Public Comment on OPEGA's "PAPER" Report](#)

Elizabeth Frazier, of the firm Pierce Atwood, spoke on behalf of Twin Rivers. Ms. Frazier thanked OPEGA for its work. Ms. Frazier indicated support for OPEGA’s report.

Ms. Frazier described Twin Rivers and its history.

Reviewing the history of the tax expenditure, in 2019, Ms. Frazier suggested that two paper making entities were eligible for the credit, Twin Rivers in Madawaska and Pixelle in Jay, although Pixelle is no longer eligible as they are no longer “here”. In any event, Pixelle did not ever apply for the credit for a variety of reasons.

Ms. Frazier also noted that an entity receiving the New Market Capital Investment Tax Credit would not have been eligible for the paper credit, which she said rendered other Maine paper manufacturers ineligible for the paper credit.

According to Ms. Frazier, the credit made it possible to modernize a number of aspects of Twin Rivers operations at its Madawaska mill and enhance its longevity and competitiveness. Ms. Frazier suggested industry conditions are worse than ever, with only five working mills still operating in Maine. Ms. Frazier indicated how deeply Twin Rivers appreciates the credit.

Directly addressing the OPEGA report, Ms. Frazier stated that Twin Rivers does not take a position on OPEGA’s recommendation concerning single entity incentives. Twin Rivers generally supports the report’s findings and the other recommendations.

Ms. Frazier also appreciated the report’s descriptions of industry conditions and believed it pointed to the need for considering another tax incentive relating to paper making.

Ms. Frazier also indicated that DECD was “great to work with.”

Senator Tipping asked whether there was any restriction on the sale or movement of capital equipment funded by the credit.

Ms. Frazier promised to follow up, but suggested the answer was likely no, and this was something to consider for any future credit.

Senator Tipping also asked whether Twin Rivers would be supportive of the state having a future ownership stake in their company for supplying an additional credit or credits. Ms. Frazier said it might depend on the circumstances, but candidly, generally the answer was no. But, again, it might still depend on size and scale of the investment. The business risks and limitations would nevertheless make it “less appealing.”

Senator Bennett asked about desired outcomes from the various tax incentives, and whether Ms. Frazier would support a standardized set of measures for all such provisions. Senator Bennett noted that a standard set of measures would allow for comparison across incentives in the state and with those in other states.

Ms. Frazier responded that there could be value in such an approach. One consideration would be to leave room for other factors to be later included in evaluation beyond the standard ones.

Senator Bennett discussed his legislation from the prior session that sought to achieve this standardized incentive data collection. He acknowledged there is always the tension about how much information is proprietary and what is not. He said the goal is to have a standard set of measures going into an incentive. Then the Legislature can then always decide to add more or that some don’t apply, but they aren’t haven’t to start from scratch every time.

Representative Mastraccio stated that the Legislature has taken steps to create measures for these incentives and that specialized measures can be created in addition. She noted it has become part of the standard conversation that

people know performance measures need to be included in new incentive legislation. Representative Mastraccio said a lot of progress has been made in this regard and it works well that when the measures are established up front the businesses know exactly what will be expected and there are no surprises.

Ms. Frazier agreed that the data requirements for the Paper Manufacturing credit were very transparent. She said it was important when applying for a program like this to know how you will be measured so that you can think through whether you will be able to meet the expectations.

Representative Blier stated he grew up in the area, and that Twin Rivers has created a great living for many there, and the tax credit has certainly helped. Above and beyond that, Representative Blier said the woods industry is very large but also very expensive to be in today and that complementary tax credits for the forest industry should be considered in the future.

Patrick Strauch, Executive Director, Maine Forest Products Council, also testified. Mr. Strauch praised the OPEGA report and its consideration of the issues. Mr. Strauch emphasized the connection of pulp and paper to the rest of the industry and the interdependencies in the industry in Maine. He said that pulp and paper is “the lynchpin” to make the rest of the industry work. Mr. Strauch discussed the difficult market conditions and current challenges facing Maine’s pulp and paper mills. He noted it is critical that these mills continue to make capital investments in Maine and suggested broadening this credit to all operating mills or making a new program to do so. Mr. Strauch noted that pulp and paper companies are determining where to make their capital investments, and a credit like this makes Maine a more competitive location for these investments.

Senator Hickman stated for the record that the Maine Center for Economic Policy also submitted written testimony, which was made a part of the record, and which supported the OPEGA report’s recommendations.

Work Session: Maine Paper Manufacturing Facility Investment Credit

Senator Hickman next opened the work session on OPEGA’s “PAPER” report.

Senator Bennett moved endorsement of the report. Representative Mastraccio seconded the motion.

Representative Arata requested that two things should be added to the report after being verified. First, clarification that a second company, Pixelle of Jay, was eligible for the credit at one time, and second, that the credit’s purpose was to assist those not eligible for the New Markets Tax Credit.

Representative Mastraccio suggested that the Committee could simply make sure that this information from today’s public testimony be included in the information transmitted to the Tax Committee.

OPEGA Senior Analyst Jen Henderson confirmed that such materials (public comment, meeting summaries of Committee discussion) are always included in the transmission. Ms. Henderson also shared that there is precedent for the Committee sending its own communication along with the transmittal to the Taxation Committee if there are items of disagreement or additional perspective the Committee wishes to have highlighted.

Senator Hickman referred the Committee to the guidance document for processing tax expenditure reports and noted in that document the Committee’s option to include its own communication with the transmittal to the Taxation Committee. Senator Hickman asked whether Representative Arata would like to see the Committee include a letter with the transmittal to highlight the points raised.

Representative Arata stated that she wanted to make sure these facts were not lost.

Senator Keim expressed reservations about highlighting one piece of testimony over another, and about characterizing legislative intent without looking back at the legislative record when it may not have been intended to apply to more than one entity.

Representative Fay stated appreciation for Representative Arata’s perspective, but agreed with Senator Keim that the Committee did not actually know without more information. Representative Fay highlighted the opportunity for any Member to attend the Tax Committee’s future proceedings on this report to help ensure that additional perspective was clear.

Senator Bennett agreed that it was standard practice, and a good practice, to have a straightforward vote on the endorsement of the report unless the Committee did not find that the report was credible, objective, and sufficiently relevant with regard to the assigned scope for the evaluation. Senator Bennett said that OPEGA staff did a great job with this report and that what happened to the report next in deliberations and future legislation is beyond the purview of his motion. Senator Bennett asked that the motion be kept intact as he presented it.

Motion and Committee Vote

Prior to the above discussion, Senator Bennett offered a motion that the Committee endorse the report, which was seconded by Representative Mastraccio. Following the above discussion, his motion was approved unanimously.

Motion and Committee Vote

Senator Hickman then entertained a motion to transmit the OPEGA “PAPER” report to the Tax Committee, which was made by Senator Bennett and seconded by Representative Mastraccio. This motion was approved unanimously.

With Senator Hickman’s permission, OPEGA Senior Analyst highlighted that a prior question from Senator Tipping was answered in the materials provided for today’s meeting, and which related to whether equipment funded by the credit could be uninstalled, moved, or sold. OPEGA checked statute and asked both DECD and Maine Revenue Services, and there was no indication or awareness of such a restriction. Documentation of this will be included in the transmittal.

Senator Tipping thanked OPEGA staff for the information.

OPEGA Proposal Regarding Next Three Tax Expenditure Reviews

Senator Hickman next entertained a presentation, tabled at the September 18, 2024, Committee meeting, by which OPEGA proposed to recategorize three tax expenditures previously scheduled for full evaluations.

OPEGA Senior Analyst Kari Hojara presented the OPEGA proposal.

The OPEGA proposal may be found at the following link:

[OPEGA Memo to GOC: Proposal for Next Three Tax Expenditures](#)

Ms. Hojara noted that, following preliminary research concerning these three expenditures, OPEGA is proposing they may not warrant full evaluations:

- Railroad Track Materials Sales & Use Exemption - proposed reclassification and that the expenditure be moved to the “No Review” evaluation category;
- Refund of Sales Tax on Purchases of Parts and Supplies for Windjammers - proposed that the expenditure be moved to the “No Review” evaluation category; and
- Telecommunications Services Service Provider Tax Exemption – proposed consultation with the Taxation Committee regarding the intended purpose of this expenditure. OPEGA suggested that the expenditure be moved to the No Review evaluation category if the Taxation Committee does not respond before December 1, 2024.

Senator Bennett offered a motion that the Committee accept OPEGA’s proposal, as written, with regard to these three tax expenditures. Representative Mastraccio seconded the motion.

Senator Tipping asked OPEGA staff for a definition of tax pyramiding.

Ms. Hojara explained that tax pyramiding occurs when the same good or service is taxed multiple times in the production process. Ms. Hojara noted that the idea is to avoid taxing items multiple times and that expenditures with this purpose are often not subject to full evaluation by OPEGA because there is no other purpose to evaluate.

Motion and Committee Vote

Senator Bennett offered a motion that the Committee accept OPEGA’s proposal, as written, with regard to these three tax expenditures. The motion was seconded by Representative Mastraccio. The motion was approved unanimously.

Annual Categorization of Tax Expenditures

Senator Hickman then introduced the annual categorization of tax expenditures by the Committee, and the corresponding proposal from OPEGA. The materials discussed may be found at the following links:

[OPEGA Memo to GOC: Annual Categorization of Tax Expenditures](#)

[Proposed Adjustments to Tax Expenditure Review Scheduling](#)

[Tax Expenditures "Full" Evaluation Category \(October 2023\)](#)

[Tax Expenditures "Expedited" Category \(October 2023\)](#)

[Tax Expenditures "No Review" Category \(October 2023\)](#)

Representative Mastraccio offered a motion to accept the categorization changes as recommended and accept the proposed schedule.

Ms. Hojara highlighted one additional change that OPEGA suggested the Committee consider but which had not been included in OPEGA’s proposal. Ms. Hojara suggested the Committee may also want to remove the employer credit for family leave from the full evaluation category. Ms. Hojara cited the credit’s 2025 federal

sunset, the fact that the state has a new family medical leave program and the credit’s fiscal note, which had never exceeded \$40,000. She noted that removing this credit from the full evaluation schedule could be included in the motion.

Representative Mastraccio asked whether the new family medical leave program is something that would be evaluated.

Ms. Hojara said that it would not, because it is not a tax expenditure. However, Ms. Hojara noted that the Committee could always direct OPEGA to review that program at any point if desired.

Representative Mastraccio indicated she would accept a friendly amendment to her motion to remove this credit from the full evaluation schedule as suggested.

Motion and Committee Vote

Representative Mastraccio offered a motion, to accept the categorization changes as recommended and accept the proposed schedule, with the additional change to remove the sunset family leave credit from the schedule of full reviews. This motion was seconded by Senator Bennett. The motion was approved unanimously.

Recommendations by OPEGA Pursuant to PL 2023, Ch. 417, Section 9

Senator Hickman then turned the Committee’s attention to the proposal offered by OPEGA in keeping with the subject provision of statute, concerning recommended improvements to the tax expenditure review process. Senator Hickman invited OPEGA Senior Analyst, Jen Henderson, to present OPEGA’s proposal.

The OPEGA proposal and an accompanying memo may be found at the following links:

[Memo to GOC re: PL 2023, Ch. 417, Section 9 Recommendations from OPEGA re: Tax Expenditure Reviews](#)

[PL 2023, Ch. 417, Section 9 Recommendations from OPEGA re: Tax Expenditure Reviews](#)

Ms. Henderson explained that in the subject enactment, the Legislature directed OPEGA to review the laws governing the tax expenditure reviews and to recommend, by November 1, 2024, any possible changes to improve the process.

Ms. Henderson further shared how OPEGA identified six items, which are described in the above links. Ms. Henderson also referenced the requirement that OPEGA share these recommendations with the Tax Committee, as well.

Ms. Henderson described the first area identified for improvement—parameters development—and noted that this is an area where there has already been significant progress. Ms. Henderson also noted that Chapter 417 enacted a new process that requires the Tax Committee to review future legislation, enacting a new tax expenditure or amend an existing one, to ensure that legislation adequately defines an expenditure’s purpose and performance measures. Ms. Henderson noted that this new process also requires the Tax Committee to ensure that the associated data collection provisions and responsibilities are included in any such legislation. Although this process was in place for the most recent session, Ms. Henderson said that it had not been triggered by any legislation during that session. Consequently, OPEGA staff have not yet gotten a chance to see how the process will work in implementation.

Representative Mastraccio asked how OPEGA understood, as a practical matter, the new process prescribed in [3 M.R.S. Section 1002](#) would work. Representative Mastraccio noted that there are various committees where these bills could come up, and asked how OPEGA sees this new process getting triggered.

Ms. Henderson acknowledged that it was not clear, including because the process had not yet been triggered and applied. She noted that this process requires OPEGA’s tax expenditure staff to take on some new work, beyond just conducting the evaluations, to support the tax expenditure review process as a whole. Ms. Henderson said that OPEGA has initiated outreach to the Tax Committee on this matter, including reaching out to that Committee to communicate OPEGA’s availability to consult on this process, as called for in statute. Ms. Henderson said OPEGA also prepared a guidance document for the Tax Committee about this process. She said that document was shared with the 131st Tax Committee and will be included in OPEGA’s tax expenditure review orientation for the 132nd. Ms. Henderson also said that OPEGA has plan for additional outreach about this matter to those who staff the policy committees.

Ms. Henderson noted that OPEGA has also observed that the attention the GOC has brought to having clear evaluation parameters has made that a priority in the minds of those drafting tax expenditure legislation. She said that sometimes drafts are now brought to OPEGA ahead of time to get OPEGA’s perspective on whether the parameters are spelled out clearly.

Ms. Henderson also observed that 17 of the 19 remaining full evaluation tax expenditures do not have established parameters. She described OPEGA’s proposals for possible avenues for getting parameters established for these 17.

Ms. Henderson then described the second area in which OPEGA identified opportunities for improvement—the timing and scope of evaluations. In this discussion, she also noted that OPEGA continues to monitor developing evaluation methods for topic areas where OPEGA hears that policymakers would like additional information, such as cost-effectiveness. Ms. Henderson said tax expenditure evaluation is a fairly new area of study and so doesn’t have a very deep foundation on matters like these, so Maine is not alone in seeking new and better methods.

Senator Hickman asked whether OPEGA has found resources on this matter at the federal level, for example, perhaps from the Government Accountability Office (GAO).

Ms. Henderson responded that OPEGA always looks to applicable GAO materials where they exist, but that methods are not always transferrable from one type of expenditure to another.

Senator Bennett asked whether OPEGA looked at the question of the advantages and disadvantages of having OPEGA do this work in statute instead of another office such as OFPR.

Ms. Henderson said that OPEGA had not considered that as part of the current proposal, and she referred to the reasons why OPEGA was chosen as the office to conduct the tax expenditure review work when the process was enacted.

Senator Bennett raised a question about whether it would be appropriate to consider alternatives and whether the initial rationale has proven correct. Senator Bennett expressed concern that the Tax Committee taking an increasing role in directing matters being worked on by OPEGA and about the lines of accountability between the Tax Committee and Government Oversight Committee when it comes to managing the work of OPEGA.

Representative Mastraccio suggested that the statute creating OPEGA makes pretty clear who directs OPEGA’s work. Representative Mastraccio suggested there is a good process in place by which the GOC ensures it governs OPEGA work and priorities, and other committees can make requests to the GOC if they would like to see OPEGA perform particular work. Representative Mastraccio also observed that having OPEGA perform the tax evaluation role was mandated for reasons that are appropriate, including the capacity to handle confidential information. Representative Mastraccio also noted that having two members of Tax on the new GOC should be helpful. Representative Mastraccio then asked what OPEGA’s recommendation was on this matter.

Senator Hickman noted that the discussion had started touching on the third topic and that perhaps OPEGA would like to respond from that perspective.

Ms. Henderson assured the Committee that OPEGA is always aware that the GOC is the Committee oversees and directs OPEGA’s work and that the Tax Committee has been mindful of this as well. Ms. Henderson described how OPEGA’s outreach to the Taxation Committee has been partly to make that Committee aware that OPEGA’s tax expenditure staff are available to perform basic support for the tax expenditure process, including presenting reports and consulting on evaluation parameters as called for in statute. Ms. Henderson also noted that the FTEs funded for and devoted to tax matters is limited.

Ms. Henderson then described OPEGA’s third area identified for potential improvement—coordination between the GOC and Tax Committees—and noted that one idea OPEGA developed for addressing this was to form a GOC-Tax Committee subgroup.

Representative Mastraccio indicated she was supportive of having a GOC-Tax Committee subgroup to be formed, and as recommended by OPEGA, and hoped this would be something the next GOC discusses. Representative Mastraccio said she would appreciate the expertise of a subgroup that could come back and make recommendations, including whether legislation is needed and by which committee.

Ms. Henderson next described OPEGA’s fourth area identified for potential improvement—information to support consideration of tax expenditure legislation—and noted that the newly enacted “30-day” projects may address this opportunity, but that none have been requested yet. Ms. Henderson noted that OPEGA been reaching out to the Tax Committee about this newly enacted process and has provided a guidance document.

Representative Mastraccio stated she looked forward to seeing how the “30-day” reviews of tax expenditures worked and that it would be helpful for OPEGA to come back to the Committee in the next session to report on how this new process went. Representative Mastraccio said that this was an important new addition to the tax expenditure statute and making sure it is working is important.

Ms. Henderson next described OPEGA’s fifth area identified for potential improvement—adjusting the deadline for the GOC’s annual review and approval of the tax expenditure categorization and review schedule. Ms. Henderson said OPEGA is recommending the deadline be moved from October to January or February and noted that this change would require legislation.

Representative Mastraccio asked whether this is something about which the GOC would propose legislation, which would then be referred to the Tax Committee, and whether this is something OPEGA could be ready to bring to the GOC in January.

Ms. Henderson indicated that OPEGA could be ready to assist with this and suggested that legislation on the tax expenditure review process may be referred to the State and Local Government Committee.

Senator Hickman clarified that the Committee did not have to vote on OPEGA’s recommendations but could vote to endorse the recommendations if desired and to send a letter memorializing the Committee discussion for the next Legislature. Senator Hickman asked that OPEGA present the sixth opportunity area and then the Committee could move to discussion.

Ms. Henderson described OPEGA’s sixth area identified for potential improvement—centralization of incentive data. Ms. Henderson said OPEGA has raised this in past reports and discussed this with the agencies that administer tax expenditures, but that there is a lot of work remaining here.

Representative Mastraccio asked if OPEGA had thoughts about the scope of this and what it would take to achieve the goal of the OPEGA recommendation concerning a centralized repository of tax expenditure-relevant data.

Ms. Henderson suggested that what would be required would vary depending on where the Legislature wanted to go on this matter. For example, an immediate step of funneling all of the relevant data through a central agency with data management expertise would be a big improvement and wouldn’t necessarily require major investments in new computer systems. Ms. Henderson noted that OPEGA welcomes the opportunity to be supportive with additional research and suggestions if this matter is of interest to the GOC or Tax Committee as a whole or to a GOC-Tax subgroup.

Senator Bennett referenced LD 1804, which he had introduced in the last session, that sought to achieve this goal and could be built upon. Senator Bennett encouraged the Committee to take a look at the list of items in his prior legislation as part of this further consideration and noted the value of having standardized and centralized data available to policymakers ongoingly rather than only when a tax expenditure comes up for evaluation. Senator Bennett said it would be appropriate for the GOC to put in bill form the recommendations that OPEGA is offering, even if the Committee doesn’t embrace them all, so that at least it is ready for the next GOC to take up.

Senator Tipping asked whether the contemplated data portal would be accessible by the public.

Ms. Henderson said that this was the approach in some other states.

Representative Fay asked whether OPEGA knew how many different Maine agencies are collecting such data.

Ms. Henderson suggested, based on OPEGA evaluations to data, that there have even been different data collection systems within individual agencies. Ms. Henderson noted that in evaluations conducted to date OPEGA has found data collection occurring within FAME, two different DECD offices, and the Maine Historic Preservation Commission, in addition to multiple collection systems in MRS. Ms. Henderson noted that in some cases the individuals tasked with collecting and managing data are program experts in their fields but may have limited data management training, which doesn’t position them well to collect reliable data.

Representative Fay said that best practices and training across the board would help with a lot of the goal setting and other things the Committee has talked about too.

With Senator Hickman’s permission, Ms. Henderson also observed that in OPEGA’s opinion this centralized data collection links to a recommendation in some of OPEGA’s recent reports that the state move away from single-entity tax credits and toward some more structure process for awarding targeted incentives. Ms. Henderson noted that some states use a closing fund or a grant program that drive consistency across specific awards, with exceptions as needed, and are managed more as a portfolio. Ms. Henderson noted that a benefit

of this structure is having consistent standards for data collection and things like statutory provisions to limit risk to the state, so that policymakers don't have to recreate those elements from scratch in a new bill every time there is a targeted incentive needed.

Representative Fay expressed her view that this was a helpful discussion and her hope that the next iteration of the Committee explore these matters to come up with a process that is more efficient and provides greater transparency. Representative said that it is all about government oversight and making sure that taxpayer dollars are being spent in a way that is the most efficient and effective and the way that the Legislature intended.

Representative Millett expressed appreciation for OPEGA's work on this matter and encouraged the Committee to direct OPEGA to make this an annual process (to make suggestions).

Motion and Committee Vote

Representative Millett made a motion, seconded by Representative Mastraccio, that the Committee direct OPEGA to transmit these recommendations to the 132nd GOC, with some draft language for any required legislation. The motion passed unanimously by the 11 members present at the time of the vote. One Member did not later vote in the time permitted following the meeting.

Public Hearing: OPEGA Report - OCFS Case File Review: Safety Decisions and Actions Taken in the Case of Sylus Melvin

Representative Fay called the meeting back to order at approximately 1:10 pm, and opened the public hearing on the subject report, a copy of which may be found at the following link:

[OCFS Case File Review: Safety Decisions and Actions Taken in the Case of Sylus Melvin](#)

Copies of written testimony submitted may be found at the following link:

[October 16, 2024, Public Comment on OPEGA Case File Review 4 of 4 \(Sylus Melvin\)](#)

Christine Alberi, Child Welfare Ombudsman, also testified in person. Ms. Alberi expressed appreciation for the challenging work OPEGA performed to review the deaths of Sylus Melvin, Jaden Harding, Maddox Williams, and Hailey Goding, given how difficult these matters are to review emotionally and intellectually. Ms. Alberi stated that her own office has reviewed all four cases, but that she was not at liberty to discuss the findings of that work due to confidentiality restrictions. Ms. Alberi described those restrictions in statute. Ms. Alberi also noted that the Child Death and Serious Injury Review Panel were subject to similar limitations. Ms. Alberi described the privacy interests protected by the current statutory framework.

Ms. Alberi contrasted Maine confidentiality provisions to those in some other states, including Connecticut. Ms. Alberi acknowledged the balance to be achieved between system improvements and accountability and the privacy interests. Ms. Alberi suggested that it would be beneficial to review the confidentiality provisions again.

Senator Keim asked Ms. Alberi if her report was able to be shared with the Committee, would it help inform the Committee's work.

Ms. Alberi answered in the affirmative. Ms. Alberi emphasized the value of multiple perspectives, and she was not suggesting that the OPEGA report was in any way deficient, but that she would like to be able to share her findings with the Committee.

Senator Keim asked if Ms. Alberi had identified other states that perhaps had more leeway in permitting an office like hers to share more information.

Ms. Alberi responded that she meets regularly with her counterparts in New England states, and that she believes she sent a memo to OPEGA on the differing provisions.

Senator Keim also expressed frustration at the delay in receiving a Law Court decision on the Committee's subpoena enforcement action, by which the Committee seeks direct access to the child protective services case files of Syllus Melvin, Jaden Hardin, Maddox Williams, and Hailey Goding.

Representative Mastraccio stated that she was not so sure that direct access to these records would be helpful to her, and asked Ms. Alberi whether she had ever had discussions with counterparts in other states about how she might share her findings and strike the right balance. Also, Representative Mastraccio asked Ms. Alberi if she has suggested legislation.

Ms. Alberi acknowledged that this was a hard question. At the same time, Ms. Alberi again expressed a desire to be able to comment on these cases, and that perhaps a small change in legislation may help. Ms. Alberi referenced a prior effort to create some provision for executive session.

Representative Mastraccio shared her experiences with executive sessions since the early 1990's, and with digital platforms now more in use, there may be more risks of unintended disclosure.

Representative Mastraccio reiterated that she would find it valuable to hear from an expert like Ms. Alberi, as to her analysis, if that could be made possible, rather than the files themselves.

Senator Timberlake expressed concern that the Committee was not getting the real information and the whole story. Senator Timberlake agreed with Representative Mastraccio that he did not need to look at the reams of records but did want to be able to get all the information from experts like Ms. Alberi. Senator Timberlake further stated that it was difficult for him to make a business decision when he was only getting part of the information. Senator Timberlake asked Ms. Alberi to be part of the process of identifying legislation going forward that could address this, even if the proceedings needed to be in executive session.

Ms. Alberi responded that one person should not be proposing such legislation and referenced a work group resulting from LD 2009 and recommendations due November 1, 2024. Ms. Alberi suggested that the results of those efforts may help in this regard.

Senator Timberlake stated that the children in the State of Maine deserve better, that he appreciated the reports from Ms. Alberi over the years, and that the Committee needed to do a better job in the future.

Senator Hickman stated that he believes the Superior Court erred in its decision regarding the Committee's subpoena, and that the Law Court has previously given legislative committees the ability to see confidential information unless the statute prohibits this explicitly. In the absence of the Law Court decision still pending, or a change in legislation, this is where we are. Senator Hickman also noted that legislation to address this issue was not reported out of committee, so the Legislature could not take action itself, but that it could be reconsidered in the next Legislature.

Senator Hickman observed that Ms. Alberi, in contrast to the three other case file reviews, was not offering any observations.

Ms. Alberi responded that she believed the case of Sylus Melvin highlighted the importance of child protective services history, and the importance of intervening when you have the chance, as those opportunities are limited.

Senator Hickman reiterated a similar question to some posed already by other Members, to make clear for the record that Ms. Alberi was saying that if she was able to speak in confidence with the Committee, she could share more insight that would help inform Committee recommendations to the Legislature or the committee of specific oversight.

Ms. Alberi stated she hoped this would be the result of her being able to share more.

Melissa Hackett, Policy Associate with the Maine Children’s Alliance and the Coordinator for the Maine Child Welfare Action Network, also testified in person. Ms. Hackett expressed appreciation for the thorough and thoughtful work of OPEGA. Ms. Hackett indicated her organizations appreciate and support the considerations presented in the report, and the responses by OCFS and DHHS, and the outline of actions taken or already underway.

Ms. Hackett characterized the case at hand as incredibly difficult and involving multiple stressors on both parents over many years, including mental health, substance use, and domestic violence, and the fragility of an infant. Ms. Hackett further stated that it is hard to acknowledge how many people were involved with the family and yet the risk to the child was not fully recognized, known, or alleviated.

Ms. Hackett also highlighted the conflicting reports of information before, during, and after the death. Ms. Hackett also acknowledged the understandable desire to look for someone to blame.

Ms. Hackett described other details she struggles with in this case, including the terms of the Parental Rights & Responsibilities Order assigning the mother sole responsibility for determining visitation by her abuser with their child, and that practices should be strengthened if this is happening with any consistency in the courts, to add more safeguards in circumstances such as these.

Ms. Hackett also highlighted the call from Sylus’ grandmother to the police. Ms. Hackett expressed surprise that this did not result in a report to the CPS Hotline, or other outreach to someone locally with CPS. Ms. Hackett stated that it is critical that law enforcement as well as other partners like home visitors and behavioral health providers have relationships. More work is needed on such collaborative approaches.

Regarding substance affected newborns, Ms. Hackett noted that many states prioritize treatment for pregnant and postpartum individuals and Maine is not such a state and could consider this with a goal of alleviating safety risks. Similar prioritization could be provided for mental health treatment and support. Substance abuse, mental health disorders, and child abuse and neglect are three of the most highly stigmatized conditions in society. Reducing the stigma and fear of parents and caregivers seeking help and support. Ms. Hackett also urged further consideration of how to prevent domestic and intimate partner violence. Ms. Hackett cited some data from the Maine Coalition to End Domestic Violence on the prevalence of domestic violence and its impact on child welfare. Ms. Hackett highlighted the work of a new violence prevention office within Maine CDC, and noted the importance of building community supports, so that parents have people to go to for help.

Ms. Hackett closed by urging earlier investment in families to help prevent tragedies.

Senator Hickman asked Ms. Hackett to read the [domestic violence data she cited](#) into the record, and she did so.

Andrea Mancuso, Public Policy Director for the Maine Coalition to End Domestic Violence, also testified in person. In her public comments, Ms. Mancuso described the roles, structure, and services provided by her organization.

Ms. Mancuso highlighted common deficiencies in the Parental Rights & Responsibilities process in Maine Courts. The first of these is a discomfort with ordering something other than shared parental rights despite a clear history of abuse or failure to parent. This also allows the abusive parent to use the existence of the child to further perpetuate abuse on the other parent. The second is a lack of specificity in how parent-child contact will happen.

Ms. Mancuso expressed her organization’s appreciation for how OPEGA highlighted the incongruence of the PR&R Order in the case at hand and Department expectations for supervised visits.

Ms. Mancuso said it strains credulity to believe that all of the parties to the PR&R Order in the case at hand could be confident that upon exit from jail the father could fully participate as a co-parent.

Ms. Mancuso indicated that she expands on her comments in her [written testimony](#), including regarding improvement to public health nurse protocols and OCFS domestic violence responses, and in response to Representative Fay’s prior question about law enforcement protocols when encountering statements of concern regarding possible domestic violence.

Representative Mastraccio asked about the first deficiency cited by Ms. Mancuso and under what circumstances that has been observed, and whether that is limited to domestic violence cases. Ms. Mancuso indicated that the preference is enshrined in statute.

Ms. Mancuso also highlighted recent training of judicial officers on this issue.

Representative Mastraccio asked whether this was mandated or voluntary training. Ms. Mancuso cited a legislative enactment mandating at least one hour, but also acknowledged that each judicial officer is an independent constitutional officer so there are limits on compulsory aspects as applied to judicial decision making.

Senator Timberlake indicated he read in Ms. Mancuso’s testimony suggestions that law enforcement feels limited and so do those seeking assistance, and these things concerned him.

Ms. Mancuso suggested that there is a dynamic that may be described as frequent flyer fatigue, and she suggested that phenomenon may have been involved here.

Ms. Mancuso also highlighted Representative Fay’s prior question regarding law enforcement response protocols and described the Maine Criminal Justice Academy’s now mandatory minimum standards (not in place at the time of Syllus’ death). Ms. Mancuso also shared how many law enforcement agencies have benefited from legislative enactment permitting the sharing of contact information of parties with domestic violence resources.

With regard to the described fatigue, Senator Hickman asked whether DHHS had a protocol that should be engaged under these circumstances.

Ms. Mancuso did not think the response protocols would differ.

Mark Moran, the Chair of the Maine Child Death and Serious Injury Review Panel, also offered public testimony. Mr. Moran sought to respond to Committee questions around reporting of substance exposed infants and related issues.

Mr. Moran described the nature and qualities of substance use disorder and corresponding symptoms, as well as treatment and recovery.

Mr. Moran also explained the medications (and their purposes) referenced in OPEGA’s reports that are used to treat substance use disorder, and that there is broad medical consensus that a pregnant woman with opioid use disorder is better off under treatment with one of the referenced medications.

Mr. Moran also described the purposes of the required reporting regarding substance affected newborns. Mr. Moran expressed concern about the ambiguity in the Maine Statutes on this topic (what is a substance, what does it mean to be affected).

Mr. Moran expressed concern about stigmatizing the children born in these circumstances.

Mr. Moran paraphrased from a prior OPEGA report to indicate his agreement that an adverse outcome is not automatically an indication of case worker error or flawed processes.

Mr. Moran described how he has been thinking about a question Senator Keim asked him previously, about how we can increase children’s safety without decreasing parent’s rights. Mr. Moran offered the following: kids are made safer when families are made stronger. Mr. Moran reiterated the five protective factors in a “strengthening families” approach: parental resilience; concrete supports; social connection; knowledge of parenting and child development; and social emotional competency of children. Mr. Moran encouraged those Members returning in the next Legislature to keep these in mind when considering which initiatives to propose or support. Mr. Moran further stated that the responsibility to make families stronger falls to everyone, not just OCFS.

Representative Arata described her understanding of addiction in terms of the cellular and biochemical effects. Representative Arata also suggested that the baby would be impacted.

Mr. Moran stated his understanding that there has not been a link established, scientifically, between pre-natal exposure and later addiction.

Representative Arata asked Mr. Moran about the reference in the OPEGA report of the father dropping a bag of heroin in a store four months before Sylus was born, and whether Mr. Moran believed the time since that event was sufficient for Mr. Melvin to recover and be able to safely care for the baby.

Mr. Moran replied that he did not have a clear answer, and this is a case-by-case determination, based on multiple factors.

Representative Arata asked whether it would be reasonable to drug test such a person.

Mr. Moran said yes, and that his recollection from the OPEGA report was that Mr. Melvin was being tested as part of his treatment program.

Senator Hickman reflected on “kids are made safer when families are made stronger.” Senator Hickman asked what are the top five initiatives that the Legislature could take in this regard, to make it so Maine did not lead the country in child maltreatment.

Mr. Moran cited the work of the Maine Children’s Alliance as an example.

Senator Hickman asked Mr. Moran about what if any structural inefficiencies could be addressed in how the State addresses these matters.

Mr. Moran suggested ongoing work to “decrease the front door to the child protection system”. Only 1/3 of current calls to OCFS warrant a response. Some states have some calls go directly to public health nursing in a way that its still compliant with Federal requirements. Mr. Moran indicated he would reflect on this further.

Senator Hickman asked Mr. Moran to put more suggestions in writing and share them.

Senator Timberlake cited his business background and how in that context, there is always responsibility. Senator Timberlake further stated that in his world, there is failure and fault, and there was so here. Yet, when he read the OPEGA report, no one was fired. Senator Timberlake said that in private industry, there would be a lawsuit and liability.

Mr. Moran replied that he did not think he and Senator Timberlake disagreed as much as Senator Timberlake may believe, based on Mr. Moran’s testimony, and Senator Timberlake’s reaction to it. Mr. Moran agrees that there was failure, but he is not convinced that it was always the fault of OCFS. Mr. Moran suggested that his view was that all of us in society, have some responsibility. But there was failure when children are dead at the hands of their care givers.

Senator Timberlake replied that it appears he and Mr. Moran were not as far apart on these issues after all.

Senator Duson expressed how it “takes a village to fail a child”, and that she is trying to own a piece of the failure so that she can help do something about it. For Senator Duson, it is about systems accountability, and that her role is not to oversee those parents, but rather, her role is in government oversight. Senator Duson further stated she will continue to seek to have the agency explain what they are doing, acknowledge that there is a problem, and that there is ownership of the problem.

Mr. Moran suggested that what Senator Duson was expressing is in keeping with the complexity of these child fatality cases and the reasons why they happen.

Senator Duson observed that Members of the Committee each articulate their views differently, but all are in the room to make a difference.

Senator Hickman thanked Senator Duson for her remarks and highlighted her contribution to the Committee’s [“Frontline Perspectives”](#) report about the need for management improvement reporting and analysis.

Former Senator Bill Diamond testified next as the founder of the nonprofit “Walk A Mile In Their Shoes.” Senator Diamond cited his prior service on the Government Oversight Committee and his respect for the Committee and OPEGA.

Senator Diamond expressed disagreement with the OPEGA report. Senator Diamond described the circumstances of Sylus Melvin’s death, the nature of the injuries to Sylus, and the presence of domestic violence as a key factor. Senator Diamond stated that the OPEGA report did not adequately emphasize the domestic violence.

Senator Diamond shared how he had spoken with Sylus’s mother several times, and how she had lived in fear most of the time. Senator Diamond emphasized how OCFS knew about Mr. Melvin’s history of abuse, and his threats. Senator Diamond said Ms. Newbert had in fact called the Milo Police, the State Police, and the Department about her fears.

Senator Diamond said the OPEGA report fails to give Ms. Newbert credibility and probably commits the ultimate sin of not believing a victim of domestic violence.

Senator Diamond stated that it cannot be said with certainty that if something had been done differently Syllus would have been saved but that it can be said there were influences and variables that were very important and the OPEGA report failed to pick them up.

Senator Timberlake thanked Senator Diamond and reflected on their work together on these matters. Senator Timberlake asked Senator Diamond if he saw any common themes in the four OPEGA reports on the child fatalities. Senator Diamond said the OPEGA report on Hailey Goding did not emphasize the things that could have been done to change the environment prior to Hailey’s death.

Senator Diamond also observed that all four OPEGA reports toned the events down and did not go after the real reasons the deaths took place.

With regard to Jaden Harding, Senator Diamond observed that there was no background check done on his father, Ronald Harding.

Concerning Maddox Williams, Senator Diamond said that this OPEGA report “made a lot of people’s head explode”, because the mother, Jessica Trefethen, was described in that report as being the victim.

Senator Diamond summarized that the reports did not go after the real problem, in terms of a common thread.

Senator Timberlake asked whether Senator Diamond believed the problems with OCFS had gotten worse or better in the time he has been working these issues.

Senator Diamond said he became involved in these matters after the death of Logan Marr. Senator Diamond shared his perspectives from that time through the present, when he believes conditions improved and when they deteriorated. Overall, Senator Diamond said the situation has gotten worse within the last six years. Senator Diamond also called on the Governor to make some statements.

Senator Bennett expressed his appreciation for Senator Diamond’s work on these matters. Senator Bennett also discussed the tension involved in the Government Oversight Committee assessing agency performance when a number of those providing views have suggested the problem is “the village.”

Referencing the serious concerns raised by Senator Diamond, and his status as a former Member of the Committee, Senator Bennett asked Senator Diamond if he would vote to accept the OPEGA report on Syllus Melvin.

Senator Diamond replied that he would not do so, and the principal reason being the treatment of the domestic violence issues. Senator Diamond stated his belief that the Committee should make their own determination. Senator Diamond also said, “we have to believe the victim.”

Betsy Grant, owner of Tiny Tykes Daycare, also testified. Ms. Grant described her understanding of the meanings of the name Syllus. Ms. Grant stated that domestic violence was not considered here as a factor in leading to children’s deaths. Ms. Grant also shared her perspectives on children born affected by drugs and alcohol. Ms. Grant also said it was a mistake for the case worker to tell Ms. Newbert that she was going on vacation. Ms. Grant also said that communication between law enforcement and the Department could have saved many children’s lives. Ms. Grant also said she liked what she heard about “Children are made safer when families are strengthened.” Ms. Grant believes having a Child Safety Commissioner would help. Ms. Grant also expressed concern about how confidentiality allows the Department to police itself. Ms. Grant suggested there were limits to the role of the Child Welfare Ombudsman. Ms. Grant believes mandated reporters should be told

whether a report was followed through on. Ms. Grant also believes states with easier access to childcare have lower incidence of child mistreatment.

Desiree Newbert, Sylus Melvin’s mother, testified by phone with the permission of the Chairs. Ms. Newbert shared her feelings of frustration because she did call for help. Ms. Newbert said it was not the case that due to domestic violence she was afraid to ask for help. Ms. Newbert said she was frustrated with the system as a whole, that it was a never-ending battle for which there was no resolution, and that she did contact the case worker and the police. Ms. Newbert suggested that in the future, perhaps the police could have better communication with the Department. Ms. Newbert suggested that it could be mandated that the police would be required to call the Department in the circumstances of the call her mother made to the police. Ms. Newbert also said there would be benefits from using “CODE” evaluations and more drug testing.

Ms. Newbert thanked the Committee for their efforts to help children in the future.

Statewide Procurement – Identifying Potential Topics for OPEGA Preliminary Research

Senator Hickman asked the OPEGA Director to discuss the status of efforts to develop an appropriate proposal in response to Representative Fay’s request that the Committee consider directing OPEGA to review aspects of procurement.

Director Schleck walked the Committee through the following document, which summarized key items discussed by the Committee to date, including with DAFS Deputy Commissioner Anya Trundy:

[Potential Procurement Topics for GOC Consideration](#)

After a brief Committee colloquy, Senator Hickman was able to confirm a quorum for one more Committee meeting for the 131st Legislature, to be held on Thursday, November 14, 2024, at 9:30 am, in Cross Room 220. In light of that development, and without objection, Senator Hickman tabled the procurement discussion until the November meeting.

Director’s Report

Director Schleck expressed his appreciation for the opportunity to be of service to the Committee during the 131st Legislature and for the service of Members.

Director Schleck noted that during the preparation of the OPEGA Annual Report for 2024, due to the Committee January 15, 2025, it was identified that the February 23, 2024, meeting summary did not appear to have been submitted to the Committee for review and approval, and that the summary was in the Meeting Binders today. Without objection, the Committee approved this summary.

Senator Duson asked Director Schleck to reach out to the HHS Committee staff to ask if the Committee could be included in any briefings on the DOJ behavioral health matter. Senator Duson also expressed interest in hearing from Disability Rights Maine and whether there could be a forum.

Next GOC Meeting Date and Planning

The next GOC Meeting was scheduled for November 14, 2024, subject to the presence of a quorum.

Adjourn

Senator Hickman adjourned the Government Oversight Committee, without objection, at approximately 3:42 pm.