



SEN. ROGER J. KATZ, SENATE CHAIR
REP. ANNE-MARIE MASTRACCIO, HOUSE CHAIR

MEMBERS:

SEN. NATHAN L. LIBBY
SEN. PAUL T. DAVIS, SR.
SEN. BILL DIAMOND
SEN. GEOFFREY M. GRATWICK
SEN. THOMAS B. SAVIELLO
REP. JEFFREY K. PIERCE
REP. JENNIFER L. DECHANT
REP. MATTHEW A. HARRINGTON
REP. DEANE RYKERSON
REP. PAULA G. SUTTON

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
October 18, 2017
Accepted November 9, 2017

CALL TO ORDER

The Chair, Sen. Katz, called the Government Oversight Committee to order at 9:05 a.m. in the Burton Cross Building.

ATTENDANCE

Senators: Sen. Katz, Sen. Libby, Sen. Davis, Sen. Diamond and Sen. Gratwick
Joining the meeting in progress: Sen. Saviello

Representatives: Rep. Mastraccio, Rep. DeChant, Rep. Harrington and Rep. Sutton
Joining the meeting in progress: Rep. Rykerson
Absent: Rep. Pierce

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA
Scott Farwell, Senior Analyst, OPEGA
Amy Gagne, Analyst, OPEGA
Kari Hojara, Analyst, OPEGA
Ariel Ricci, Analyst, OPEGA
Etta Connors, Adm. Secretary, OPEGA

Legislators: Rep. Cooper, Member, Taxation Committee

Executive Branch Officers and Staff Providing Information to the Committee: Andrea Smith, Director, Tax Incentive Programs, Department of Economic and Community Development
Douglas Ray, Legislative Liaison/Communications Manager, Department of Economic and Community Development

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

The members of the Government Oversight Committee introduced themselves.

SUMMARY OF THE SEPTEMBER 25, 2017 GOC MEETING

The Summary of the September 25, 2017 meeting was accepted as written.

NEW BUSINESS

- **Request for an OPEGA Review of Maine's Citizen-Initiated Legislation Process**

- **Discussion of Concerns Regarding the Initiative for a Casino in York County**

Sen. Katz said there has been a great deal of discussion in the State about Question 1 and the GOC thought it would be a good case study to review the citizen referendum process to help decide if the GOC should have OPEGA review the process to see if is still aligned with its original purpose. The premise is the citizen's referendum process was designed to give ordinary Maine citizens the ability to bring proposals to vote if there was enough grassroots support. The process was designed as a way for people to bypass the large money interest in the State and money coming in from out-of-state to do direct democracy on behalf of Maine voters. What has gone on with Question 1 seemed to turn the original intent of that process on its ear. That is why the GOC decided as a Committee to explore the history of this particular initiative, the players, and funding and to see if there are lessons to be learned as the GOC decides how to deal with Rep. Pierce's request for an OPEGA review of the entire Maine citizen-initiated legislative process.

Sen. Katz said Director Ashcroft will present to the GOC what information OPEGA has gathered regarding Question 1, the Initiative for a Casino in York County. He said the Committee will discuss the initiative and noted that the Committee invited a number of people involved in the Initiative for a Casino in York County to today's meeting.

Sen. Katz said Rep. Pierce could not be at today's meeting because of a prior commitment so the GOC will not deal with his actual request for an OPEGA review of Maine's Citizen-Initiated Legislation Process until the next GOC meeting which is scheduled for November 9, 2017.

Sen. Katz asked Director Ashcroft to summarize OPEGA's work on the history of the Question 1 referendum effort and what has been learned about the players, funding and process. Director Ashcroft reviewed with the GOC the content of several documents OPEGA had prepared summarizing its research. (Copies of the documents regarding the York County Casino referendum are attached to the Meeting Summary.)

The GOC's questions and comments included:

Sen. Gratwick asked if OPEGA's information takes into account the current Ethics Commission's investigation and if OPEGA's data was up-to-date with that investigation. Director Ashcroft said the information did include the Ethics Commission investigation up to their last meeting noting that information was in the chronological summary OPEGA provided. Sen. Katz said he recently spoke to Mr. Wayne, Director of the Ethics Commission. The current status of the Commission's investigation is that the staff is in the process of finalizing its recommendations to the Commission with respect to what action the staff thinks the Commission ought to take. The Ethics Commission is to meet on October 31 and the recommendations will be given to the Commission at that meeting.

Rep. Rykerson referred to the \$51 million Penn National paid to Capital Seven and Shawn Scott in 2004 for the license to operate the racino in Bangor. He asked if there was a way to figure out what the net profit of that deal was. Sen. Katz said he has read a great deal about the issue and was not certain what the number was, but he believes the cost was \$10 million and the eventual sale price was \$50 million.

Sen. Gratwick asked what structure of law all this is under. Is the legal framework for it all under campaign finance, are there requirements for transparency, and are the restrictions for malfeasance that occurred in the past. Director Ashcroft said there are rules regarding when an organization has to register as a ballot question committee, what reports have to be filed and what has to be included in the reports that are filed. These are related to the campaign finance pieces that are being talked about. Violation of those rules is what the Ethics Commission is currently dealing with. The Ethics Commission is in the process for identifying and investigating any potential issues with the accuracy of the reports that have been filed.

Sen. Gratwick gave an example of him wanting to start a ballot initiative with his own money and asked if that meant he would just have to say this money is all coming from him or does he have to say he got \$10 from here and \$1 million there. Director Ashcroft believes there is a dollar amount level set and if a particular entity provides funding above that level then it has to register as a ballot question committee and begin to submit campaign finance reports. She would have to go back and review OPEGA's materials to be reminded what the exact rules were. Sen. Gratwick said the point is if someone is giving him \$100 million under the table that is not legit. Director Ashcroft said that it is supposed to be transparent in the reporting that occurs.

Rep. Sutton said in all of OPEGA's detailed information she did not see anything linking Mr. Scott or his sister to Maine directly and asked if there was any evidence that OPEGA saw that either of them have voted or resided in Maine ever. Director Ashcroft said OPEGA did not look for that information, but did not see anything about Mr. Scott or his sister's relationship to Maine in the material they gathered.

Sen. Katz asked if there was any indication that the fund raising, which has paid for this campaign, has been in any sense grassroots in that it has come in as \$1, \$10 or \$20 amounts from ordinary Maine citizens. Director Ashcroft referred to OPEGA's diagram in the information provided that lays out who the funders are according to the filed campaign finance reports and how much of the money has come from them. OPEGA did not see any documents that laid out contributions of small amounts. Sen. Katz said presumably if there had been \$1 million in one thousand \$100 contributions that fact would appear in the records somewhere. Director Ashcroft believes there is a sequence for reporting everything so it is known how much total money and where the money came from. Sen. Katz asked if OPEGA had seen anything to suggest that there has been in fact an amalgamation of small contributions. Director Ashcroft said OPEGA had not seen that.

Sen. Gratwick asked if there is a time limit for amending the information provided to the Ethics Commission that was if a false accounting of where the money is coming from. If you have been caught providing false information can you then say you made a mistake and amend the information, or is there legal consequence for not having been forthcoming the first time around. Director Ashcroft said that would be a better question for the Ethics Commission's Executive Director. It is her understanding that there are times when folks find the campaign finance reporting laws confusing and therefore may not have accurately filed their report. The Ethics Commission then works with them to get those matters resolved. When it rises to a level of something that seems intentional, then the Ethics Commission takes action to consider levying financial penalties against those campaigns. Sen. Gratwick asked if Maine had State laws that deal with that. Director Ashcroft said OPEGA did not undertake a review of all of the State's laws as part of this task. She said that might be something the GOC would want OPEGA to look at the process as a whole.

Sen. Diamond referred to the Ballot Registration Committee noting that he has seen a lot over the years, but never recalled an officer, such as the treasurer, having their own personal attorney involved in the process. He asked if OPEGA had information that might explain that in more detail. He referred to page 6 of the Chronological Summary of "Avery Day (attorney for Cheryl Timberlake in her personal capacity)." Director Ashcroft said she made the assumption, which may not be a valid assumption that, once the Ethics Commission started asking questions, Ms. Timberlake secured a personal attorney on her behalf, as well as their being an attorney for Horseracing Jobs Fairness, to assist her with the Ethics Commission inquiry.

Sen. Katz noted in OPEGA's information that the legislation associated with the current casino initiative that is on the ballot for November is worded in a way that only Capital Seven, LLC would be able to obtain a

license to operate the casino in York County. He said Shawn Scott is principal in Capital Seven and is the party who would get the license. He referred to Attorney Ketterer's letter dated October 12, 2017 where he says "To my knowledge Mr. Scott has no perspective on or role in the York County direct initiative other than as a contributor of financial support." He asked Director Ashcroft if that was not so. Director Ashcroft said OPEGA's understanding of Capital Seven's role at the moment is that they have been a funder of Horseracing Jobs Fairness and they are a backer of the new political action committee formed to try to get the referendum passed. Sen. Katz said, unlike other backers, Capital Seven is the only entity that could possibly get the license if the Question 1 referendum were approved. Director Ashcroft said they would be the beneficiary of it.

Rep. Rykerson asked who decides what the condensed version of a referendum question will be. Director Ashcroft said it is the Secretary of State with input from the Attorney General's Office. Sen. Diamond, former Secretary of State, agreed that the Secretary of State will get advice from the Attorney General, but the Secretary is the final decider.

Rep. Mastraccio asked Sen. Diamond if the question on the ballot had to be based on what the question proposed by the referendum was. It is not like you could frame it in any way that the Secretary of State decided it has to be based on the reality of what the question is. Sen. Diamond agreed and said you want to make sure that it is legit and has been reviewed by the Secretary of State's attorney, who is the Attorney General.

Sen. Libby referred to OPEGA's flow chart noting that Universal Capital has no known officers or money trail and asked what OPEGA's process was for determining who is behind the other entities and why they could not find the Universal Capital information. Director Ashcroft said OPEGA was only putting together what has been reported and nobody has come forward with any information yet regarding ownership of Universal Capital.

Sen. Libby asked if Mr. Riley had disclosed any information regarding Universal Capital. Director Ashcroft said Mr. Riley said his firm was not aware of who actually held the membership interests in Universal Capital. His explanation of why he misunderstood who he was representing that day was apparently based on the fact that he was getting communication from an individual who he had previously associated with Bridge Capital. Sen. Libby said in the early morning before the hearing Mr. Riley was contacted by someone who has an affiliation with Bridge Capital and Universal Capital? Director Ashcroft said that would be the implication.

Rep. Harrington said there is a lot of out-of-state money coming into the referendum process and asked if there was any information on the amount of out-of-state money going into referendum Question 2, Medicaid expansion, so the GOC could compare. Director Ashcroft said OPEGA did not look at that but was sure that information is available through the Ethic Commission and the campaign finance reports. She said that would be another piece that could be added should the GOC direct OPEGA to look at the process overall.

Sen. Gratwick asked what "privilege log" meant. Director Ashcroft said if someone claims there is a document that they are not providing that was subpoenaed there is a log that says we did not provide "x" document and here is why we did not provide this document. That is a privilege log so that there is transparency around what documents were not submitted that met the criteria for the subpoena.

Sen. Gratwick asked if there was anybody on the Commission that would know that the information not being provided was really of a confidential nature. Sen. Katz said the privilege log is submitted in response to a subpoena and is sent under oath so is supposed to be truthful. If the sender of the subpoena does not believe that the document identified in the privilege log is in fact privileged, then the sender of the subpoena can seek an order from the court to resolve that.

Rep. Rykerson asked if the entity proposing or supporting a referendum question ever changed after the question was accepted by the Secretary of State. Sen. Diamond said it is not uncommon to amend the people involved referendum questions. What will not be amended after it is accepted is the question itself.

Sen. Katz asked if in OPEGA's review of all the information was there any evidence that a penny of the money for the campaign has come from within the State of Maine. Director Ashcroft said she would have to go back and look at all the campaign finance reports OPEGA has to be able to answer that question. She was not remembering any, but noted folks like Cheryl Timberlake and others who have potentially contributed to the campaign. Sen. Katz said he has looked at all the campaign finance reports and he does not recall seeing a nickel of money for this campaign coming from within the State of Maine. He will stand corrected if anybody has information to the contrary.

Rep. Sutton wanted to clarify where OPEGA gathered their data from and asked if they logged on to the Ethics' website and looked at the filings for donations for all of these accounts. Director Ashcroft could not say that OPEGA looked at all of them, but did review information on the Ethics Commission website. Rep. Sutton asked if OPEGA looked at one of the other referendum questions on the Ethics Commission website to do a side-by-side comparison. Director Ashcroft said OPEGA did not. She said that might be another question to include if the GOC wants to look at the overall referendum process.

Sen. Saviello asked if anything illegal had been done. Director Ashcroft believes the Ethics Commission is in the process of determining that with regard to getting the initiative on the ballot. He asked if OPEGA has seen anything done that is illegal. He noted, on a smaller scale, the bear baiting referendum question where 90% of that money came from out-of-state. Director Ashcroft said OPEGA's research did not include looking through state laws or anything like that to determine whether there might be anything illegal that had been done. She would guess that the Ethics Commission would be the go to person on that so whatever it is that they have decided to focus on would have its foundation in whatever might exist for laws.

Sen. Katz addressed Sen. Saviello question about whether OPEGA has seen anything illegal that was done. He said the GOC talked a little bit at the beginning of the meeting about the inquiry was not really so much as to find out if anything illegal was going on, but rather to use the York County Casino referendum question as a case study in their determination of whether they want to move forward with a review of the citizen's initiative process and perhaps change some of the laws which exist.

Sen. Libby asked if OPEGA had any information on what constitutes a loan versus a contribution and if there was a definition for it. Director Ashcroft remembered someone questioning whether it could be considered a loan if it did not have to be paid back and that is part of what the Ethics Commission is looking at.

Sen. Katz asked for the GOC members' comments on Director Ashcroft's summary of information regarding the Initiative for a Casino in York County.

Sen. Libby said the Ethics Commission is meeting on October 31st and asked Director Ashcroft if she had a sense of whether they are going to have material that has been subpoenaed from the various entities by then. Director Ashcroft said the Ethics Commission has received a lot of documents already as a result of the subpoenas and when she last talked to Mr. Wayne they were just beginning to work their way through the documents. Sen. Katz said he asked Mr. Wayne that question and it was unclear at that point, from a legal perspective, which of the documents that had been produced would be available to be released to the public or when.

Sen. Libby said the Ethics Commission is going to provide its members with an update of what they have concluded to date on the 31st. Sen. Katz believes the Ethics staff also has a recommendation to make on the subject of fines. Whether there are going to be any and, if so, how much the fines ought to be.

Sen. Libby asked if there was going to be a conclusion to the investigation before November 7th. Sen. Katz did not want to speak for Mr. Wayne, but his understanding was that there may be Commission action on the 31st.

Rep. Rykerson referred to OPEGA's graphic noting Dan Riley as a lobbyist and asked if he was required to register his clients and the amount he has earned from those clients. He did not see the \$ sign arrow coming from Universal Capital to Dan Riley. Director Ashcroft said the \$ signs are meant to show funding for the campaign from an entity to wherever the arrow goes.

Rep. Mastraccio said Maine has a citizen initiative process and she feels that this particular group has used this process in the past and has now used it again. She expects there to be outside money in a lot of different things, but it seems to her that this was a deliberate attempt to make it difficult to see where the money came from. She knows there are other initiatives, like the bear baiting referendum, that had outside money but you were pretty much able to know where that money came from. In this initiative, there are too many question marks and too many people trying to hide things. What she is getting from OPEGA's information is that there is a problem in Maine's citizen initiative process if you cannot see where the money is coming from. She would want to know, as a voter, where the money is coming from and it is not clear on this initiative.

Sen. Diamond said the work that OPEGA has done underscores what is known and that is that the initiative/referendum process has now evolved into something far beyond what it was intended. One of the things that jump out to him is that the Ethics Commission is meeting 7 days before the election. Even if they have some results, there is not time for the public to really go through all that information to find out what is important to them and what isn't. There is no analysis, procedure, process or time for people to get involved. Sen. Diamond thinks it is obvious that the process is too easy to maneuver and the amount of money coming into the State is phenomenal. It does not mean that it is illegally, but if you cannot find out where the money is coming from and that someone is paying \$10, or more, per signature, you wonder where the grassroots has gone. He thinks this has become a serious issue that the GOC should plan to work on.

Sen. Gratwick referred to the invite letters to individuals asking that they attend today's GOC meeting. He asked if there were any of the people at the meeting. He asked if it is unusual for people not to come when they receive an invite letter from the Committee.

Sen. Katz asked if Charlene Cushing, Michael Sherry, Alexis Fallon, Stavros Mendros, Cheryl Timberlake, Lisa Scott, David Wilson, Shawn Scott or Michelle Wilson were at the meeting. No one there responded as being one of the names called.

Sen. Gratwick asked where the GOC intended on going with the York County Casino Referendum because the vote is on November 7th and the Committee has little to offer at this point. Is the Committee going to use OPEGA's information as a basis for going back and looking at the larger referendum process question? Sen. Katz said that Rep. Pierce made a written request to the GOC that would task OPEGA with a review of the citizen initiative process and he raised specific issues in his request. The GOC will not deal with Rep. Pierce's request at this meeting because he could not be there, but will discuss the request at the November 9th meeting.

Sen. Saviello asked how many of the persons invited to this meeting has the GOC heard back from their attorneys that they said they felt this was already under investigation and were not going to attend a GOC meeting until that was over. Director Ashcroft said they have heard back from three individuals, Shawn Scott, David Wilson and Cheryl Timberlake.

Sen. Katz said the GOC has used the Initiative for a Casino in York County as a case study to try to decide if they should look at the whole citizen referendum process, which he thinks should be done. This particular saga ought to make Maine people's blood boil. This is a Shawn Scott production from beginning to end and he is a familiar person in the State of Maine already from what happened in 2002 to 2004. Mr. Scott basically spent just under \$10 million to pass an initiative and then sold it for \$50 million and now he is back again for

round two. Shawn Scott is paying for this and the referendum question is worded in such a way that if it passes his company is the only company that can get a license for the York County Casino. He said to be mindful that Mr. Scott has been denied licenses, or failed to get licenses, in five states before this. In Louisiana he spent \$10 million trying to get a license and sold that right for \$130 million without completing a suitability investigation of his license. In Maine he spent about \$3 million dollars for the 2003 campaign. There was a suitability investigation of his company and the suitability investigation came back with significant issues about the application, including the fact that some of the people intimately involved had significant criminal records. He sold the right to that license for \$51 million. In 2004 he failed to get on a ballot in Washington State because the judge involved in that matter noted fraud on behalf of the companies, and had a casino license seized by the government in the country of Laos. Laos is one of the most corrupt countries in the world and Bridge Capital was investigated for bribing government officials and the casino license there was seized. In 2016, there was a slot referendum in Revere, Massachusetts which involved Bridge Capital and Massachusetts imposed over a \$1 million in penalties. The other big contributor in that campaign was Regent Able Associate, which is a Japanese consulting company with employees based in Japan and Cambodia. Sen. Katz said there are many concerns about the Initiative for a Casino in York County and he hopes Maine people will take a good look to see that the money is not coming from Maine. It is coming from Massachusetts, Florida, the Marina Islands, maybe from Laos, China and Las Vegas. He said Mr. Scott burned Maine once before so shame on him, but if we let him do it again, it is going to be shame on us. Sen. Katz hoped that the Maine people will take a close look at who is paying for Question 1 and who stands to benefit.

Rep. Sutton said in listening to all of the discussion regarding the York County Casino initiative it has become obvious to her that the grassroots efforts in Maine has turned into Astroturf.

Rep. Rykerson agreed with Sen. Katz. His town, Kittery, is inundated with political signs that say Yes on 1 for jobs, schools and tax relief with no mention of gambling at all. He thought as a general issue, even though you may be skirting first amendment rights, that truth in labeling and political advertising should be included in an OPEGA review of the referendum process.

Sen. Diamond urged Committee members to take their boiling blood, or whatever their blood is at, and focus it towards the whole referendum process because he would not want them to get hung up on just one particular referendum issue, although Question 1 is exhibit A. You need to take all that energy to find ways to correct the system, or at least offer to the full Legislature ways the Committee feels the referendum process can be improved.

Sen. Katz asked that GOC members review Rep. Pierce's letter and come prepared to discuss it at the next GOC meeting.

Sen. Katz asked if there was objection to taking agenda items out of order. Hearing none, he moved to **Unfinished Business, Continued Committee Work Session on OPEGA Report on the Pine Tree Development Zones.**

UNFINISHED BUSINESS

- **Continued Committee Work Session on OPEGA Report on the Pine Tree Development Zones**

At the September 25, 2017 GOC meeting, the Committee had the public comment period on OPEGA's Pine Tree Development Zones. The GOC voted to endorse the Report and to send it to the Taxation Committee. Director Ashcroft said the Taxation Committee met October 17th and have begun working on the tax expenditure review reports that OPEGA has completed this year.

The GOC did not have sufficient time for OPEGA to respond to some of the comments made during the public comment about the way OPEGA conducted the evaluation. Director Ashcroft wanted an opportunity

to make sure the GOC was clear about where OPEGA stood with regard to those comments and to offer additional explanation. As requested by the Committee, OPEGA has put their responses in writing. She summarized OPEGA Response to Public Comments and GOC Questions about the PTDZ Evaluation. (A copy is attached to the Meeting Summary.)

Rep. Rykerson asked what it meant to endorse the PTDZ Report since it really did not have recommendations and is not finished. Director Ashcroft said OPEGA stopped the review, but the Report did include recommendations stemming from the work that OPEGA had conducted up until that point. It was a full report. OPEGA just limited the scope more than they had originally intended to do. She referred members to the information in their notebooks relating to the criteria for endorsing an OPEGA report.

Rep. Mastraccio invited Ms. Smith and Mr. Ray from DECD to make any comments they had.

Rep. DeChant referred to number 4 of OPEGA's Response. She said she would like to have a better understanding going forward of how the Committee could potentially draw on data for how much money has gone out and how many jobs have come back. The clock on PTDZ is running down and she is frustrated that they never got to the 2.0 version of evaluating this and have, for many years, gotten close, but not quite there. Rep. DeChant asked Ms. Smith to speak to what the GOC can do going forward on this.

Ms. Smith said she would preface her comments by saying she came into the OPEGA review and discussion on PTDZ at the eleventh hour and OPEGA's draft PTDZ report was already in progress. When she first started at DECD her main job was working on the PTDZ Program with Jim Nimon. What she sees in the businesses she deals with on a regular basis is the importance of the PTDZ programs to those businesses. DECD asks businesses to report every year and every two years DECD submits a report to the Legislature. She thinks OPEGA's PTDZ report might have been a better report, or the timing of the report could have been more helpful, a number of years ago versus now in the final year of the program. Ms. Smith thinks it gave an opportunity to address where the reporting DECD requires needs to be modified. If DECD is not asking businesses to provide the right information, DECD cannot provide the Legislature with correct information or good information. She thinks that can be addressed whether it is statutorily, rule making or as simple as just modifying the reports businesses have to submit to DECD every year.

Rep. DeChant asked if Ms. Smith was clear on what those parameters would be to have a more concise reporting requirement.

Ms. Smith said what is difficult is that people can always make the case that you do not know if those jobs were directly because they were PTDZ certified businesses or because they were going to create them anyway. However, if you are looking at a business who is participating in a program and they come to you with a starting baseline of job numbers and every year they are reporting and are growing, it is hard not to say somehow that is not directly tied to them being a PTDZ business. She understands that there is confusion and questions. Some of the directives in OPEGA's report could give DECD some direction as to how they modify the reporting to get the information the Legislature is looking for.

Ms. Smith said the PTDZ program sunsets December 31, 2018. DECD's next reporting cycle of the businesses to the Legislature will not be until 2019, but every year PTDZ companies are required to report to DECD so they would be capturing that information again in the Spring of 2018.

Sen. Katz noted that Ms. Smith said DECD asks businesses to report every couple of years and he was intrigued by the word "ask". He asked what the response rate was. Ms. Smith said technically the businesses are required by law to report if they are participating in an incentive program. There is a requirement in statute regarding reporting. Ms. Smith said for the most part DECD did not have to chase companies that are participating in the program, especially on ETIF because businesses are looking for reimbursement. It does take a considerable amount of time to get reporting from all participating companies and sometimes it is because the business has closed, or it is that a new person is in town and doesn't know about the reporting requirement. Ms. Smith said it is a cumbersome process.

Sen. Gratwick said this is taxpayer money that the State is spending on tax programs so somehow there needs to be better ways to get at outcomes. The GOC heard at their last meeting that some companies do not object to giving DECD privy data. Other companies may, but he thinks there should be an expectation that if you are going to be using the public purse you have to be open and forthcoming with information because the Legislature needs to know if the State's money is being spent well and appropriately. He is unhappy with the PTDZ program because of the lack of good data.

Ms. Smith asked for clarification from Sen. Gratwick on whether he was disappointed with the report DECD submits to the Legislature every other year because it is not sufficient and does not give the information that he is looking for. Sen. Gratwick said he is new on the GOC so he has not seen the reports over time, but his understanding is that information is not available. Ms. Smith said DECD's report is available. They have to do the report by law every two years and it is a program requirement. Sen. Gratwick said the Legislature does not have some of the basic information that would substantiate that "x" number of jobs have been created. Ms. Smith said DECD's report does indicate a number of jobs and investment. She understands the GOC would like it broken down further than it is and so the question is what other information can DECD ask for that then gets them to the point where they are giving the Legislature information in their report every two years that addresses whether the program is doing what it is supposed to.

The GOC thanked Ms. Smith for the information she provided and for answering their questions.

Rep. Mastraccio noted that Rep. Copper, a member of the Taxation Committee, was at the GOC meeting. The Taxation Committee met on October 19th and discussed PTDZ. Rep. Copper said Taxation did not get to the PTDZ program.

Director Ashcroft said the tax expenditure review process only started recently and OPEGA, on behalf of the Legislature, is asking questions in a different way about the outcomes of the programs than has been asked in the past. OPEGA is not surprised that there has not been a capture of all the data that they have needed to do the particular analyses because nobody has asked these question before. DECD gives the Legislature a report every two years and nobody has said their report does not tell them enough about the program. DECD seems to be on the hot seat for not collecting the data, but OPEGA is not surprised that all needed data has not been collected because it is not until you know what questions you want to ask, and what methodologies you are going to use to try to answer those questions, that it starts to come to light exactly what kind of data you want to get and use. Recommendation 4 in OPEGA's PTDZ report is in regard to what data to capture going forward. The recommendation is that if the Legislature is going to think about extending the PTDZ program, the most efficient thing to do would be for OPEGA, MRS and DECD to meet and talk about what data is needed and what is going to be the most efficient way to get it with the understanding that the PTDZ program is sunsetting December, 2018. Director Ashcroft said OPEGA would be happy to work with DECD and MRS to figure out what additional reporting the businesses could be doing.

Rep. DeChant said there is no hot seat here. What disturbs her is that she knows she is not the first one to have asked this question. She knows it is not a sophisticated question, that there have been series of DECD's reports every other year to the Legislature. She knows that colleagues that have come before her have wondered and pondered, questioned DECD's reports and for a variety of reasons, nothing has happened to get any better data. She would not support resurrecting the program without all of these issues being corrected and should we want to pursue this in the future that this work has been done.

Rep. Mastraccio thinks the discussion over the PTDZ program is probably not over. She does not know what will happen at the Taxation Committee, but she knows there are a number of bills that are before the Legislative Council regarding tax programs. She thinks there is a good blueprint for what they can do to at least fix it in the short term, if needed, or if the Legislature is of a mind to do so. She is glad the GOC is doing the tax reviews because what the GOC is doing here is making a map for how we are going to write economic incentive legislation going forward.

Rep. Sutton thought it was important going forward, and she will do it when she puts forth a piece of legislation, to make sure to build in a way to measure it. If she thinks she has a great idea, she needs to be able to prove that after the fact. Going forward in any committee you are on, any piece of legislation you are thinking about submitting or cosponsoring, she thinks a valid concept to keep in mind is how you are going to prove and substantiate the legislation after it has been initiated at any point in the future. A constant source of frustration for the GOC that she has voiced over and over is that it is difficult to attribute one to another. There is a very unclear path from one conclusion to a result. We can work to make that more clear and be aware of the limited taxpayer money that is out there and how hard people are struggling to keep up with the weight of all these great ideas that legislators keep coming up with here at the Legislature.

Sen. Saviello would bet you could go into any committee and review why a report is being generated and you would come up with similar results. Many of the bills in front of his committee, Environment and Natural Resources, you would find the same thing. Thank you very much for this report and then it goes on the shelf. That is often times why his committee only asks for one copy for their library. He would suggest, following up on Rep. Sutton's suggestion, asking agencies to offer suggested legislative changes so a committee will have to act on what has been put in front of them. The ENR Committee's rule is, if you want an agency to do a new report then get rid of two others. If other committees followed that approach, it would streamline and give committees the opportunity to focus on the report that comes into them.

Director Ashcroft said OPEGA will send the page of explanations provided to the GOC to the Taxation Committee as well for whatever use they might make of it as they consider OPEGA's PTZ report. She asked if there was anything else the GOC wanted to convey to the Taxation Committee. The GOC did not have anything else to forward to the Taxation Committee.

NEW BUSINESS con't

- **Consideration and Approval of OPEGA Recommendation on Project Direction for Review of Temporary Assistance for Needy Families (TANF)**

Director Ashcroft said OPEGA has completed the preliminary research phase of the TANF review. The purpose of that phase is to get a solid understanding of the program in all aspects and be in a position to recommend to the GOC whether or not OPEGA thinks it is worth their resources to continue with the review with more detailed focus on particular questions or whether they think it would be just as well served to stop the review at this point and report out what they know. In this particular situation, OPEGA is recommending continuing the review and has recommended a set of questions staff think would be worthwhile to answer regarding TANF. (A copy of the Recommendation is attached to the Meeting Summary.)

Rep. Mastraccio said there may be some thought amongst some people that the sixty month life time limit on TANF might be a reason that the caseload is going down. She asked if that would be looked at under question 1. Also the law has a hardship extension benefit as a way to extend benefits beyond the life time limit and asked if that would be encompassed in that question. Is the rate going down because of the life time limit and none of those hardship exemptions are being given or is it that the economy is better, people are employed, nobody needs the money, etc.? How deep is OPEGA going to go into that?

Director Ashcroft said it depends on what there is for data, but it is OPEGA's intent to do an analysis of both the application for enrollment and reasons why cases are being closed. If the GOC is interested in the amount of activity in each of those categories, she thinks OPEGA would capture that, but she did not think they envisioned looking to make sure that hardship had been considered and whether DHHS made a correct judgment in whether or not to allow hardship extensions. OPEGA was not planning on doing a compliance type review on that.

Rep. Mastraccio did not think it was the compliance, but rather looking at what the data shows regarding use of the hardship extension and how that had changed. She was wondering how and if the extension piece will be

factored in at all. She wondered how the 60 month life time limit was working and is it helping in getting people to find jobs or, if they are truly needy, how is the State accommodating that? Director Ashcroft thinks OPEGA will capture that in their analysis.

Sen. Saviello asked if Maine was meeting the federal requirements of the program. Maine thinks they are meeting the requirements and then after legislators go home there is an article in the newspaper that Maine's TANF program is out of compliance and fined \$20 million. Is OPEGA's evaluation going to compare the federal requirements and is Maine meeting and interpreting correctly what the Feds actually expect. He does not want to receive a report that says everything is fine and then there is a newspaper headline saying TANF is out of compliance with Federal requirements.

Director Ashcroft said, as OPEGA described in the Project Direction Recommendation Statement, there is now money built up because the cash assistance needs have declined. There are more opportunities to use TANF in different ways and DHHS has begun to think about how they are going to use those funds. OPEGA's question 3 is around what Sen. Saviello is talking about. OPEGA's intent was to look at what is in place for processes and controls both to identify and prioritize how to use the TANF funds and also to ensure that the funds are spent on allowable support and services.

Sen. Saviello said is the decline being seen as a result of something that Maine should have been doing that they are not doing. Director Ashcroft said OPEGA is going to go after the primary factors for why is the decline happening. Once OPEGA knows what those are, the next step will be to say what else do we need to know about that factor. She would like to think that OPEGA would get to the point, if it was appropriate or whether there has been a misinterpretation.

Sen. Gratwick asked a process question. He is listening and then would like to come up with specific questions under each of OPEGA's four questions to add further questions for OPEGA to investigate as they go forward. He asked if that was an appropriate way or should he come up with all of his questions now.

Director Ashcroft said she is going to be looking for the GOC's vote for approving a specific set of questions that OPEGA will then go forth and try to answer. If Sen. Gratwick has other questions he would like to have OPEGA definitely come back with an answer on those would need to be processed and approved by the GOC. If Sen. Gratwick would just like to offer ideas for what OPEGA could/should consider when addressing a question, then he can offer those to OPEGA at any time, but she cannot guarantee that OPEGA is going to bring him back an answer to those questions. OPEGA would consider and work it in as it seemed appropriate, but would not take it to the same level as the questions that have been approved by the GOC as the scope of the review.

Sen. Gratwick said in regard to OPEGA's question 1 he would ask has Maine really been fulfilling the four mandates of TANF or have the changes as of 2011 allowed Maine to be successful at decreasing hunger with kids and other groups. Are we answering a larger question of is the TANF program fulfilling the mandates of the original TANF program? Director Ashcroft referred to page 2 of the Recommendation and the four allowable uses of the Federal TANF Block Grant Funds. She understands that one might expand the idea of TANF to reducing hunger but it is not one of the federal stated purposes for the program. If the GOC wants to go after those larger questions, the question would need to be framed as something other than are we accomplishing TANF's purposes.

Sen. Gratwick said it is "provide assistance to needy family" and how are you going to define needy family. Director Ashcroft said "needy families" are defined and the State sets the eligibility criteria for the TANF program so by default those become the criteria as to who is considered needy and who is not. There is a list for what the eligible criteria are for the State of Maine's program and that is the criteria that is used in determining "needy".

Sen. Gratwick said Maine should not have people who are hungry and wants to make sure the GOC is taking that into account.

Sen. Saviello said if OPEGA does the TANF review and we find out that there are children who are going hungry it would not be related to the TANF program because TANF, although he has agreed with everything Director Ashcroft said, does not require the feeding of children. The Committee can talk about it philosophically, but it is not a requirement to meet the TANF requirements.

Director Ashcroft said if Sen. Gratwick's question regarding hunger is a broader question about what impact is TANF funding having on the State's progress in reducing hunger in Maine that is a totally separate and different kind of question than what OPEGA thought was to be tackled in the TANF review. TANF would only be one piece of the State's overall efforts in impacting hunger and OPEGA would be trying to isolate specifically the contribution TANF is making to that overall result. That is a very different kind of question and review than what OPEGA has laid out in their Project Direction Recommendation.

Sen. Gratwick respectfully disagreed because with the word "needy" families, does that mean you need more tv sets, do you need jaguars? He thinks everybody can agree that food insecurities is certainly one of the underpinnings of "needy". Director Ashcroft noted that is not the way the State has defined it at this point so when OPEGA evaluates something, they are not necessarily using philosophies. They are using what is established as the foundation of the program. She referred to Maine's Use of TANF Funds on page 5 of the Recommendation.

Sen. Gratwick said having income and assets below TANF limits, 200% of poverty, means to him that you have to be dealing with the other aspect, or the Committee is going to be excessively narrow and not getting at the root of the problem of there being people in the society who are not functioning well because of food, shelter, education, parenting, etc. He thinks it is all part of the definition of "needy families" and taking care of their kids and that should be in the GOC's purview.

Director Ashcroft did not think there is a causal link directly from TANF to the perception of the State's situation with regard to households that Sen. Gratwick just described and there is nothing within the TANF program when providing cash assistance that requires the family to spend that money in a particular way. OPEGA would not necessarily draw a causal link between providing cash assistance to a family and whether that family is taking advantage of that to reduce hunger in their household. To do a study like that would be wanting to get into how are the families spending the cash assistance that the State is providing. Those case studies would be laying out a whole different kind of evaluation than understanding how the State is choosing to spend its TANF dollars. She did not disagree with Sen. Gratwick that his questions were good, but wanted to let him know that OPEGA is not prepared to go there with a review of the TANF program in particular.

Sen. Gratwick wanted it noted that he thinks there needs to be more of an exploration on the parameters surrounding the word "needy" because that would be the basis for all these things.

Sen. Katz thought Sen. Gratwick was advocating for a wider review of anti-poverty programs and how effective they are, but that is not the directive the GOC is charging OPEGA with.

Director Ashcroft said you have to have a good understanding of what is going on with TANF in the first place and how you are choosing to spend it. There are ways of spending TANF funds, other than basic assistance, that might be getting at the root causes of things like children going hungry and there are a lot of different ways you could spend TANF to potentially get at those root causes without it being through the cash assistance piece. That is the kind of question OPEGA is trying to ask – how is the State identifying the best uses of those TANF funds to get towards the purposes of the federal TANF program. She thought once OPEGA did this TANF review, the GOC would have a sufficient amount of information to say how it is related, or not, to children's hunger in Maine, but OPEGA would not necessarily be coming back with an answer to that broader question.

Rep. Sutton asked for an example of where OPEGA would look to find out that perhaps one of the reasons for the decline is because the goal of the program is to end families' dependence on government and has done a good job and families don't need TANF any longer. Director Ashcroft said an initial comparison of over time is

there a reduction in the number of people applying for TANF and, if so, what might be contributing to the reduction in applications. There could be a number of reasons for that. Then to look at once those applications come in, how many of them are being denied and on what basis are they being denied. Once they are in the system and their cases become closed what are the factors that are closing the cases. Director Ashcroft said there are several points along that continuum where OPEGA will be looking to categorize or analyze how much of the activity in TANF, or not, can be attributed to those various causes.

Rep. Sutton asked if OPEGA would be interviewing people who were once on the program to ask why they were no longer receiving TANF. Director Ashcroft said OPEGA is not far enough down the line yet to know whether they would reach out to recipients. OPEGA would be dealing with confidentiality issues in doing that so would have that as a consideration in making such a decision.

Sen. Gratwick said he would like to know, at some point, who the contracts mentioned on page 3 are going to, what kind of monies are involved and what kinds of overview they have. He referred to Rep. Sutton's question and said Sandy Butler from the University of Maine Orono looked for what happened and talked with 400-500 people and there is some data available on what happens to these people and do they prosper or not prosper.

Rep. Mastraccio asked if Question 2 of OPEGA's Recommendation would encompass the way DHHS is spending the money in TANF and does DHHS have a way to measure their outcomes so that they can show that they are achieving the goal for TANF. Director Ashcroft said she was talking with the OPEGA staff about that and how they might incorporate that. They had ideas about possibly adding a piece to question 3. Rep. Mastraccio thought because of the changes in ways they are spending millions of dollars, she would want to know that they are upfront and are going to be able to measure those outcomes.

Ms. Gagne said that is OPEGA's intent in question 3, but they could revise the wording to ensure that DHHS is monitoring measurable outcomes or another question could be added. Director Ashcroft wanted to understand what the Committee wanted to see OPEGA doing regarding measuring the outcomes. TANF funds may be just a portion of the funding of many contracts for different kinds of services. She is not sure OPEGA could bring the GOC back a meaningful answer on whether the outcomes of TANF funds are being measured when it is not just TANF that is driving the outcomes of the services that they are now supporting. OPEGA could ask a question of how is DHHS measuring the success of whatever programs, services, and benefits they are choosing to fund with TANF. Rep. Mastraccio said that would be fine with her.

Rep. Mastraccio asked if the federal government audited the programs. The federal government gives a lot of money for programs and it seems like they hand the money over and it is more about how much we spend and their statistics of how many people we have that are working. It is not about outcomes for the federal government. She asked if she was correct. Director Ashcroft did not know yet about the TANF program, but it has been OPEGA's experience in other programs they have reviewed where federal money is involved that the federal government is only really starting to evolve to the place where it is asking questions about outcomes too. She did not know if they have gotten that far with regard to TANF. It seems to OPEGA that one of the primary purposes of TANF is to help people get by while transitioning to work. There are numbers reported on how many people are in the ASPIRE program or how many people are recycling back and that is part of the reporting that already comes to the Legislature. The Director thinks at that level some information might be available, but she does not know about the broader use of the funds. Rep. Mastraccio said she would be satisfied with the question in the way OPEGA has framed it.

Rep. Rykerson thinks information can be gathered for measurable outcomes. Director Ashcroft agreed but said OPEGA just has not explored yet with DHHS what they are collecting for data with regard to outcomes on any of the efforts they might be supporting with TANF.

Sen. Gratwick referred to question 1 and 2 noting the context of providing assistance to needy families. He expressed concern that OPEGA's review not be too narrow so that it would get at what was being done to address a families real needs so that the children could stay in the home. Director Ashcroft said she was not envisioning that OPEGA is going to answer the outcome questions as part of this review. She thinks what they

can ask that would be relatively within the scope laid out in their Project Direction Recommendation is what is DHHS doing to measure the outcomes of the services and programs that they are choosing to support with TANF.

Director Ashcroft wanted Sen. Gratwick to understand that she hears his concerns, but she is trying to walk the line between what she thinks OPEGA can deliver on, and be realistic about what OPEGA can deliver on within a reasonable amount of time.

Rep. Mastraccio said that sometimes OPEGA reports will lead to other things.

Sen. Gratwick said, with apologies, he was going to be pushing back on the TANF review and referred to question 4, noting that it is a complicated question and has many ramifications. If OPEGA only answers the four questions superficially, you could do that in ten days.

Director Ashcroft said that the State is not required to meet every purpose under TANF. The State is allowed to use TANF funding toward any of those purposes. She was not sure a line of questioning around what is the State doing or expected to be doing within the realm of the TANF block grant on any one of those individual purposes is necessarily what the expectation is for the program. The State is not required to spend money toward the purpose of encouraging formation and maintenance of two-parent families. They can and could, but are not required to do so. How the State in total is pursuing the broader goals that seem imbedded in some of the TANF stuff is a bigger question than just TANF.

Rep. Rykerson asked if measurable outcomes were going to be added to question 3. Director Ashcroft said OPEGA will add it into question 3 or a separate question to get at what DHHS is doing, or planning to do, to make sure that they are measuring outcomes for those things that they are choosing to support with TANF.

Motion: That the GOC approves OPEGA Recommendation for Project Direction for the Temporary Assistance for Needy Families (TANF) Program with the addition of a question, or modification of one of the existing proposed questions, to assess how DHHS measures the outcomes of programs and services supported by TANF funding. (Motion by Sen. Diamond, second by Rep. Harrington, motion passed 9-1. Sen. Gratwick voted against the motion and Sen. Libby and Rep. Pierce was absent.)

Director Ashcroft asked that Sen. Gratwick send OPEGA an email with his thoughts about TANF and they will take them into consideration as OPEGA plans the work out for the review.

UNFINISHED BUSINESS cont'd

- **Children's Licensing and Investigation Services Report**
 - **Review of the Written Report Back the GOC Received From Children's Licensing Dated August 22, 2017**
 - **Continued Committee Work Session**

Director Ashcroft said OPEGA released a report on Children's Licensing and Investigation Services and DHHS agreed to take a number of actions to implement the recommendations in the Report. This is a report back on where DHHS is in terms of the implementation of those actions. She said part of OPEGA's work for the GOC is to continue to follow what actions are taken on the recommendations to the point of saying yes the recommendation has been implemented, no they are not going to implement it or the recommendation has been partially implemented. At some point OPEGA will discontinue the follow-up once the report is two years out.

Sen. Katz asked if the GOC had requested someone from DHHS to attend a GOC meeting. Director Ashcroft said the GOC asked that someone from the Department be at one of its past meetings and they

declined. DHHS provided responses to the Committee's questions in writing and the summation of that is in the GOC notebooks. Sen. Katz said to the extent that there might be follow-up from the GOC the Department will remain silent. Director Ashcroft said the Committee can send them more questions. Sen. Katz said they were not going to do that and noted that this again is an opportunity for a discussion which the GOC cannot have.

Recommendation 1 in OPEGA's Report is that Children's Licensing should enhance their policies in various ways to ensure thorough and consistent investigations. Director Ashcroft noted that these were investigations of licensed child care facilities and family child cares and the Department has reported to OPEGA that they have incorporated our recommendations into drafts of the procedures. The drafts are being reviewed and final editing and suggestions being made by the legal team. DHHS expects completion of that process by December 31, 2017 so OPEGA will follow-up with them at that time. DHHS also reported that they hired a new supervisor position for out-of-home investigations. Director Ashcroft said at the time of OPEGA's review it was the manager of the Department doing the supervision of that Unit so they now have a full time supervisor as of April, 2017.

Recommendation 2 in OPEGA's Report is that Children's Licensing should establish timeframes for determining licensing actions and notifying providers. DHHS has taken action to incorporate OPEGA Report recommendations into a draft procedure or form. OPEGA does not have any further information about when the draft is expected to be finalized, but will be following up with the Department on that.

Recommendation 3 was that DHHS should evaluate replacement of the Children's Licensing's current documentation system. OPEGA had a number of observations in its Report about how that was not a useful system in terms of efficiency and the consistency of what was getting documented. It is a system that they are using for other programs within DHHS also. Their response is that they are continuing to explore what might be better options for them from a technology standpoint. DHHS would need additional funds to implement any kind of new system. Director Ashcroft said OPEGA will continue to follow what is going on with that.

Recommendation 4 was that the Agency should enhance its investigation documentation. OPEGA had noted issues with consistency and thoroughness of the documentation that was being maintained when they performed an investigation. OPEGA suggested making changes to the templates that the staff use in performing those investigations. The Department did make some of those changes during the OPEGA review and additional revisions have been made since that time. Director Ashcroft said there are several different templates that are used in the Out-of-Home Investigations Unit. Those templates are going to be analyzed after using them for a period of time to look towards what would be the best enhancements and revise as needed. OPEGA will obtain the new templates and will continue to track actions taken by the Unit.

Recommendation 5 was that DHHS should clarify when parental notification can and should occur. There was a lack of clarity around situations in which parents should be notified, more specifically parents of children who were not directly involved in whatever situation was being investigated. They have reported that the standard operating procedure that they have in place, which OPEGA did talk about in its Report, was changed so it is now in alignment with the language that is in statute. Unfortunately the language in statute is "may" notify and the GOC/OPEGA had that discussion when the Report was issued. Licensing actions are now posted to the website within five business days of the time they are taken. Director Ashcroft said DHHS is finishing out the process with the provider prior to doing the posting within five days. The detail of negative licensing actions is now only posted until they have been resolved. Once the actions have been resolved, the website will show that there was a resolved negative licensing action, but will not show the details. Details will still be available on request. OPEGA will be looking to see whether what changes they have made address all of the points made in our Report.

Director Ashcroft said OPEGA will give the GOC further follow-up early next year because DHHS has set a benchmark for completing one of the action items as December 2017. OPEGA will continue to get

documents and whatever is needed to support what DHHS has reported to them and will close out any recommendations where the Department has completed actions.

Rep. Mastraccio noted that the DHHS rule changes for child care providers was still in limbo.

REPORT FROM DIRECTOR

Status of Projects in Progress

Director Ashcroft said continued fieldwork is being done on **Beverage Container Recycling**. She said that is a multi-agency review so it involves quite a bit of reaching out to entities within and outside of State government. **Temporary Assistance for Needy Families** was talked about earlier in the meeting. That review will be moving to the fieldwork phase. OPEGA has two tax expenditure evaluations in progress plus the special project to do the **Design Evaluation of Major Business Headquarters Expansion Credit**. She said OPEGA is experiencing challenges with some agencies on some reviews. It is not the agency necessarily, but the direction that they are receiving from the Governor's Office in how they are choosing to interact with OPEGA. Director Ashcroft said OPEGA is working through some of those issues as well. OPEGA does not like for there to be delays in the work they are conducting, but are trying to resolve all issues to the agreement of all parties.

ANNOUNCEMENT AND REMARKS

Director Ashcroft noted that part of the Right to Know Advisory Committee's statutory responsibility is to periodically look at all of the exceptions that exist in statute for Freedom of Access so any place where there are sections of statutes that keep documents shielded from FOA. OPEGA does have records like that, and it is OPEGA's turn for the Right to Know Advisory Committee to review those sections of statute, particularly those that allow for the confidentiality of OPEGA's working papers. She said the Committee has sent questions to her that she needs to answer and she wanted to let the GOC know that she will be making comments to the Right to Know Advisory Committee. Director Ashcroft thinks there are ways OPEGA's statute could be made more clear as to the confidentiality status of OPEGA's work papers and other records that they hold. She did not know if the Right to Know Advisory Committee would be seeking input from any members of the GOC, or whether and who might be in a position to initiate legislation that would make those clarifying changes. She wanted to let the GOC know that process will begin and she will be bringing a regular status update to the Committee.

NEXT GOC MEETING DATE

The next Government Oversight Committee meeting is scheduled for November 9, 2017 at 9:00 a.m.

ADJOURNMENT

The Chair, Sen. Katz, adjourned the Government Oversight Committee at 12:09 p.m. on the motion of Sen. Davis, second by Sen. Diamond, unanimous.

Summary of Entities Purportedly Connected to the York County Casino Referendum

September 25, 2017

Prepared by the Legislature's Office of Program Evaluation and Government Accountability (OPEGA) based on information from:

- media articles;
- the Joint Standing Committee on Veteran's and Legal Affairs;
- the Maine Commission on Governmental Ethics and Election Practices;
- the Offices of the Secretary of State and Attorney General; and
- limited internet research.

For a chronological summary of relevant events these entities are associated with, see OPEGA's *Chronological Summary of Events Relevant to the York County Casino Referendum*. For a visual illustration of the interrelationships between the entities described in this summary, see OPEGA's *Entities Involved in the York County Casino Ballot Initiative and Referendum Efforts*.

Entities involved in efforts to get casino initiative on the ballot

- **Horseracing Jobs Fairness (HJF):** The ballot question committee established in 2015 for the initial southern Maine casino initiative. Associated individuals/entities include:
 - **Lisa Scott:** Miami-based sister of Shawn Scott. HJF's principal officer. From December 2015 to April 2017, HJF reported Lisa Scott as the sole funder of initiative to the tune of \$4.3 million dollars. In April 2017, Ms. Scott amended campaign finance reports to show that she had received the money from other entities and she registered three additional ballot questions committees - "Lisa Scott," Miami Development Concepts, and International Development Concepts. Ms. Scott is the principal officer for Miami Development Concepts and International Development Concepts. She is also sole owner of the limited liability companies associated with those committees. Ms. Scott's records have been subpoenaed by the Maine Ethics Commission.
 - **Cheryl Timberlake:** An Augusta-based lobbyist who has served as HJF's treasurer and "registered agent." Ms. Timberlake has been subpoenaed by the Maine Ethics Commission to provide specified records.
 - **Bruce Merrill:** Portland-based attorney representing "casino proponents." First appeared in news articles about campaign backers appealing the first failed petition attempt in April 2016. In subsequent media, referred to as "Lisa Scott's attorney." Appeared at 6/9/2017 Ethics Commission Meeting representing HJF, Lisa Scott, International Development Concepts LLC, Miami Development Concepts LLC and Cheryl Timberlake as treasurer for HJF.
- **Miami Development Concepts (MDC):** Ballot question committee registered by Lisa Scott in April 2017 after the Maine Ethics Commission began probing into HJF finances. MDC's initial campaign financed report showed funds received by Capital Seven, LLC and Regent Able Associate, Co. which were then passed along to HJF.
 - **Lisa Scott:** Principal officer of the ballot question committee and sole owner of the limited liability corporation of the same name.
 - **Capital Seven, LLC:** Funder of MDC ballot question committee.
 - **Regent Able Associate, Co:** Funder of MDC ballot question committee.

- **International Development Concepts:** Ballot question committee registered by Lisa Scott in April 2017 after the Maine Ethics Commission began probing into finances of the HJF committee. International Development Concepts' initial financial filings show funds received by Capital Seven, LLC that were then passed along to HJF.
 - **Lisa Scott:** Principal officer of the ballot question committee and sole owner of the limited liability corporation of the same name.
 - **Capital Seven, LLC:** Funder of IDC ballot question committee.

- **“Lisa Scott” Ballot Question Committee:** Ballot question committee registered by Lisa Scott in April 2017 after the Maine Ethics Commission began probing into finances of the HJF committee. “Lisa Scott” ballot question committee’s initial campaign finance report showed funds received by Capital Seven, LLC that were then passed along to HJF.
 - **Lisa Scott:** Principal officer of the ballot question committee.
 - **Capital Seven, LLC:** Funder of “Lisa Scott” ballot question committee.

- **Capital Seven, LLC:** Las Vegas company formerly, and potentially presently, owned by Shawn Scott. Amended campaign finance reports by Lisa Scott showed Capital Seven as a financial backer of HJF through multiple other ballot question committees. Capital Seven was the Shawn Scott-associated company involved in the purchase and sale of the Bangor Historic Track in 2002 - 2003. The legislation associated with the current casino initiative is worded in a way that only Capital Seven, LLC would be able to obtain a license to operate a casino in York County. Michael Sherry, spokesman for the recently formed political action committee (PAC) Progress for Maine, disclosed Capital Seven as a backer of the PAC and said that David A. Wilson and Shawn Scott are principals in the company. Capital Seven’s records have been subpoenaed by the Maine Ethics Commission.
 - **Shawn Scott:** Brother of Lisa Scott. Mr. Scott was behind the 2003 campaign to allow slot machines in Bangor. Mr. Scott, through his company Capital Seven, LLC, sold Bangor Raceway to Penn National for \$51 million after that gaming legislation passed. Mr. Scott is described by the Progress for Maine PAC spokesman as a partner in the Progress for Maine PAC, and current principal in Capital Seven, LLC and Atlantic and Pacific Realty Capital.
 - **David A. Wilson:** Described by Progress for Maine PAC spokesman as a partner in the PAC and a current principal in both Capital Seven, LLC and Atlantic and Pacific Realty Capital. Mr. Wilson founded American General, Corp. which is now headed by Michelle Wilson and which has made in-kind contributions to the Progress for Maine PAC. Mr. Wilson also founded a PAC (Good Morals for Maine) in 2003 that funded full page ads to oppose the approval of a racino in municipalities near Scarborough. The Maine Harness Racing Commission’s 2003 investigative report on Bangor Historic Track, Inc.¹ states that “...employees of Mr. Scott apparently registered ‘Good Morals for Maine...’” This implies that Mr. Wilson was an employee of Shawn Scott. Mr. Wilson is also President of Koa Overseas Consultants, Ltd. reported to be associated with Atlantic and Pacific Realty Capital.

¹ The Maine Harness Racing Commission investigated the suitability of Bangor Historic Track, Inc. in conjunction with its application for a racino license. The Commission said the suitability investigation was necessitated by the new ownership structure involving Shawn Scott and Capital Seven, LLC.

- **Alexis Fallon:** Tax attorney specializing in U.S. possessions (Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands). The phone numbers listed on Ms. Fallon’s website both have Massachusetts area codes. Ms. Fallon represents Capital Seven LLC and Regent Able Associate Co. She informed the Maine Ethics Commission on 6/9/17 that she is the tax attorney for the Scott family enterprises and that she has represented them for about 14 years.
- **Regent Able Associate, Co.:** Toyko-based company shown in amended campaign finance reports as having provided money to HJF via MDC. As of 8/30/17, the Maine Ethics Commission has been unable to subpoena the company due to a lack of valid address for service. The company also gave money to the unsuccessful 2016 Massachusetts referendum bid for casino development.
 - **Alexis Fallon:** Tax attorney representing Regent Able Associate, Co.
- **Bridge Capital:** Company based in the Mariana Islands. The company’s website describes it as an “international banking and asset management company specializing in high-yield distressed debt acquisition and structuring, equity and debt placement, investment management and real estate secured lending.” Bridge Capital’s records have been subpoenaed by the Maine Ethics Commission.
 - **Dan Riley:** Portland-based lobbyist and attorney with Norman, Hanson & DeTroy LLC who claimed to be representing Bridge Capital when he appeared before the Veteran’s and Legal Affairs (VLA) Committee at a hearing in March 2017. Mr. Riley later stated in a letter to the VLA Committee that he had misunderstood who had hired him, and that he was actually representing Universal Capital. Mr. Riley said that his misunderstanding had occurred because the individuals he was corresponding with about testifying at the hearing were the same as those he had corresponded with previously in what he thought were dealings with Bridge Capital. He explained he had incorrectly assumed Bridge Capital was the parent company of Universal Capital. In his letter to VLA, he clarified that his firm had not acted for Bridge Capital with regard to the casino initiative and he had no knowledge of any Bridge Capital involvement in the initiative. He also stated his firm had no knowledge of the actual ownership of membership interests in Universal Capital.
 - **Shawn Scott:** Vice Chairman and Director of Business Development for Bridge Capital.
 - **John Baldwin:** Principal and CEO of Bridge Capital. Other than being linked to Shawn Scott and Bridge Capital, Mr. Baldwin is not mentioned as being involved in the York County casino referendum.
- **Universal Capital:** Company of unknown ownership. Universal Capital’s representative Dan Riley stated in his letter to VLA that in January 2016 his law firm began working on the potential acquisition of Scarborough Downs for client Universal Capital. He said the law firm later began discussing the possibility of working with Universal Capital on the campaign being conducted by HJF and finally entered into an engagement with Universal Capital to do so on April 13, 2017.
 - **Dan Riley:** Portland-based lobbyist and attorney representing Universal Capital.

- **Olympic Consulting:** Lewiston-based firm paid by HJF to collect signatures for the ballot initiatives.
 - **Stavros Mendros:** Lewiston-based, former Maine legislator and political consultant who runs Olympic Consulting. Mr. Mendros is a notary public and was described by media as having notarized the majority of casino petitions in the initial effort.

Entities involved in the campaign to pass the referendum

- **Progress for Maine (Company):** Company incorporated in Maine in July 2017 by Rumiko Yoneyama.
 - **Rumiko Yoneyama:** Registered agent for Progress for Maine (company). Also, general counsel for American General Corp., the company that has made in-kind contributions to the Progress for Maine PAC.
- **Progress for Maine PAC:** Political action committee founded by Atlantic and Pacific Realty Capital, a New York company. In August 2017, the PAC was registered in support of the York County casino referendum campaign. PAC Spokesman, Michael Sherry, identified David A. Wilson and Shawn Scott as partners in the PAC. Campaign filings show Michelle Wilson, head of American General Corp., to be a decision-maker for the PAC.
 - **Michael Sherry:** Spokesman for Progress for Maine PAC.
 - **Michelle Wilson:** Decision-maker for Progress for Maine PAC. Head of American General, Corp.
 - **Shawn Scott:** Partner in Progress for Maine PAC.
 - **David A. Wilson:** Partner in Progress for Maine PAC.
 - **Charlene Cushing:** Farmington-based harness racer. Listed as an officer in the Progress for Maine PAC.
 - **American General Corp.:** Funder of Progress for Maine PAC.
 - **Atlantic and Pacific Realty Capital:** Founder of Progress for Maine PAC.
- **Atlantic and Pacific Realty Capital:** A New York company listed as founding the Progress for Maine PAC. The spokesman for Progress for Maine PAC stated that David A. Wilson and Shawn Scott are principals in the company.
 - **Shawn Scott:** Company principal.
 - **David A. Wilson:** Company principal.
- **American General Corp.:** A California company founded by David A. Wilson and headed by Michelle Wilson that has made about \$11,000 in-kind contributions to the Progress for Maine PAC.
 - **Michelle Wilson:** President of American General Corp.
 - **David A. Wilson:** Founder of American General Corp.
 - **Rumiko Yoneyama:** General Counsel for American General Corp.

- **Koa Overseas Consultants, Ltd.:** Firm that operates in China and does consulting associated with the American EB-5 visa program. Reported as affiliated with Atlantic and Pacific Realty Capital, which founded the Progress for Maine PAC.
 - **David A. Wilson:** President of Koa Overseas Consultants, Ltd.

- **Capital Seven, LLC:** Las Vegas company formerly, and potentially presently, owned by Shawn Scott identified by the Progress for Maine PAC spokesman as being a backer of the PAC. Additionally, the legislation associated with the current casino referendum initiative is worded in a way that only Capital Seven, LLC would be able to obtain a license to operate a casino in York County. Capital Seven was the Shawn Scott-associated company involved in the purchase and sale of the Bangor Historic Track in 2002 - 2003.
 - **Shawn Scott:** Capital Seven principal.
 - **David A. Wilson:** Capital Seven principal.

- **Goddard Gunster Firm:** D.C.-based consulting firm that worked on the Brexit² campaign. Hired by the Progress for Maine PAC and paid approximately \$96,000 as of the last campaign filing.
 - **Gerry Gunster:** CEO of Goddard Gunster Firm
 - **Dwayne Bickford:** Former executive director for the Maine Republican Party. Partner at Goddard Gunster Firm.

- **Filler & Associates, P.A.:** Portland-based firm retained by the Progress for Maine PAC for CPA services.

- **Amplified Strategies:** Washington State-based campaign consultants paid approximately \$25,000 by the Progress for Maine PAC.

- **O'Neill and Associates:** Boston-based firm paid approximately \$58,000 by the Progress for Maine PAC for campaign consulting.

- **Public Opinion Strategies:** Virginia-based firm paid approximately \$59,000 by the Progress for Maine PAC for campaign consulting.

- **Rodriguez Strategies:** California-based firm paid approximately \$62,500 by the Progress for Maine PAC for campaign consulting.

² Brexit was the nickname of a successful 2016 referendum effort in the United Kingdom for that country's exit from the European Union.

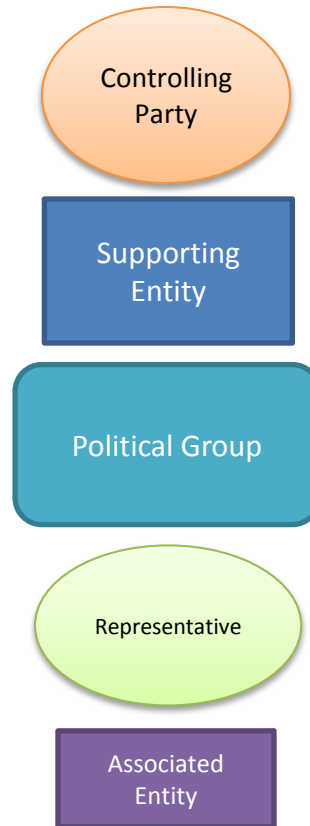
Entities purportedly formerly or presently associated with organizations or individuals involved in the York County ballot initiative and/or referendum campaign

- **Hoolae Paoa:** Shawn Scott business associate. Previously served as vice president of the Bangor Historic Track and was the CEO of Capital Seven, LLC at the time of the 2003 citizen-initiated referendum to allow slot machines at commercial racetracks.
- **Sanum Investments, Ltd.:** A Macau (a special administrative region of China) company run by Bridge Capital and used to invest in a casino in Laos. Subject of 2013 federal court ruling in Nevada. Japanese lawyer Toko Kobayashi was listed as Sanum's director in the lawsuit.
- **Toko Kobayashi:** Japanese lawyer listed as the director of Sanum Investments, Ltd (a Bridge Capital company) in a 2013 federal court ruling in Nevada. Mr. Kobayashi also gave money directly to an unsuccessful 2016 Massachusetts referendum bid for casino development. He was listed by Regent Able Associate Co., which also gave money to the 2016 MA bid, as a Regent Able developer.
- **Robert Wessels:** An associate of David A. Wilson. Mr. Wessels led a planned real estate project for a Bridge Capital affiliate that is in foreclosure for a second time. Mr. Wessels was also shown in a 2013 federal court ruling in Nevada to be associated with Sanum Investments, Ltd. Mr. Wessels was reported to be the managing director of a company looking to build a resort in Macau.
- **David Nealley:** Bangor city councilor in 2003, allegedly paid by Shawn Scott to help with the 2003 "racino" referendum. Mr. Nealley was also hired as a casino advocate by those involved with the 2016 MA referendum bid.
- **Eugene McCain:** Developer behind the 2016 MA campaign to open a slots parlor near Suffolk Downs racetrack. Mr. McCain initially denied that Shawn Scott was involved in financing the campaign though financial documents showed Mr. Scott to have been a major funder. Mr. McCain was reported to have had previous business ties with Mr. Scott and Hoolae Paoa.

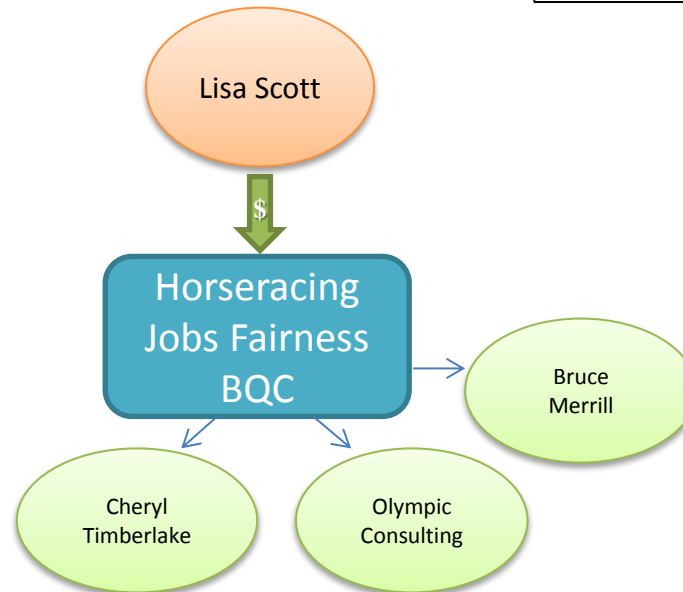
Entities Involved in the York County Casino Ballot Initiative and Referendum Efforts

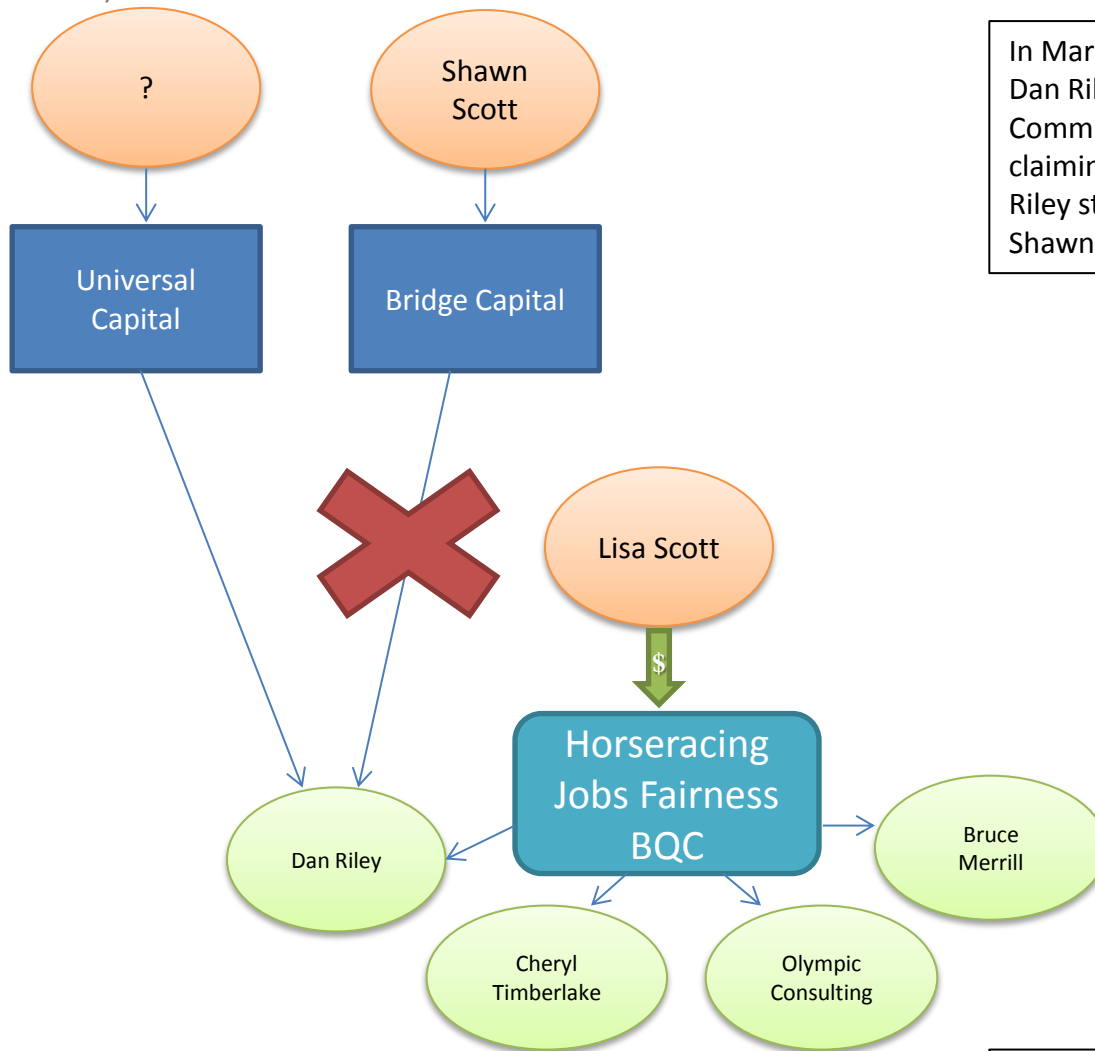
GRAPHICS KEY

- Controlling Party (principal, owner, decision-maker)
- Supporting Entity (funder, backer)
- Political Action Committee or Ballot Question Committee
- Entity employed by ballot initiative or referendum efforts (employee, representative, consultant)
- Entity with unknown ties



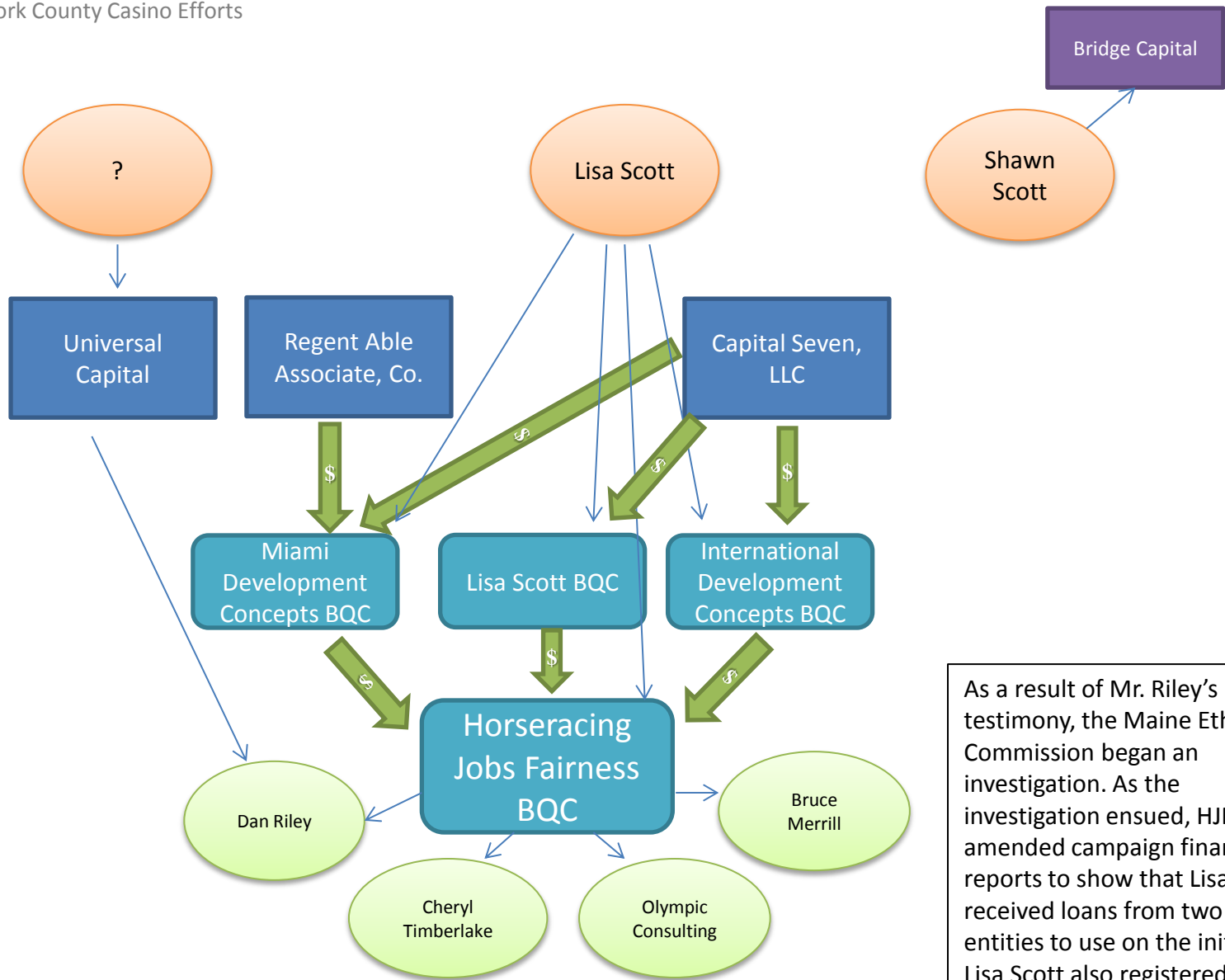
From late 2015 through March 2017, HJF claimed that the casino referendum “An act to allow slot machines or a casino in York County” was solely funded by Lisa Scott to the tune of \$4.3 million. Lisa Scott also served as HJF’s principal officer.





In March 2017, Portland-based attorney Dan Riley appeared before the VLA Committee at a hearing on the initiative claiming to represent Bridge Capital. Mr. Riley stated Bridge Capital was owned by Shawn Scott.

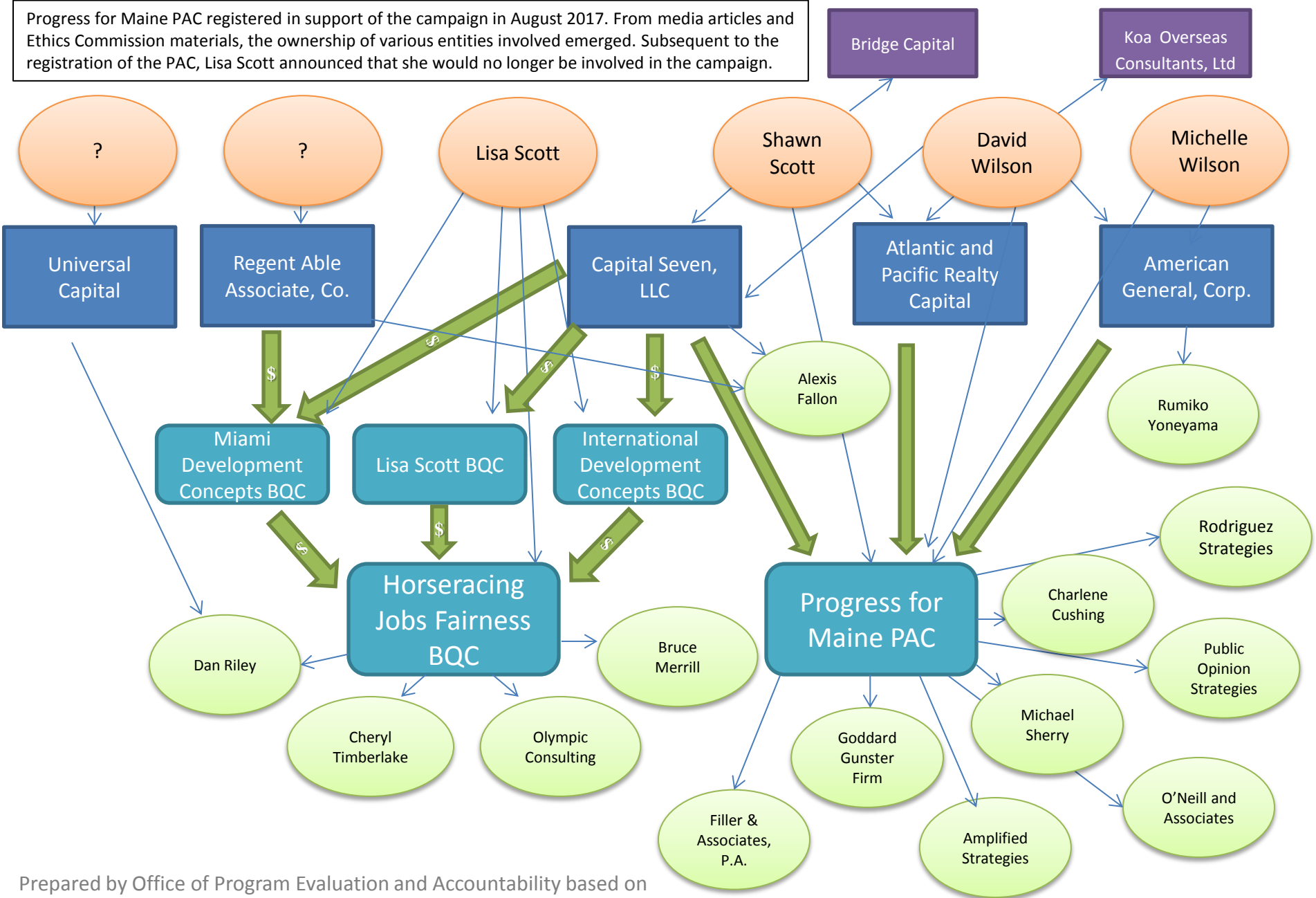
Riley later said that he was mistaken and was not hired by Bridge Capital, but instead by Universal Capital, which was of unknown ownership. His firm had an agreement with Universal Capital to work with them on the campaign being conducted by HJF.



As a result of Mr. Riley’s testimony, the Maine Ethics Commission began an investigation. As the investigation ensued, HJF amended campaign finance reports to show that Lisa Scott received loans from two entities to use on the initiative. Lisa Scott also registered three additional ballot question committees through which those funds had flowed.

Entities Involved in York County Casino Efforts

Progress for Maine PAC registered in support of the campaign in August 2017. From media articles and Ethics Commission materials, the ownership of various entities involved emerged. Subsequent to the registration of the PAC, Lisa Scott announced that she would no longer be involved in the campaign.



Prepared by Office of Program Evaluation and Accountability based on information gathered from media articles, legislative committees, and State agencies.

Chronological Summary of Events Relevant to the York County Casino Referendum

September 25, 2017

Prepared by the Legislature's Office of Program Evaluation and Government Accountability (OPEGA) based on information gathered from:

- media articles;
- the Joint Standing Committee on Veteran's and Legal Affairs;
- the Maine Commission on Governmental Ethics and Election Practices;
- the Offices of the Secretary of State and Attorney General; and
- limited internet research.

For description of the relevant entities mentioned in this summary and their interrelationships, see OPEGA's *Summary of Entities Purportedly Connected to the York County Casino Referendum*. For a visual illustration of the interrelationships between the entities described in this summary, see OPEGA's *Entities Involved in the York County Casino Ballot Initiative and Referendum Efforts*.

2002 – 2004: “Racino” referendum and licensure of Bangor Historic Track

June 2002 – June 2003

- June 2002 – Capital One LLC negotiated a purchase and sale agreement with the Bangor Historic Track (BHT) stockholders to buy BHT. Capital One LLC designated Capital Seven LLC as its nominee to purchase BHT stock. Shawn Scott was the owner of Capital Seven LLC.
- December 2002 – Capital Seven LLC exercised an option agreement to purchase 49.86% of the shares of BHT, making Shawn Scott (as owner of Capital Seven LLC) the largest stockholder in BHT.
- February-June 2003 – Shawn Scott/Capital Seven LLC makes further partial payments to BHT stockholders, bringing the amount paid to 96% of the total purchase price for BHT.

November – December 2003

- November 4 – Maine voters approved the operation of slot machines at commercial racetracks as proposed by a citizen-initiated referendum (**Yes: 272,294/No: 242,490**). The approved legislation authorized the operation of slot machines at commercial harness racing tracks, to be known as “racinos”. There were two commercial tracks in Maine, one in Bangor (BHT) and one in Scarborough (Scarborough Downs). One of the criteria for licensure was local approval via municipal referendum in the town or city where the commercial track was located. The City of Bangor voted to approve a racino but the voters in Scarborough did not.
 - Shawn Scott, having purchased BHT through Capital Seven LLC, was behind the successful referendum initiative.
 - The owner of the Scarborough racetrack tried to move its operations to another municipality (Saco or Westbrook) that would approve it. These initiatives were actively opposed by an associate or employee of Shawn Scott and the opposition campaign was purportedly funded by Capital Seven LLC.
 - Voters were also asked to consider another citizen-initiated proposal on the ballot that November for a larger-scale casino to be operated in Sanford. The proposal would have authorized the Penobscot and Passamaquoddy to operate the casino via changes to the Maine Indian Claims Settlement. It did not win the approval of voters (**Yes: 170,500/No: 346,583**).

- December 8 – The Maine Harness Racing Commission’s Executive Director published the results of a suitability investigation of BHT¹, necessitated by its new ownership structure involving Shawn Scott and Capital Seven LLC. The report raised concerns about BHT’s suitability for licensure, given the following issues that arose during the investigation:
 - Capital Seven LLC, owned by Shawn Scott, paid 96% of the purchase price for BHT but Mr. Scott continued to maintain that Capital Seven owned less than 50% of BHT.
 - Mr. Scott and his associated companies did not provide many of the documents requested during the investigation, which frustrated the attempts to verify Mr. Scott’s net worth claims. A similar lack of cooperation was reported in similar investigations conducted by the New York Racing and Wagering Board and the Louisiana State Police.
 - The CEO of Capital Seven and VP of BHT, Hoolae Paoa, had a history of criminal convictions from 1978 to 1997.
 - Mr. Scott and his associated companies had been involved in 37 lawsuits between 1992 and 2000 in four states, along with 13 liens, four tax liens and one bankruptcy.
 - Mr. Scott owned or held ownership interests in dozens of companies that demonstrated sloppy, if not irresponsible, financial management and accounting practices over several years.
 - A business associate of Mr. Scott appeared to exercise a degree of managerial and financial control over Mr. Scott’s companies and business dealings, although it was noted that this aspect of the investigation had not been fully developed.
- Late December – Maine Harness Racing Commission held a hearing to consider suitability of BHT to be granted a license to operate harness racing and slot machines. The hearing did not conclude in December and was scheduled to carry over to January 8, 2004.

2004

- January 8 – Shawn Scott and Penn National Gaming jointly announced that Penn National would assume ownership of BHT.
- January 9 – Maine Harness Racing Commission granted a racing license to BHT, conditional on a full stock transfer of BHT from Shawn Scott/Capital Seven LLC to Penn National.
- February – Capital Seven LLC sold BHT to Penn National Gaming for reportedly \$51 million.
- Second Regular Session of the 121st Legislature – The Legislature enacted LD 1820 (PL 2003, chapter 687) establishing the Gambling Control Board within the Department of Public Safety. The legislation also created a licensing and regulatory structure to govern the operation of slot machines, and later table games, that is still in place today.

¹ Suitability Report by Henry W. Jackson Regarding Bangor Historic Track, Inc. issued on December 8, 2003 by Henry W. Jackson, Executive Director, Maine Harness Racing Commission.

General history of casino legislation in Maine

2004 - 2016

- Five citizen initiatives proposing casino-style gambling successfully made it to ballots for voter consideration between 2004 and 2016. Only the proposal on the 2010 ballot was approved by voters and resulted in the Oxford Casino.
 - 2007 – An Act to Authorize a Commercial Track and Slot Machines in Washington County (*Passamaquoddy track with racino*) (Yes: 130,164/**No: 142,458**)
 - 2008 – An Act to Allow a Casino in Oxford County (*Evergreen Mountain Enterprises*) (Yes: 333,685/**No: 389,251**)
 - 2010 – An Act to Allow a Casino in Oxford County (*BlackBear Entertainment*) (**Yes: 284,934**/No: 280,211)
 - 2011 – An Act Regarding a Slot Machine Facility (*Lewiston Casino*) (Yes: 143,127/**No: 248,467**)
 - 2011 – An Act to Amend the Laws Governing the Deadline and Municipal Approval of a Second Racino and to Allow a Tribal Racino in Washington County (*Biddeford or Scarborough Downs and Passamaquoddy racino in Calais*) (Yes: 176,718/**No: 215,115**)
- Approximately 32 bills have come before the Legislature’s Joint Standing Committee on Veterans and Legal Affairs (VLA) to authorize video lottery terminals, slot machines, table games or some combination. Only one of these proposals, LD 1418 from the 125th Legislature, was enacted authorizing the operation of table games at Hollywood Slots/Casino.
- The 126th Legislature passed LD 1856 Resolve, to Conduct a Market Analysis to Examine the Feasibility of Expanded Gaming in Maine which was enacted as Resolve 2013, chapter 111. That law resulted in a study conducted by WhiteSand Gaming which was presented VLA on September 9, 2014. The report stated that a market exists for expanded gaming in the State. It recommended a competitive bidding process for the operation of one resort-casino in southern Maine and suggests that a smaller scale facility is feasible in Northern Maine close to a border crossing location.

2015 – 2017: York County casino initiative

2015

- December 8 – Maine Secretary of State (SoS) approved the citizen initiative for circulation.
- December 14 – Horseracing Jobs Fairness LLC formed in Delaware.
- December 16 – Horseracing Jobs Fairness registered as a ballot question committee (HJF) and filed an initial campaign finance report. HJF identified Lisa Scott as its Principal Officer and Cheryl Timberlake as the Treasurer.

2016

- January 14 – HJF filed its January 2016 quarterly campaign finance report showing total contributions to date of \$108,000 from a single contributor, Lisa Scott of Miami, FL.
- February 1 – Citizen initiative petitions submitted to SoS for consideration.

Chronological Summary of Events Relevant to the York County Casino Referendum

- March 2 – SoS determined the initiative did not qualify for the 2016 ballot due to an insufficient number of valid signatures. A number of signatures were invalidated due to signatories not being registered voters and duplicate signatures.
- March 9 – Miami Development Concepts LLC (MDC) formed in Florida.²
- March 11 – Petitioners requested the Superior Court review the SoS's decision.
- April 7 – Superior Court affirmed the SoS's decision that the initiative did not qualify for the 2016 ballot.
- April 7 – HJF filed April 2016 quarterly campaign finance report, which showed that HJF received \$2,955,365 during January 2016 from a single contributor, Lisa Scott.
- October 3 – HJF filed October 2016 quarterly campaign finance report, which showed that HJF received \$3,505,865 in calendar year 2016 from a single contributor, Lisa Scott.
- November 8 – Massachusetts electorate rejected proposed legislation to permit a slot facility at the Suffolk Downs race track in Revere, Massachusetts. The campaign had been funded in part by Bridge Capital LLC and Regent Able Associate Co.³
- December 22 – Citizen initiative petitions submitted to Maine SoS for consideration for the second time.

January to March 2017

- January 12 – HJF filed its campaign finance report, which showed that HJF received \$4,063,965 in funding for calendar year 2016. All contributions in all campaign finance reports filed thus far are shown as being solely from Lisa Scott.
- January 23 – SoS determined the initiative qualifies for the 2017 ballot.
- January 26 – Massachusetts Office of Campaign and Political Finance (OCPF) issued a press release that the Horse Racing Jobs and Education Ballot Question Committee (the committee behind the unsuccessful Massachusetts initiative) has agreed to a \$125,000 civil forfeiture to resolve campaign finance issues related to the 2016 state election. OCPF concluded that the committee violated several sections of Massachusetts campaign finance law including: receiving contributions made in a manner intended to disguise the true source of the funds, broadcasting television advertisements that did not contain required disclosures, and failing to disclose campaign finance activity in a timely or accurate manner. A chart showing the flow of funds into the Massachusetts committee as prepared by OCPF is appended and shows contributions from Bridge Capital LLC and Regent Able Associate Co.

² In April 2017, HJF amended campaign finance reports filed with the Ethics Commission to reflect that it has received funding from Miami Development Concepts LLC.

³ Shawn Scott has been reported as being an owner and/or officer of Bridge Capital LLC, a company based in Saipan in the Northern Mariana Islands. HJF amended finance reports to show that Regent Able Associate Co. provided funds to HJF through Miami Development Concepts. The company is based in Tokyo, Japan.

- March 29 –
 - Veterans and Legal Affairs Committee (VLA) held a public hearing on the casino initiative bill (LD 719). Attorney and lobbyist Daniel Riley was the only person to testify in support of the initiative. Mr. Riley stated that he had, in the early hours that morning, been asked to attend and testify on behalf of his client, Bridge Capital LLC. Mr. Riley informed the Committee that Bridge Capital had been involved in gathering signatures for the ballot initiative. Only the Christian Civic League testified against the bill and the Maine Harness Horseman’s Association testified neither for nor against.
 - Executive Director of the Commission on Governmental Ethics and Election Practices (the Ethics Commission), having become aware of Mr. Riley’s testimony to VLA on the involvement of Bridge Capital LLC, wrote to the HJF’s Treasurer, Cheryl Timberlake, requesting a meeting to discuss whether the campaign finance reporting has been accurate and complete.

April 2017

- April 6 – Senator Mason and Representative Luchini, Chairs of VLA, submitted a request that the Ethics Commission investigate HJF in light of the reported involvement of Bridge Capital LLC. In particular, they expressed concerns about Bridge Capital’s “checkered history with the casino industry” including Bridge Capital’s involvement in a similar failed referendum in Massachusetts.
- April 6 – Cheryl Timberlake, HJF’s Treasurer, and Bruce M. Merrill Esq, HJF’s attorney, met with Ethics Commission staff regarding HJF’s financial reporting and sources of funds to support the casino initiative.
- April 7 – HJF filed its April 2017 quarterly campaign finance report, which showed 2017 contributions of \$15,453 from Lisa Scott.
- April 10 – Ethics Commission Executive Director wrote to Mr. Riley requesting information about Bridge Capital’s involvement in the casino initiative campaign and its relationship with HJF.
- April 20 – HJF amended eight of its ten campaign finance reports to reflect that a portion of its funds came from Miami Develop Concepts LLC (MDC) and International Development Concepts LLC (IDC), rather than solely from Lisa Scott as previously indicated. Lisa Scott is the owner of MDC and IDC. A chart of the flow of funds based on the new reports, as prepared by Ethics Commission staff, is appended.
- April 24 -
 - Mr. Riley responded to the Ethics Commission Executive Director’s request by clarifying that he mistakenly identified Bridge Capital LLC as his client, when his actual client was Universal Capital Holdings LLC.
 - Lisa Scott registered “Lisa Scott”, MDC and IDC as ballot question committees and filed initial campaign finance reports for them indicating that the funds given to HJF originated as loans from Capital Seven LLC of Nevada⁴ and Regent Able Associate Co.

⁴ Capital Seven LLC is reportedly owned by Shawn Scott and, under the language of the initiative bill, the only entity that would be eligible to apply for a casino license in York County.

- April 29 - Mr. Riley wrote to VLA to correct his testimony to state that his client was not in fact Bridge Capital LLC, but was instead Universal Capital Holdings LLC. He stated that his testimony that he was representing Bridge Capital LLC was based on a “miscommunication” and “an incorrect assumption” that Bridge Capital was the parent company of Universal Capital Holdings LLC, for whom his firm had previously been working on the potential acquisition of Scarborough Downs. He stated that his firm does not and has not acted for Bridge Capital LLC concerning the proposed legislation, nor did they have any knowledge regarding Bridge Capital’s involvement, or not, in the initiative. They had assumed that Universal Capital was a subsidiary of Bridge Capital, however, they have no knowledge of the actual ownership or membership interests in Universal Capital LLC.

May to September 2017

- May 4 –Ethics Commission staff reported that Bruce Merrill, attorney for HJF, confirmed in a meeting with them that Capital Seven LLC is the single business entity that would qualify to apply for a casino license under the proposed legislation.
- June 9 – At its meeting, the Ethics Commission heard from: Representative Luchini (reaffirming a request for investigation), Bruce Merrill (attorney for HJF, Lisa Scott, IDC, MDC and Cheryl Timberlake in her capacity as Treasurer of HJF), Alex Fallon (tax attorney representing Capital Seven LLC and Regent Able Associate Co), and Avery Day (attorney for Cheryl Timberlake in her personal capacity). The Commission found there were sufficient grounds to conduct further investigation of Lisa Scott, MDC, IDC, Regent Able Associate Co, Capital Seven LLC, Universal Capital LLC, Bridge Capital LLC and HJF in respect to campaign financing of the casino ballot initiative. Commission staff were directed to conduct an investigation. The investigation was to include the financing of HJF from December 2015 to April 2017, in particular:
 - whether the campaign finance reports filed by the four ballot question committees (HJF, Lisa Scott, IDC and MDC) were accurate and filed on time;
 - whether the reports misidentified contributors or contained any material misrepresentations;
 - whether Capital Seven LLC and Regent Able Associate Co received contributions that required those entities to register as ballot question committees and file campaign finance reports;
 - whether all campaign financial activity to initiate or influence the York County casino initiative has been disclosed in campaign finance reports now on file with the Commission.⁵
- June 13 – Ethics Commission issued subpoenas to Lisa Scott and Cheryl Timberlake to provide specified documents. Cheryl Timberlake’s attorney accepted service of her subpoena.
- June 15 – Ethics Commission issued subpoenas to Bridge Capital LLC and Capital Seven LLC to provide documents.

⁵ According to statute (21-A M.R.S. §1056-B) a person not defined as a political action committee that receives contributions or makes expenditures (other than by contribution to a PAC or BQC) in excess of \$5,000 for the purpose of initiating or influencing a ballot question is required to register with the Commission as a BQC and file campaign finance reports. The purpose of the publicly disclosed campaign finance reports is so that Maine voters, the Maine Legislature and others are aware of who is providing the resources to sponsor an initiative.

Chronological Summary of Events Relevant to the York County Casino Referendum

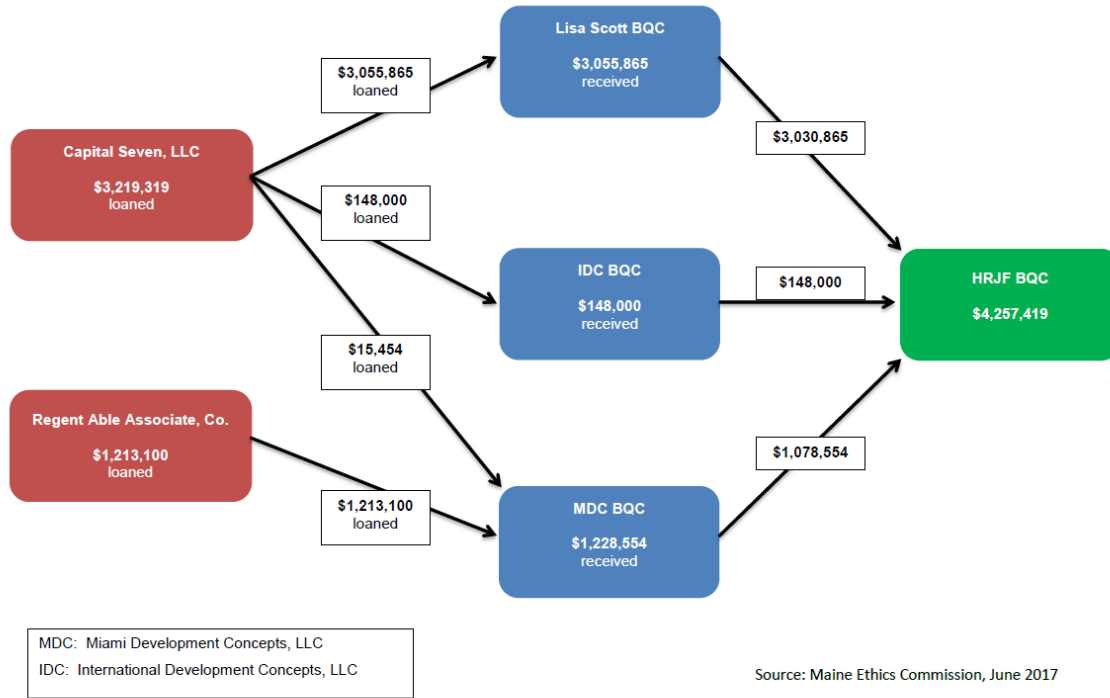
- July 14 – At its meeting, the Ethics Commission heard from attorneys for Cheryl Timberlake and Lisa Scott regarding objections to subpoenas to provide documentation. The Commission passed a motion to modify the subpoena to Cheryl Timberlake to require documents and a privilege log (in the event that privilege is asserted) by July 31. The Commission passed a motion to modify the subpoena to Lisa Scott to state that any objections to the documents requested should be provided to the Commission by August 4 and that the documents be provided by September 1.
- July 27 – Cheryl Timberlake’s attorney provided the Ethics Commission with records in accordance with her subpoena.
- July 28 – Bridge Capital LLC accepted service of subpoena through counsel.
- August 7 – A new political action committee (PAC), Progress for Maine, registered in support of the ballot initiative. The press reported that those behind this PAC (David A. Wilson and Michelle Wilson, based in California) have business links with Shawn Scott. It is understood that this PAC, rather than HJF, will fund the campaign through the election.
- August 10 –
 - At its meeting, the Ethics Commission heard from Lisa Scott’s attorney with respect to her objections to the subpoena to provide documents. The Commission passed a motion to modify the subpoena to Lisa Scott to allow information to be withheld that is covered by privilege and that a privilege log shall be provided with the documents.
 - Capital Seven LLC accepted service of subpoena through counsel.
- August 25 – Bridge Capital LLC and Capital Seven LLC filed objections to the subpoenas through their respective attorneys.
- August 30 – At its meeting, the Ethics Commission heard from the attorneys representing Bridge Capital LLC and Capital Seven LLC about the objections filed in response to the subpoenas. The Commission passed a motion to modify the subpoena to these entities to allow information to be withheld that is covered by privilege and that a privilege log shall be provided with the documents and noted that the documents are to be provided by September 15.
- August 30 – Press reported that Lisa Scott had announced that she will no longer be involved in the campaign.
- September 1 – Lisa Scott, through her attorney, provided 7,500 documents to the Ethics Commission in accordance with the subpoena.
- September 15 – Capital Seven LLC and Bridge Capital LLC provided documents to the Ethics Commission in accordance with their subpoenas.

Future dates of significance

- September 28 – Ethics Commission scheduled meeting. The Commission may consider next steps for the investigation.
- October 31 – Ethics Commission scheduled meeting.
- November 7 – Election

Flowchart of source of funds for HJF BQC as prepared by Maine Ethics Commission

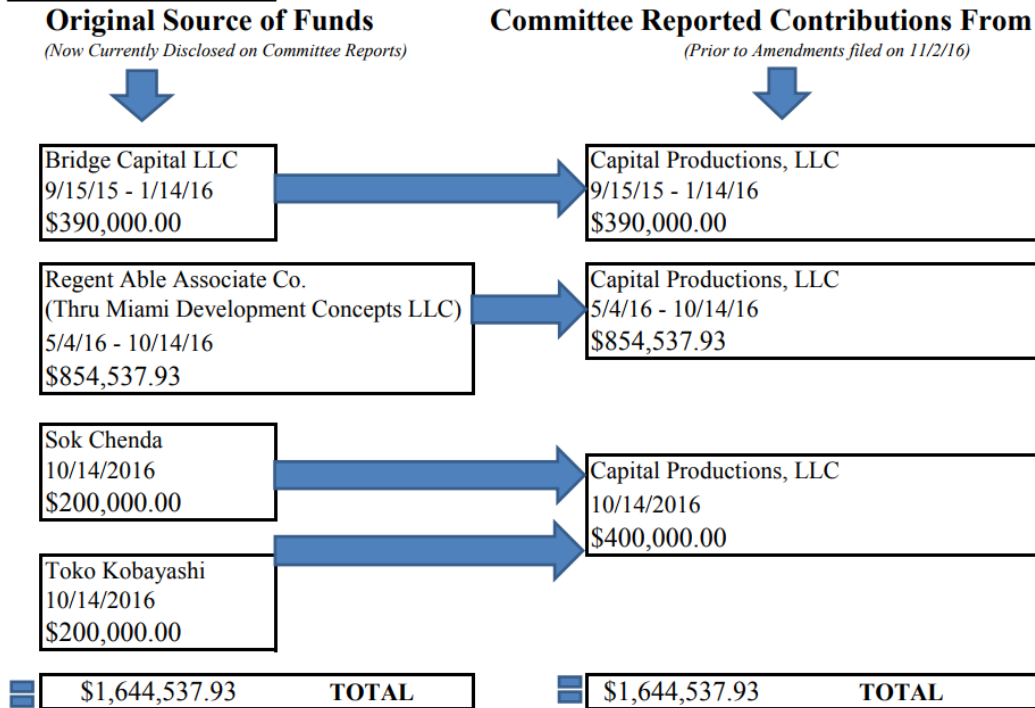
**Source of Funds for Horseracing Jobs Fairness BQC
(Reported as of 4/27/2017)**



Flowchart of source of funds to Horse Racing Jobs and Education Ballot Question Committee as prepared by Massachusetts OCPF

from Massachusetts OCPF

EXHIBIT 1



OPEGA Response to Public Comments and GOC Questions about the PTDZ Evaluation

1. Is PTDZ intended to make Maine “more competitive in attracting new businesses” or to otherwise “level the playing field” by offsetting taxes that may be higher in Maine than in other states?

Although many stakeholders spoke during the Public Comment session about the value of PTDZ in offsetting Maine business taxes that they feel are prohibitively high, OPEGA has not found any basis for this being a stated legislative intent of the program. At enactment the program was clearly focused on job creation as its intent. When OPEGA presented draft evaluation parameters to the GOC in spring 2016 we suggested basing the intent and goals for the program on what was expressed in statute. Specifically, we recommended:

Intent — To encourage development in economically distressed communities in Maine in order to provide new employment opportunities; improve existing employment opportunities; improve and broaden the tax base; and improve the general economy of the State.

Goal — To provide new qualifying employment opportunities in certain industries in economically distressed communities.

The GOC solicited and took stakeholder comment on OPEGA’s proposed evaluation parameters for the PTDZ evaluation before approving them on January 22, 2016. No stakeholders provided any comment at that time to suggest these were not the correct intent or goal for the program or to suggest that the program’s true intent was about making Maine more competitive.

If the goal of the PTDZ program has changed, OPEGA would suggest statute should be updated to reflect the new goal and to remove any old goals that are no longer expected for this program. In addition, if goals are changed then the program’s design and requirements should be amended to ensure they appropriately target the new desired outcomes.

2. Did OPEGA interview any PTDZ business recipients or other stakeholders as part of the PTDZ evaluation?

OPEGA did not interview any business participants as part of our PTDZ evaluation. We did, however, interview representatives of the following entities:

- Department of Economic and Community Development (DECD);
- Maine Revenue Services (MRS);
- the Maine Public Utilities Commission (interview conducted by email and telephone);
- Efficiency Maine Trust (interview conducted via email);
- the Maine State Chamber of Commerce; and
- a Maine tax attorney that lobbies on behalf of many business participants in tax programs.

As demonstrated in our evaluation of the New Markets Capital Investment program, OPEGA recognizes the value of reaching out to business participants and other stakeholders in evaluating the outcomes of a tax expenditure program. Interviewing and/or surveying these individuals is critical to understanding how the program has actually affected the businesses participating in it. However, this type of data gathering is also extremely resource intensive for OPEGA and

demands the time of the businesses themselves. Because we aim to steward our resources carefully, widespread surveys and interviews are not methods we use casually.

When we decided to cut our PTDZ evaluation short without spending the resources necessary to evaluate its outcomes, we also decide widespread surveys or interviews would not be necessary. We were, and remain, comfortable with this approach because the perspectives and opinions of business participants and stakeholders would not change our observations about the design weaknesses we identified in the PTDZ program. The large number of employees a PTDZ business may have hired does not change the fact that the statute only requires the hire of one new employee for all PTDZ benefits except the ETIF expansion. Likewise, how critical the PTDZ program may have been to a business's ability to expand in an economically distressed region in Maine does not change the fact that the statute does not effectively target the most distressed regions of the State.

3. What data was not readily available that OPEGA needed to assess PTDZ's outcomes?

All of the data that OPEGA would need to assess PTDZ's outcomes exists somewhere. Some pieces are readily available at DECD or MRS. However, other pieces are not readily available or retrievable and gathering them would be a resource intensive effort for OPEGA, DECD, MRS, and potentially for business participants. Key missing data elements include:

a. *Data on Cost to State Budget*

We cannot accurately model the net impact to the State budget, including positive effects of business growth attributable to the program, without knowing the complete cost of the program. Table 4 on page 22 of the OPEGA's PTDZ report details why data is not readily available on the cost of PTDZ Sales Tax Exemptions and Reimbursements as well as Income Tax Credits.

Sales Tax Exemption data would need to be gathered from business participants directly.

Sales Tax Reimbursement and Income Tax Credit data is available at MRS but would require MRS staff to manually pull specific data pieces from tax forms or to give OPEGA access to those tax forms so that we could pull the necessary data details ourselves. The tax forms in question may include other tax information not related to PTDZ.

b. *Attribution Data*

No agency is currently collecting data that OPEGA would consider adequate as a basis for determining how much of each business's project (hiring and investment) was attributable to the PTDZ program and, therefore, would likely not have happened if it were not for the program. As discussed in the PTDZ report, making assumptions based solely on the "but for" letter is not adequate for this purpose.

Additional information needed to assess attribution that is not readily available is about what other State development incentives each PTDZ business recipient is using. This is key data because if a business is receiving benefits from a package of four or five different programs such as New Markets, ETIF, PTDZ, BETR, one cannot attribute 100% of the business's project to each and every program. There are a number of modeling approaches one could take, and OPEGA would need additional information about businesses' benefit packages in order to determine which modeling approach is most robust.

c. ***Investment Spending Data***

OPEGA would need to know how much of each business's investment attributable to PTDZ was spent with in-state vs out-of-state vendors. This data is not currently collected by any state agency and is a significant factor in modeling the impact of PTDZ on the broader economy.

OPEGA does not believe that the data necessary to support robust economic modeling is the kind of "trade secret" data that most businesses would be hesitant to share. In fact, when we gathered similar data in our New Markets evaluation all business participants in that program willingly shared the necessary data directly with our office. Our office is set up to hold data confidential when necessary and even to perform the modeling in-house when sharing data with our consultant is not possible.

4. **Why not divide the estimated cost of the PTDZ program by the job counts reported to DECD to come up with a cost per job figure?**

This division can easily be done, but doing this calculation without solid cost and jobs data would just be adding potentially misleading data to the discussion of this program. In OPEGA's opinion, there is inadequate data currently available to support this cost per job calculation because:

- a. Cost data is incomplete. As noted in the explanation of additional data needed under #3a above, the estimated program cost reported by OPEGA in the PTDZ report does not include all program costs. It is a minimum, and there are additional costs that OPEGA is aware of but did not spend the resources to gather from businesses that participated in the program.
- b. Jobs counts need further analysis. The need to analyze the job counts from an attribution perspective was already discussed in #3b above. However, OPEGA believes additional analysis beyond attribution should also be undertaken before the DECD job counts are used in any analysis to estimate the program's cost-benefit. One example of this additional analysis was raised by GOC members during the PTDZ public comment period. They asked whether some of the jobs reported by a particular business as "new jobs" under PTDZ were actually brand new or were instead preexisting jobs that were saved or preserved. The number of jobs that may be in this category is not small, and is not confined to that business alone. OPEGA is in the process of conducting this analysis for its ETIF evaluation.

5. **Has PTDZ always required only 1 new hire for a participant to maintain certification?**

30-A M.R.S. §5250-I(17) currently defines "Qualified Pine Tree Development Zone business" or "qualified business" as "any for-profit business in this State engaged in or that will engage in financial services, manufacturing or a targeted technology business ***that has added or will add at least one qualified Pine Tree Development Zone employee above its base level of employment*** in this State and[...]" (emphasis added). This definition originated with an amendment in 2005 (PL2005 c.351). At the program's enactment in 2003 (PL2003 c.688), statute defined a qualified business as one that "adds qualified Pine Tree Development Zone employees[...]" with no minimum number of jobs required and no qualifier that the jobs may be already added or may be planned for future addition.

6. Has PTDZ always allowed participants to receive benefits for up to two years regardless of whether they hire any new employees?

It does not appear that PTDZ statute has ever had any limit on how many years a PTDZ business can stay certified, and therefore continue to receive benefits, without having hired any new employees. This may be related to two other pieces of information.

- a. The fact that decertification is not discussed in PTDZ statute.
- b. The fact that, as described in #5 above, statute initially allowed a business to be considered PTDZ qualified only if it adds jobs, but the statute was amended two years after enactment to allow a business to qualify if it “has added or will add” jobs. This change opened the certification up for the first time to businesses that had not yet hired any new employees, thus introducing the need to potentially limit the number of years a business could remain certified without hiring new employees.

PTDZ rule, established by DECD, does have the two year limitation as part of the conditions under which a PTDZ participant may be decertified by the Department (rule section 3 paragraph 1). The program’s initial rule making did not include any such limitation, and decertification is not discussed in statute. However, rule changes in 2005 introduced the conditions for decertification. This added rule required decertification of businesses that had not hired any new employees within two years.

Stakeholders have told OPEGA that making benefits available before hiring occurs may be necessary to get the financial benefits to businesses so they can get their development project far enough underway to later allow them to hire new employees.

7. Did OPEGA consider the work conducted by Investment Consulting Associates (ICA) and presented in ICA’s January 2016 report “Comprehensive Evaluation of Maine’s Research & Development and Economic Development Incentive and Investment Programs”?

OPEGA was aware that DECD’s independent evaluator, ICA, reviewed the PTDZ Program in its most recent biennial economic development program evaluation and that ICA had conducted a Cost Benefit Analysis and determined an Internal Rate of Return (IRR) for the program. OPEGA thoroughly reviewed the ICA report as part of our own PTDZ evaluation work. The ICA report includes many observations, recommendations and comments from businesses about the State’s economic development incentive programs that OPEGA has brought to the attention of the GOC in the past. Some of those are specific to the PTDZ program.

ICA’s description of its Cost Benefit and IRR analyses begins on page 30 of its 2016 report with the specific results for the PTDZ analyses reported on pages 34 – 37. The analyses were performed using the evaluator’s own model. Data for input to the model was obtained from several sources including from a survey of businesses receiving certain State economic development incentives. The survey sought information related to several different economic development programs. According to ICA, 210 PTDZ businesses received the survey and 151, or 71.9%, fully completed the survey with another 23 PTDZ businesses partially completing the survey. ICA used information reported by the respondents who were PTDZ certified companies to extrapolate overall results for the PTDZ program using the model.

In March 2016, ICA presented its January 2016 report, including its observations on the PTDZ Program and the CBA and IRR analyses, to a joint meeting of the GOC and representatives of the Taxation and LCRED committees. At that time, there were a number of detailed questions

from legislators regarding the analysis methods and the data used. There were also questions on the reasonableness of the some of the amounts reported in the Cost Benefit Analysis for PTDZ and BETR. OPEGA subsequently met with ICA, DECD and legislative fiscal staff in April 2016 to get a better understanding of ICA's analysis and the assumptions that were used in modeling program results. In June 2016, ICA provided some additional written explanations to questions from that meeting. These exchanges did provide additional understanding of ICA's approach at a conceptual and contextual level and resulted in ICA submitting a corrected version of the table showing the BETR analysis on page 33 of the 2016 report.

It was in this context that OPEGA considered whether to pursue further understanding of ICA's analysis of PTDZ program outcomes. We learned from our experience in modeling the impacts of the New Markets Capital Investment program (NMTC) that modeling results are significantly impacted by assumptions that are built into, or introduced into, the model used. Similarly critical are the decisions made about how much of reported activity – new jobs, investments, sales, revenues, etc. – can be attributed directly to the program and thus should be input to the model. From our perspective, ICA faced many of the same data and attribution challenges that we described in our report including an understanding of the full costs to the State.

We determined we would require a much more detailed understanding of ICA's methodology, model, assumptions and data before being comfortable including any discussion of the CBA and IRR analyses in the OPEGA report. We were concerned that referencing them in our report would be perceived as OPEGA concurring with ICA's results, particularly when we had not done any objective outcome assessment of our own. We also did not have sufficient understanding of ICA's analyses to:

- assess the degree to which we thought ICA's results were reflective of the PTDZ Program's actual impact on the State; and/or
- describe how ICA's approach and results compared to the performance measures of Net Impact to State Budget and Impact on Gross State Product OPEGA calculated for the NMTC Program and which we intended to use for the PTDZ Program.

As previously described, we ultimately decided not to spend the resources that would be required to report on PTDZ outcomes at this time. This included not spending the resources to further understand ICA's analyses and outcome results.

8. How many hours has OPEGA spent on the PTDZ evaluation?

OPEGA staff accumulated about 1100 hours on the PTDZ evaluation through the date of report release, with the Director accumulating another 80 to 120 hours.

Some of the hours OPEGA has accumulated on the ETIF review were also relevant to the PTDZ evaluation as we gathered an understanding of the standard ETIF program and the expanded ETIF benefit available under the PTDZ program. To date, OPEGA also has about 1100 hours accumulated on the ETIF review, which is ongoing. These hours include considerable time spent negotiating agreements and protocols with MRS and DECD for OPEGA access to confidential ETIF data which was also used in the PTDZ review. Time spent training and providing guidance to new staff is also captured in the ETIF hours.