



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  
July 10, 2018  
Accepted August 9, 2018**

**CALL TO ORDER**

The Chair, Sen. Katz, called the Government Oversight Committee to order at 9:03 a.m. in the Burton Cross Building.

**ATTENDANCE**

Senators:	Sen. Katz, Sen. Libby, Sen. Davis, Sen. Diamond, Sen. Gratwick, and Sen. Saviello
Representatives:	Rep. Mastraccio, Rep. Pierce, Rep. DeChant, Rep. Rykerson and Rep. Sutton Absent: Rep. Harrington
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Matthew Kruk, Principal Analyst, OPEGA Scott Farwell, Senior Analyst, OPEGA Amy Gagne, Analyst, OPEGA Kari Hojara, Analyst, OPEGA Etta Connors, Adm. Secretary, OPEGA
Executive Branch Officers and Staff Providing Information to the Committee:	Ricker Hamilton, Commissioner, Department of Health and Human Services Christine Alberi, Child Welfare Ombudsman

**INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS**

The members of the Government Oversight Committee introduced themselves.

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Sen. Katz asked if there was objection to taking items out of order. Hearing none he moved to **Unfinished Business, OPEGA Report on the Child Protection System: A Study of How the System Functioned in Two Cases of Child Death by Abuse in the Home.**

## UNFINISHED BUSINESS

- **OPEGA Report on the Child Protection System: A Study of How the System Functioned in Two Cases of Child Death by Abuse in the Home**

- **Continued Committee Work Session**

Sen. Katz said the GOC subpoenaed the Commissioner of the Department of Health and Human Services (DHHS) to appear today as the Governor's Office had denied the Committee's request for Commissioner Hamilton to be at the GOC's work session on June 28<sup>th</sup> to discuss DHHS' perspectives and initiatives relative to the child protective services. He said this is a different situation in that it is not an investigatory type proceeding for which the Committee has issued subpoenas to appear in the past. Nevertheless, by virtue of issuing the subpoena, the Committee now needs to follow the provisions of the Legislative Investigating Statute which is at Title 3, ch. 21 in addition to OPEGA's statute and also the Freedom of Access law. Not all of the provisions of the Legislative Investigating statute that they normally need to be concerned with are relevant here.

The purpose of asking Commissioner Hamilton to be at the meeting is to provide an opportunity for dialogue that will help the GOC better understand the Department's perspectives and current strategic initiatives related to child protective services. This is part of the Committee's continued work to understand and address areas for concern or improvement to Maine's child protective system in connection with OPEGA's May, 2018 Information Brief on Maine's Child Protection System. Topics expected to be talked about at the meeting include the following:

- The current status and planned actions, if any, to address staff training, staffing levels, staff resources, supervision, work environment and culture issues within the Office of Children and Family Services (OCFS);
- The Department's initiatives described in the Child Welfare Overview that was provided to the Committee at their public hearing in May, 2018.
- The Department's perspective and input on areas that might require, or benefit, from statutory change.
- The other subjects the Governor discussed with the GOC at the public comment period on May 31, 2018.

Sen. Katz restated the relevant statutes that govern the Commissioner's appearance before the GOC would be Title 3, ch. 21 which is the Legislative Investigating Committee statute, Title 3, ch. 37, the OPEGA statute, and Title 1, ch. 13 the Freedom of Access Act. He said to set the ground rules for this meeting, all the proceedings and testimony will be held in public session and will be broadcast over the internet and available to televising and filming as is normal protocol and required under the Freedom of Information Act. The possible exception is Executive Sessions which he will not get into now because the need for those are not expected. As Commissioner Hamilton has been subpoenaed, he will be placed under oath prior to the taking of his testimony. Prior to taking any questions Commissioner Hamilton will be invited, and has been invited, to make any statement he wishes to make. All questions to Commissioner Hamilton will come from Committee members or OPEGA staff, through Director Ashcroft. Any staff questions will be posed through the Chairs and Leads unless the Chair directs otherwise and there will be no questions of Commissioner Hamilton by anybody else present at today's GOC meeting during the Work Session.

Sen. Katz said he will now entertain a motion from the Committee's House Chair, Rep. Mastraccio, to approve the order of procedure just discussed.

**Motion:** In accordance with Title 3, Section 422, I move that the Committee approve the orders of procedures as outlined by the Chair. (Motion by Rep. Mastraccio, second by Sen. Davis)

**Discussion:** Sen. Gratwick asked where the Committee's authority begins if the Committee members do not get answers to their questions.

Sen. Katz thought you would have to take that question-by-question and hopefully that will not be an issue. He did not know if the Commissioner was at the meeting with Counsel, but if he is, his counsel can certainly sit with him and object to any questions the Committee members ask. As Chair, Sen. Katz said he would rule on any objections that are made to questions.

**Vote:** The above Motion passed by unanimous vote 11-0.

Sen. Katz said the Committee was glad that Commissioner Hamilton is at the meeting. Once the GOC voted to issue a subpoena for Commissioner Hamilton, the Commissioner contacted Director Ashcroft right away to let her know that he would pick the subpoena up. Sen. Katz asked Commissioner Hamilton and anybody else he wanted with him, to come before the Committee.

Sen. Katz asked Commissioner Hamilton to raise his right hand and asked if he promised that the testimony he is about to give will be the truth, the whole truth and nothing but the truth. Commissioner Hamilton said I do.

Commissioner Hamilton thanked the Committee for having him at today's meeting. He was happy to talk with the GOC and answer their questions. As some Committee members have previously mentioned, we are all on the same team and he is eager to work with the Committee and others to ensure that the Department and all involved are doing the best job possible to protect children. He believes by working together the Administration, Legislature, and most importantly, the community will enhance the way we prevent and respond to abusive children. It is vital that we each understand the important roles that we play in this effort. The Legislature has a responsibility to ensure proper resources, as well as, addressing issues in current statute, whether those are barriers, misplaced priorities, or lack strength. The Department has the responsibility of working with the community in a comprehensive manner to ensure the safety and well-being of children, either in homes of their parents, or alternative environments that are free from neglect, trauma and violence. The community has the responsibility of learning and being aware of the signs of abuse and neglect and reporting when they suspect those signs are evident. None of these entities can prevent abuse on their own. We cannot prevent abuse without our neighbors, teachers, nurses, law enforcement, courts and every member of the community being vigilant and having the courage to say something. We need changes in all three sectors in statutes, Department policies and procedures and in the community. He hoped the conversation at today's meeting is productive. Focusing on what we can do, what we are currently doing to immediately improve our system and what we can do together to build a stronger, longer terms solution to abuse and neglect.

Commissioner Hamilton said with him is Leane Zainea from the Attorney General's Office who will address any problems that they have with confidentiality or with the pending criminal cases. Kevin Welch, also with the Commissioner, is DHHS' general counsel.

Sen. Katz said he knows everybody on the Committee is sensitive to the fact that we don't want to get into any areas which are going to have any impact on the criminal cases that are moving ahead and there is no intention to violate any confidentiality laws. If the Committee's questions impinge on those areas, he was sure the Commissioner, or counsel, will let the GOC know because they want to respect those boundaries. He said it is frustrating for the Committee to have to respect those boundaries because it closes off some areas they would like to inquire into, but they understand that and did not want to do anything to interfere with the criminal process.

Sen. Diamond said he has received many responses and indicators of concern about DHHS and, in particular, child protection, and how that system, he believes, is broken. It may have been broken for some time, but it is clearly broken, in his opinion and in those of the professionals that he has talked with who work directly with child protection. He heard that DHHS rarely investigates the child abuse complaints they have filed with the Department. Investigations into reports of neglect are simply not completed. It is common knowledge among his colleagues that make reports of neglect, that reporting is a waste of time as no follow-up from Child Protective Services will be conducted. His biggest concern after many weeks of seeing that kind of information coming to him is that there is a whole bunch of kids that get lost between the time they are reported and the time that they should be dealt with, and in fact, too many are not being dealt with at all. Sen. Diamond said there is the black hole between the report and when somebody from DHHS would try to find out what is really going on. He asked if Commissioner Hamilton could respond to the broken system, to the fact that we have people who have frontline experience where their reports are not even being looked at by the Department and as a result these kids continue on in an abusive situation and then we end up with kids being killed.

Commissioner Hamilton said he appreciated the question. He would disagree that the system is broken. One thing he has learned in his four years of experience in State service in the system is that it is stressed at times, it needs to be flexible, and it needs to adjust. We are at a time where we are receiving a historical number of referrals. He said it was tough for him to respond to general questions and it is always best to have specific cases to respond to. But if someone shared that information with Sen. Diamond, that is their experience and their perception of the Department. The Commissioner said the GOC/OPEGA has received a lot of information from DHHS. DHHS intake gets around 50,000 referrals on an annual basis. Maine has some very tight timeframes to respond to abuse and neglect cases, 24 and 72 hours and having an assessment completed within 35 days. He would encourage any members in the community, or on the GOC, when they get a complaint from a constituent, a professional, or someone who has had interaction with the DHHS system about a specific case to contact DHHS directly and let them know. DHHS can find out and take a look at it. DHHS' staff during the past 90 and 120 days has done exceptional changes. The GOC has been provided a description of those. The Commissioner said he would be happy to go over those specifics with the Committee, but said no to Sen. Diamond's question about the system being broken. He thinks the Department is challenged and stressed at the moment, that they are doing the best that they can. The best way for him to respond to any specific questions where people feel that kids are being neglected, or left in dangerous situations, is to respond to a specific case to look into.

Sen. Diamond said if the Commissioner felt the system was not broken, did he feel that it was badly in need of repair to the point where there are children whose lives and safety are at risk. Commissioner Hamilton said they have presented to the Committee, and he would be happy to go over specifics with anyone, some very detailed, specific adjustments to their program. Things the Department has done since March, things that were planned back in 2017 and 2016 with some of the systems. DHHS is very assertive and aggressive in area of changes to make them more responsive. He said soon the Legislature will be having a Governor's bill presented to them that includes things mentioned in the reports that DHHS have given to the GOC. Those include added staffing, changes in the statute and mandatory reporting and other areas for input. There will be a Governor's bill coming forward that will address those areas. Also specifically with regard to the information system they have now. He knows complaints have been received about DHHS' current system. Changes in the system have been made, it has been updated, but they need to have a certified child welfare information system. They have been looking at that system over the last couple years and know a course of action and a system they want that was identified months ago. In the Governor's bill, there will be a request for funding for the total review of the new system. Commissioner Hamilton said there was a lot of information on policies and procedures, statutes, staffing, and computer systems that has been provided to the Committee and he would be happy to address any or all of them.

Sen. Diamond referred to the Governor's bill that will be presented and asked if the bill would be presented during the current Governor's time as governor. Commissioner Hamilton said it would be.

Sen. Katz followed up on Sen. Diamond's last question. He said the Legislature is recessed until the call of the President and Speaker and asked if the Commissioner knew the timing of the Governor's bill. Commissioner Hamilton did not, but suspected the Legislature would be hearing from the Governor's Office soon. Sen. Katz asked if the Commissioner knew the general outline of bill. Commissioner Hamilton said he did.

Sen. Saviello said what he has been told is that the turnover rate has been high in caseworker positions, which he understands because of the stress. Individuals come in to work and they are given a basic caseload to manage. When a caseworker leaves, their caseload gets dumped on the person that is remaining and that person is working overtime to try to cover all the work. And then are told there will be no more overtime, to take comp time. So the following week the caseworker takes the comp time and the caseload grows even more. He asked if that was a true statement and, if so, what the Commissioner planned to do about it in the bill. What is going to be changed to make sure that we have adequate people to take care of the issues that come in?

Commissioner Hamilton said, in response to Sen. Saviello's first question, he did not doubt what the person told him is true. Probably some supervisors, people in administrative offices, told people to take comp time. The directive from his office for months now is that overtime is certainly authorized. Cases have to be picked up. Most of his career has been in Adult Protective Services doing investigations, statutes and mandatory reporting. He still teaches at the Maine Criminal Justice Academy as a reserve officer so he knows that side of it. Turnover is always there. If you looked at some of the information that DHHS has provided to the Committee, some of the turnover, some of the churn has been going in the right direction, but it is very flexible. He could give the Committee a number about an average caseload and a number of caseworkers DHHS has, and then those numbers would change because they end up with several resignations in the Office. We are at a time where unemployment is very low and these jobs, as everybody knows, are some of the most dangerous and challenging jobs in State government. It is a tough job to go into homes where people don't want you there and you are addressing allegations about them. Turnover and churn is there. Part of the package being looked at is do we need more investigating caseworker lines and is compensation for these people appropriate. The Governor was saying that we want investigations done by people who are seasoned and trained to do that work. In the current system, the newest people are usually the investigators and that causes some of the challenges. The Commissioner said he has been in District Offices over the last couple of months meeting with staff and sees what the new caseworkers look like, a deer in the headlights in going out on these cases. One of the things that will be in the Governor's bill, he suspected, is asking if the pay is right for caseworkers. If we have people who are trained, trained in investigation more along the lines of law enforcement, what is appropriate pay? Also the Legislature will have an opportunity to have input into the Governor's bill as always. He suggested looking at other states to see if they are doing something with those who achieve a master's degree. We have to take a look at retention. The Commissioner said overtime is allowed and in the Governor's bill there is specifically more staffing for intake and assessment in all of DHHS District Offices to address that influx of reports and cases they have had.

Statutorily DHHS has had mandatory reporting for 50 years. They have made a number of adjustments to mandatory reporting. He thinks it is important, and believes he is correct, that there has not been one civil action for people not reporting. He said there will be increased penalties on that in the bill. He didn't know if that was the best idea, but it needed to be talked about. We know after 50 years that the mandatory reporting law is not working, it is not effective. Is there some other way to make it effective? You could provide the Department with 100 new line positions, but it does not mean that they will be able to fill them. They are in competition with every other provider. Child Protection investigation is one that you are going to have some passion for if you are going to take that job. It is one that is incredible when you meet with the people who do it. The challenge is not going to be just throwing more lines at it. That may make everyone feel well, but DHHS needs to be able to fill the positions. Can they recruit, retain and have the compensation that will keep those people in the caseworker and supervisory lines and as they move and increase their education, is it worth it for them to stay? Commissioner Hamilton said in meeting with folks in District Offices there are many people working on degrees and are working in other offices in the Department. He

has been told by some that they did not know if they wanted to work in Child and Family Services. He asks them if it is a passion and something that they want to do. If they respond “yes” then that person needs to be encouraged. He said the other part is that being a State Human Services caseworker, everyone is looking over their shoulder, everyone can second guess them. That means we, as a team, have to support them more.

Sen. Gratwick asked what the salary scale is for caseworkers. Commissioner Hamilton was hopeful while he is at the meeting, one of his staff will get him the starting salary which he believes is a Range 23 for the Human Services Caseworker position. The next level above that is Range 25 which is a Human Services’ Supervisory position. He hoped to have the information before he left the meeting.

The Commissioner said the Legislature is going to have a great opportunity very soon with the Governor’s bill to put more money and resources toward OCFS. It has been about flat funding, but they have also been doing more with their community agencies. He said Alternative Response Programs (ARP) have been around for 18 or 20 years. How DHHS has used them over the years has changed and grown. We have been able to effectively make referrals to them which has helped with the workload and has helped DHHS keep to a level funding situation, but they have not had any cuts. Over the last several months DHHS has taken back some of the duties contracted to the Alternative Response Community as described in the information provided to the Committee. He said also important is that in 2011 DHHS had 308 filled caseworker positions. A few weeks ago they had 324-326 caseworkers.

Rep. Mastraccio asked what the Department has been doing to support families and prevent child neglect and abuse particularly in working with the educational system and with public health nurses. There have been a lot of issues and a lot of cutbacks in areas where positions have not been filled. For example, in her district, there used to be a lot more home visits being done when infants came home from the hospital. She said there are programs that are not currently functioning and she wondered if the Commissioner had any ideas for how to prevent problems and DHHS’ role in the prevention of neglect and abuse.

Commissioner Hamilton said the first place he would look at is what this Administration has done with Maine Children’s Trust and their child abuse and neglect councils. Look at the budget that was there just a few years ago and the millions of dollars that is now there to help support child abuse and neglect councils. When he started his State career, these councils were very open and functioning in the communities but 8 or 9 years ago those councils were not functioning. Through the Maine Children’s Trust this Administration has put a lot more money into them to get them functioning, to reach out to families, to do training and prevention. Also, as seen in the information DHHS has provided, there are a lot of contracts that DHHS does with community agencies for prevention. Are we doing enough? Probably not. Are we looking to do more? Absolutely. He said they are also looking at any system DHHS has and how they are spending their money, where are their contracts and are there any redundancies. If there are redundancies, are there multiple agencies doing the same thing. He said DHHS has worked with those agencies and has ongoing discussions with many of them. Can DHHS do more? Yes. Do they need to do more with clarification within their contracts? Yes and they will. They are trying to do the best that they can in the prevention area. The opioid crisis is unprecedented in the amount of money this Administration has put into the opioid crisis, specifically funding uninsured people going forward. DHHS caseworkers tell him the common aspect they see with some of these families is substance use disorders, whether it is alcoholism or drugs. The Department has been trying to put assets in those areas, to look at the part of the State that has the most need, hot spot that area and make sure there are slots available through the Office of Substance Abuse and Mental Health Services.

Rep. Mastraccio said this is her sixth year as a legislators and her 4<sup>th</sup> year on the GOC. What she is hearing from her constituents is totally not what the Commissioner is saying. She said six years ago her constituents were better served in her community by those preventive and support services. There are reasons that families are stressed and families that are in poverty are stressed. Rep. Mastraccio is hearing from social workers in her community, the school counselors, that when they call DHHS they do not get responses and that the problems are so immense that they are not feeling like they are making a dent. They are not counseling children about educational choices they are counseling children about surviving. She has seen a

decrease by this Administration in spending money on prevention and she thinks it is much easier to prevent the problem than it is to deal with it after the fact. She understands there are many sociable issues the State is dealing with but questions how many of the programs the State has, like public health nurses, help families deal with issues. She has had people tell her when they call DHHS they hang up because they cannot get through. If DHHS got 50,000 calls, she wondered how many people there are that never got through. Rep. Mastraccio said the Commissioner was saying things that are totally different than what she has heard and said she lived in a totally different world than he did.

Commissioner Hamilton said he thinks they live in the same world, he thinks it is just the information they have. He said it was obvious as he came up as Director in 2011, the child abuse and neglect Councils were virtually non-existent, they were defunded and now they have millions in funding. He said if you have staff that are licensed social workers in one DHHS Office and have a spike in work at any time, for any reason, in the area of assessment, they are going to move the assets and resources they have to make sure to get out and do that assessment to see if abuse and neglect has occurred. He said that is going to happen, that is the flexibility the Department has to have in the system. He said he would be happy to respond to any information Rep. Mastraccio wanted to share from what she has heard about budget or what DHHS has done for work with the schools, the university or the Department of Education (DOE).

Commissioner Hamilton hears a lot of comments about people making referrals to intake and the Department is not doing anything. He said DHHS' Intake Unit has to function under the Statutory Rules in determining what is appropriate for assessment according to Maine Statute, Title 22. Some of that might be what you are hearing, but said he can tell them what DHHS' standard is. They want the highest customer service. Currently the call hold is averaging about 5 to 5 ½ minutes. He has heard and is sure some of the Committee members have heard that some days the wait time is 45 minutes. The Commissioner said they are looking at what other states are doing in their Intake Unit. Other states and programs face some of the same issues so looking at what their information systems are, do they have a contract, do they have backup phone support if calls are backing up and what do they count as a dropped call. Is it someone just hung up because they didn't want to wait or is the dropped call because the wait was too long. He said any length of waiting is unacceptable. The Commissioner said many of things they do with law enforcement they now are also doing with medical professionals and schools. DHHS is now going to be allowing an electronic referral system so there will be no waiting on line and will see if that helps the call volume at all. The call wait time is something that they are never satisfied with and they need to continue to reduce that number. He does not know what an acceptable wait time would be, but knows when he calls private businesses he hates waiting at all so can imagine what it is like for someone who wants to report child abuse and neglect and having to wait 3 or 4 minutes.

Sen. Katz followed up on Rep. Mastraccio's question about the way DHHS gets referrals and the frontline people who are not necessarily Department employees and the public health nurses. As the Commissioner knows there has been a lot of discussion about the appropriate staffing level for public health nurses. The Legislature passed a bill last session mandating the Department to hire 20 more public health nurses and the information he had is that no new hires have taken place and asked the Commissioner if he could confirm if that is so.

Commissioner Hamilton said the Department has in the last 3 or 4 weeks hired a Director of Public Health Nursing and has just had that person come on board. DHHS' protective caseworkers and eligibility specialists positions are all exempt and they can be hired as soon as there is an opening. For any other opening that comes up, DHHS works through the Governor's Office on getting approval for positions. So in that regard public health nurses is the same as all the other positions. He could provide the Committee with information on how many nurses the Department has hired or how many vacant positions there are.

Sen. Katz said his understanding is that DHHS has hired no public health nurses despite a direct Legislative directive to hire "x" number and asked if the Commissioner could get back to the Committee if that is true or not. It sounds like the issue may be that the Governor has not approved the spots, but he did not know that to be so.

Commissioner Hamilton said he was in the regions for a long time during his State employment and found that the public health nurses were a valuable resource when he was working with them in Adult Protective Services. They sat with staff and talked about cases and, in fact, sometimes went out on cases. He said one of the things DHHS and the Governor is looking at is when they reinstitute and hire all the public health nurses, they want to make sure they have great oversight and data collection which was nonexistent previously. When we asked how many patients you visited in a week, the average was 1.5 patients and then we would hear it had to be the system. He will get the information Sen. Katz requested.

Sen. Katz said he was not saying that every decision that the Legislature makes is a good one, but that is one they made to have more public health nurses online right off. He believes it has not happened and would like to know why.

Commissioner Hamilton referred back to the caseworkers salaries and said it is Range 22, \$17.57 an hour up to \$23.81 an hour. He was correct on the supervisor grade, it is grade 25 with the annual salary being around \$61,000.

Sen. Gratwick said the total budget is \$100 or \$120 million and has been flat funded for the last ten years. He did not understand the Commissioner's response to his question earlier. Was he saying that the OCFS budget has not gone up as they would anticipate with inflations because he has had more efficiency in this system? What we seem to be hearing now is a lot of this is going to focus on whether these efficiencies are really working out for the people in the field or for the clients being served.

Commissioner Hamilton said one piece of the information he provided is the national standards for caseload sizes for child welfare. For those who do investigations, the caseload should be somewhere around 12 to 15 cases. He said until this year they were well within that average and that is why when he says flat funding it is because they were meeting the need. They were doing some contracting, but were meeting the need in the last few years with their caseloads and staffing. The Department was able to utilize the number of lines the Legislature has provided them. There are always vacancies and it is not always the same line, it churns. What has happened recently, and that is why the Governor's bill will come in at a significant increase in staffing, is that they have made some policy and procedure changes. DHHS now wants every single assessment that has to do with child abuse to be done by a State employee, a Human Services caseworker, or caseworker supervisor. They don't want assessments contracted out.

Commissioner Hamilton said other work DHHS has recently taken in, is when one of their contract agencies reports back to them that they cannot find a family, that the family doesn't want to engage with them, or the family has started the process but broke it off and no longer wants to do it. DHHS has asked for all those cases to come back to OCFS and are doing that for a reason. They want to make sure they can see the families. Also to find out if OCFS has skills that are better for engaging families and, if they do, is that something they can share with their contract providers and give that work back. It is an area they want to look at because they do not want people to be left behind. There are a lot of resources they can use to find people and that is one of the areas that has really changed the intake. Also there has been a massive increase in intake because since the last 90 to 100 days, if three calls come into Intake on the same client the case has been assigned for assessment even if the individual reports would have been deemed inappropriate. DHHS has discovered since doing this that nearly 20% of those cases, once DDHS looked at them, had abuse and neglect concerns that did not present as such at intake. He said those are some of the real changes that have occurred in the last six months and just in the last 120 days calls have spiked up the need for more resources and funding for more staff.

Rep. DeChant agreed with the Commissioner that the system is stressed and sounds like some of the resources, human as well as physical, and computer are obstacles for success and those obstacles mean we are not protecting children. She asked about DHHS' MACWIS system. She assumes from the testimony the GOC has heard, that the Administration has known for years that this is a less than helpful system and has



been failing. She asked what sort of proactive measure is going to be taken on that and whether TANF funding can be used for Child Welfare.

Commissioner Hamilton said he thanked the GOC for its review of the TANF system. The Report that came out showed that what DHHS is doing with TANF Funds is spot on. He could say for a fact that any expenditure of TANF funds meets the federal guidelines. Rep. DeChant asked if the computer system would fit the criteria. The Commissioner was not sure a computer system for child welfare falls under TANF. He has heard the System has always been being looked at. He was on the outer view side when MACWIS came in and from day one he has heard complaints about how it needed a lot more information. The Department over time has enhanced MACWIS. They have come to the point though where it does not meet the Department's needs any longer and that is why well over two years ago they began looking at what other states are doing and what systems might be out there. The Department has found a cloud-based system. The federal government will partner with them in a 50-50 share which means if the State invests in a new system that complies with the federal guidelines, federal funds will pay for 50% of the system. DHHS is looking to see if they can get a higher percentage because sometimes the feds will do a 90-10 share. The federal government also tells them how often they can have a new system. DHHS has tried to make the system work as long as it can. The Governor is asking for funds in his bill from the Legislature for the 50% portion for a new system. He believes it came down to a system in Indiana or Delaware. They have been looking at Delaware because of their national standards and the reports DHHS has received are saying Delaware is performing very well in child welfare.

Rep. DeChant asked if the computer system has been something that has been critical for two years, why has it taken so long to get to this point.

Commissioner Hamilton said DHHS has been looking at available systems to see how they could be maintained, if they had all of the components for their needs. If not, how easy can they change it, what is the cost, who is going to maintain it, will it be maintained internally. If OIT has to maintain the system, every change adds to the cost. The system DHHS is looking at currently is cloud based and will be maintained under a third-party contract so it will not add anything new to State government. The other part DHHS is looking at is efficiencies for caseworkers. For example, if a worker is out in the field and making a note on a child abuse investigation, when they come back to the Office that note is going to be able to be automatically inputted into the system. Also for caseworker safety there are GPS capabilities. If you are in a rural part of the State and can't be reached, someone can get to you. It takes a long time to look at these different systems. All systems have pros and cons. If the frontline staff says the system is bunk and can't use it, then it is not helpful at all.

Rep. Pierce referred to the policy of trying to keep children in the home or with family members versus foster care. The Commissioner had said earlier that DHHS is looking at a lot of systems and procedures and asked if the Governor's bill looked at moving children towards foster care if the family unit is not the best place for a child. He asked if the foster care resources were adequate and are there homes available for placement.

Commissioner Hamilton thinks you will see in the Governor's bill the term "best interest of the child". The way he reads that and from talking with staff, it is doing balance. Should children stay in their homes if they are safe and being protected? Can they bring resources into the home to prevent abuse and neglect? He said it is adding balance, it is reunification and family, but when DHHS looks at the situation and works with the courts, law enforcement and others, are they truly making a decision based in the child's best interest. Is this the best place to put the child? He thinks that is the discussions legislators are going to be able to have. They do not have enough foster care homes and that is an area DHHS is trying to recruit. When the Commissioner visited the District Offices in South Portland he asked what was the one thing he could do? They said for him to meet with the executive director of an outside agency to ask him/her if they will help and work with them on foster care. DHHS is also working with Good Will Hinckley to do a higher level of foster care parenting which has been done and they are excited about moving forward with it. DHHS is looking for highly skilled foster parents that will be a bridge for those children who cannot stay in a foster

home and are really not appropriate for the Emergency Room. Also as seen in the report, DHHS is looking at child behavioral health and that goes to support foster parents. This year DHHS will have a new level of care reimbursed by Maine Care for the children who need a psychiatric level of care and that will be from providers around the State. Commissioner Hamilton said the Governor asked DHHS to look at that over a year ago because his goal was to try to bring as many children as possible that Maine places out-of-state back home here with their families. He said more needs to be done with recruitment, you always have to look at the reimbursements, and also need to sustain foster parents.

Sen. Libby said his questions were going to be regarding referrals and mandatory reporting. The Commissioner stated earlier that annually DHHS receives about 50,000 calls to Intake. OPEGA has gathered data from DHHS' Annual Reports which show about 20,000 total referrals were received by Intake for 2017. He asked if the 20,000 to 50,000 was a spike in the last year. Commissioner Hamilton said people call for all kinds of things. He would have to look if the number was the total for actual cases that are written up. Sen. Libby will give his information to the Commissioner's staff.

Sen. Libby said from the data gather from DHHS' Annual Report there is about 20,000 calls a year and about 9,000 determined inappropriate for intervention, so almost half determined inappropriate. He said he was receiving feedback from constituents in the school and hospital systems that referrals are not followed up on, just as 4 or 5 other Committee members have stated. He is worried that is where kids are falling through the cracks and asked the Commissioner to describe the process for that determination. How many people are involved in deciding that a case is not appropriate?

Commissioner Hamilton said a case comes into an Intake worker who is trained to go through the process and there is also an Intake supervisor. So the decision-making of whether a case is appropriate or not is done at that level. He said if he referred a case to intake, he would be upset if he did not hear back, but said caseworkers, intake workers and supervisors may not be able to tell you if the case has been assigned or not. But if they know hearing back is important it is something the Department can work on, but when other work is going on that may not happen. The Commissioner said for people DHHS works with all the time and who have a close relationships with staff in the District Offices, there ought to be a way to let the person know what happened to a case they referred.

Sen. Libby said imagine being a mandatory reporter and seeing first-hand a case that is very serious, spending 90 or 120 minutes on the phone and then not knowing if anything is being done. Commissioner Hamilton said when someone calls Intake he would encourage people to ask who they were talking with and ask how to get back in touch with them. He would put in his notes what time he called and who he spoke with. He said if someone takes the time to call the Department they ought to be able to be told what has happened with it to the extent it will not affect confidentiality.

Sen. Libby said earlier it was stated that in the Administration's opinion the mandatory reporting law is not working or is not working well. He asked if the Commissioner could describe what he meant by that. Commissioner Hamilton said Maine has had the law for 50 years. DHHS has on-line training, they train the trainers and do as much training as they can. What they hear is that there are a lot of providers and mandatory reporters who don't get that training. They don't have time, haven't done it, maybe in a hospital situation they depend upon the social worker or the nurse to do it when the doctor is a mandated reporter. He said for his social work license, once every 4 years he has to take 4 hours of ethics training. Would it be possible, for example, for licensed professionals who are mandated reporters to have to take a 1 hour course on mandatory reporting every 2 years. DHHS is hearing and discovering that there are mandatory reporters who are not reporting, some don't know how to report, or that their agency did it. That is why he said the system is not effective. Whether the Legislature accepts what is proposed in the Governor's bill when it comes to increasing the penalty to make failure to report a criminal offense is up for debate. The mandatory reporting law is not doing what it is supposed to be doing, so they would like to work together to strengthen it. The Commissioner said the issue of elder abuse is as great as child abuse only you don't hear about it.

Sen. Libby stated that the wait time to make a report is often much more than 5 ½ minutes. Its 90 or 120 minutes and he thinks that is part of the breakdown for mandatory reporting. He asked how would you criminalize that when a reporter cannot make reports to OCFS in a timely way. He said there is a friction there about criminalizing failure to report.

Commissioner Hamilton said they are working on DHHS' wait time. The average time is 5 ½ minutes right now. He does not doubt that people wait longer sometimes. He suggested working together on it, but he is not going to accept or want to hear from a single mandatory reporter that they don't have the time to finish through a call. They can put someone else on the line or make a complaint the next day. Let's assume what Sen. Libby is hearing is absolutely true, you are risking a child's welfare by not following through with the reporting. If the call times are long, that is unacceptable and they should work together to reduce it, but let's decide together if you have mandated reporters with problems. He suggested getting the reporters together at his office for a discussion.

Sen. Libby asked if the Commissioner would be able to provide records from DHHS on call logs, messages received, messages returned, etc. Commissioner Hamilton said he has that log and would be happy to provide the information to the Committee.

Sen. Katz referred to the Child Welfare Review report that DHHS produced. He asked how the review was done and, specifically, what input did he get from frontline staff and child protective workers, what outside resources, if any, were used, and what analysis was done.

Commissioner Hamilton said around March there was a great deal of critical concern. He described several changes to OCFS' practice made at that time that resulted in considerable additional work being done in OCFS, including cases that were or would have been previously assigned to ARP. He said they are now working on identifying what work can be turned back to ARP to reduce the workload using the knowledge DHHS has gained about different approaches that can be used, to find families for example. The practice changes, however, are why you will see the Governor's bill proposing needing more staff. DHHS is also looking at their contracts with ARP and whether they can write the contracts in a way that is performance based, that will augment the services OCFS is providing.

Sen. Katz asked the Commissioner to talk about the process he went through because is sure some frontline staff might be hesitant to complain to the Commissioner, or a supervisor, about a problem. He and others have heard that people are afraid to speak to their supervisors for fear, whether it is realistic or not, of retaliation. He wondered what effort there has been to make sure that the input from the actual frontline workers is accurate and are their true feelings.

Commissioner Hamilton said if legislators are hearing that he would accept it as true. A staff person may have a supervisor that they fear. That is why he went to the District Offices personally. Staff need to be able to articulate. The Commissioner said he also understands that OPEGA will be interviewing DHHS staff as well, and DHHS will help in any way they can to set up those meetings up. If staff feel that way, they are going to leave and he does not want that to happen. He would rather have someone tell him that they cannot take another referral or that they need to take time off. It is his job, as an administrator, or supervisor, to figure out how to work that caseload. He wants staff to tell him what is happening.

Commissioner Hamilton said DHHS investigated certain cases and had HR investigations on the cases they had concerns about. They listened and got feedback from the community and some of their partners. They talked to some of the staff about what is in the statute and does it make sense. DHHS reviewed the feedback and looked at their policies and procedures, looked at what they had in their control now that could be adjusted to make children safer. One question asked by caseworkers is why were field instruction units done away with? DHHS worked with the universities and in the end you provided an educational experience, and often those people came on board right after college. He said years ago DHHS had psychologists come in 4 hours a month for CFS caseworkers to debrief. Those are some of the changes that DHHS wants to bring back. Commissioner Hamilton wanted people to know that there is an anonymous line that they can write in

and send something to. He gets emails and notes with no person's name. Complaints come often through the Governor's Office. There are ways people can get information to DHHS.

Sen. Katz asked if there are good national standards that exist about how many cases child protective caseworkers ought to have, and for how long it should take to answer a phone call. He asked if there are standards Maine is measuring themselves against.

Commissioner Hamilton said there are national standards for caseloads. The number is 12 to 15 for those who do investigations. He did not know about call lines, but will make a note so he can get back to the Committee about whether or not there are call standards.

Sen. Katz said one of the concerns that comes up about caseloads is that 12 to 15 cases might be the standard, but if you are taking away the less serious cases because you are diverting them to the contractor workers, then is the 12 to 15 standard still appropriate if you are dealing with 12 to 15 very acute cases.

Commissioner Hamilton said it was and it also is the average you see on the elder abuse and persons with disability side. We are talking about 12 to 15 new investigations on a monthly basis. However, one case could take the time of 3 cases and that is where you need to balance the work with your supervisor. In the Governor's bills, you will see it is based on the caseloads DHHS is seeing and projected to have and the increase in staff to keep the caseload in the 12 to 15 range.

Rep. Rykerson followed up on the Commissioner wanting to hear from staff about problems and that there are ways people can communicate to him. Because the Commissioner wants to hear from people, he asked what has been done proactively to increase that communication.

Commissioner Hamilton said internally through supervisors, management, right from the director's office within the OCFS, he is reaching out not only to DHHS, but to foster parents with concerns. DHHS did a survey a few years ago. There are multiple avenues, either through supervisors or anonymous referral sources, to get information to him. His practice is that he writes between 3 and 5 personal notes a week back to staff and he hears back from them. That is what his Office is doing, it is what DHHS' Deputies are encouraged to do as well. The rule is 3 notes on a weekly basis. They have tried to set up a process where people are comfortable talking with them about how they feel and what they are experiencing and trying to do that at every level. The Commissioner said you may work for a boss that you don't hit it off with so there has to be avenues for those employees to get through to them.

Rep. Sutton was pleased to hear that a new computer system may be coming with the Governor's bill, but asked, following up on Rep. DeChant's question, why is it so long in coming.

Commissioner Hamilton said DHHS started the process of replacing the current system about 2 years ago. Any system that you have gets older and more wonky and you have to do more patches to it. The federal government will only pay 50, 75 or 90% once every so many years and he thinks Maine is in that period of time. They are aware of the system issues and have tried to do fixes, but well over 2 years ago it was clear that a new system was needed. DHHS needed to be sure the system was compliant to the Child Welfare Federal Standards and that is why they have been looking at what is in place.

Rep. Sutton asked if it was basically about money and if the State qualified for federal funding.

Commissioner Hamilton said if you ask for a new system, it is 100% State funds. They wanted to make sure that they spend the money well and that it is a system that will meet their needs. DHHS is doing that and is working with the federal partners.

Rep. DeChant said the GOC has heard testimony that DHHS' MACWIS has been a slow burn for 16 years. She understands that systems can be patched, but somewhere along the line people were saying this computer system stinks. She expects that happened well before 2 years ago and she is concerned that DHHS

has had the bad system for so many years. Commissioner Hamilton agreed that DHHS' system probably should have been replaced before now.

Rep. DeChant asked if the worn out computer systems could contribute to the death of children. The GOC heard testimony when people would go out and see families that their most recent comments would be buried down at the bottom. If something is buried at the bottom and you are overworked, you may not go down to the finite details and that could jeopardize a child's health. She said that is where this system and its inadequacies upset her.

Rep. DeChant asked what churn over was.

Commissioner Hamilton said churn over, as he understands it, is when, for example, he leaves a position and goes to another position within State government, or may stay within Child Welfare, but gets promoted to supervisor or has been doing investigation and wants to do intake. Whether an employee leaves State employment altogether or churns to another position, that employee's caseload is an uncovered caseload that somebody needs to do.

Sen. Davis said he lived in Sangerville which is about 10 miles from Penobscot County or Somerset County. At one time they had an office in Dover-Foxcroft and a few years ago he put a bill in to have DHHS come to his county a couple days a month and he believes they do. He was also concerned about the rural nurses. He wanted to know how it works with a person coming out of Bangor and going to one of the Northern towns in rural Maine and how they get overtime, etc.

Commissioner Hamilton said he could not speak specifically about the number of staff who cover those satellite offices, but said overtime is authorized if it is needed. If comp time is appropriate and fits that is probably the first choice people are going to make. He did not know the number of hours staff are in the satellite offices, but he will find out.

Sen. Davis asked how it worked. Does the caseworker ask for overtime and is there any problem in them getting it.

Commissioner Hamilton said overtime has to have prior authorization. It can't be that the staff person would work 4 hours and then comes back and tells their supervisor they have worked 4 hours overtime and is going to put it on their TAMS and be paid for it. The Department tries to watch overtime expenses and stay within their budget, but overtime has to have prior authorization.

Sen. Davis said his district encompassed a huge rural area and asked if the worker would be approved or authorized for overtime.

Commissioner Hamilton said he would have to look at it. For people who are always doing that, is there some agreement with that employee about comp time, are they able to adjust their work week and flex some of the worktime to cover it. If overtime is needed, it is authorized, especially for child abuse and neglect cases.

Sen. Davis asked if there was anything in the Governor's bill that affects rural areas such as the Tri-County area.

Commissioner Hamilton said the bill has, for every District Office, the creation of an entire new unit for investigations. In addition to that, there is another whole group of people for an Intake Unit as the goal is to have only State employees doing intake within the Intake Unit. He said at this moment, he is telling the GOC from memory, the bill is requesting about 75 positions. Every District Office is going to be getting staff and everything will be opened up to operational need. He said he was very well aware of the rural areas' special needs.

Sen. Davis hoped that the Governor's bill addressed the needs of Maine's rural areas.

Rep. Mastraccio referred to mandatory reporting and said she was not hearing that the issue was that people were not reporting. She is hearing that there is a breakdown in the communication from the various entities that are reporting and one of the issues has to do with truancy and home schoolers. She asked if the Governor's bill addresses the issue of truancy and that it is not uniform throughout the State. The other issue is home schooling. You could be someone who is neglecting your child, get a complaint and then say you are going to home school your child. The home school statute is pretty loose in terms of being able to follow kids. She wondered if the Governor's bill rather than criminalizing mandatory reporting, would make it easier for communication between mandatory reporters so that a complaint that is made by one school district might follow that child to another school district.

Commissioner Hamilton did not know if the Governor's bill addresses truancy.

Rep. Mastraccio asked what impact the courts have on DHHS' actions and how their decisions might change the way the Department is doing things in OCFS.

Commissioner Hamilton said anything that is done within DHHS to change something is going to put pressure on the court system, law enforcement and other systems. The court's role is also why the Governor's bill is expected to address statute regarding best interest of the child. What is the interpretation of best interest? What are the court orders and how do we implement them? He said if DHHS begins to take more cases through the court system you will begin hearing the same things about workload from the courts.

Rep. Mastraccio was asking how the courts' decisions were impacting what happens in the field for a caseworker.

Commissioner Hamilton said they are asking staff to use what is in the current statute for the child's best interest and DHHS is having discussions with the court system. The Commissioner is hearing back from judges that they have a legal mandate to do reunification they have constitutional, state and federal laws about parents' rights to raise their own children. DHHS does get court ordered information back from the court that they have to implement and it does cause stress, but right now it is working.

Sen. Gratwick said there is a disconnect from what Committee members have heard from individuals and what the Commissioner is saying. He asked what advice will the Commissioner give to the next DHHS Commissioner about how to have an independent analysis so you don't have these disconnects of the understanding.

Commissioner Hamilton appreciated the word "disconnect" and said he appreciated today's discussion. He said for his future visits to the District Offices he was going to meet with staff in private offices instead of at their workstations. The Commissioner did not want to add another layer, person, entity or process on communication. If in fact there is a disconnect, adding another layer may be just another area of disconnection. They have the ability to reopen the lines of communication and need to look at how they are doing that for people who are feeling threatened to say something, are not getting their answers, or feel overwhelmed. DHHS will look at how they are doing with communication and will try to do it better. They can work with OPEGA as they begin to talk with DHHS staff because they may learn something that will be helpful to the Department. He would not add another layer, but would look at how the Department's lines of communication can be improved.

Rep. Rykerson asked if the GOC could get a compilation of the number of requests for overtime and the approval for those requests. Commissioner Hamilton said the request are personal and thinks the approval for overtime will be easier because it will be in TAMS. Rep. Rykerson said he was asking for a compilation, it doesn't have to be personal. The Commissioner said he will work with DAFS' HR Service Center for DHHS to get that information.

Sen. Diamond said the starting pay for a caseworker is \$17.57 which is range 22. He said certified nurse's assistants do a tremendous job and perform a valuable service, but they are not caseworkers. They make more than \$17.57. He assumes that the Governor's bill will request upping that pay.

Commissioner Hamilton said the bill asks for money to increase compensation for the caseworkers.

Sen. Diamond said the foster parent program is a key part of this process, but also knows that it is badly damaged and asked if that will be included in the Governor's bill.

Commissioner Hamilton did not know if it was in the bill, but he said what DHHS has done is, in the last 3 or 4 weeks, Director Capeless and her staff reached out to foster parents. Often on a Saturday they meet with the Governor. Some of the points foster parents made about what the Department had done, or not done, was eye opening and in reviewing them he suspected some of the things being said were true.

Sen. Diamond said he was pleased and impressed with the Commissioner's enthusiasm and appreciated his commitment to his job, but as they sit there talking at the meeting there are kids being abused, with some being abused badly. He said there is no time to waste and is assuming the Governor's bill is going to be before the Legislature soon and assumes the Governor is going to call a Special Session. Commissioner Hamilton agreed.

Sen. Katz asked for a little history of how long DHHS has been outsourcing certain child protection tasks to ARP, why and what changes the Department is planning on making.

Commissioner Hamilton said DHHS probably has had the outsourcing contracts for 20 years or more. They may have developed as a way to deal with the overflow of Child and Family Services referrals for those that did not reach the level of abuse and neglect within Maine Statute. Over time that evolved with the contract agencies to include cases that were appropriate for assessment staff within the District Offices. Supervisors could assign cases to ARP that met the level of appropriate referrals to DHHS. Once again, it is the next step down the road to having to augment services that they had. DHHS has now taken back some of that work and wants to be able to say in the near future that all reports of abuse and neglect that are appropriate for assignment are assessed by DHHS staff and that they work with their community partners in the prevention area. They are just looking at the practices of the agencies. DHHS has an RFP ready to send out to develop a community intervention program that would replace ARP that specifically addresses prevention and those services. He suspects that some of the same agencies doing the work now will bid and do the new services. The RFP is in draft form and he will be discussing it with the Governor's Office.

Sen. Katz said the plan now, particularly with the request for additional staff in the new bill is, that if a case has been determined appropriate for investigation it will be handled by a DHHS employee. The Commissioner agreed and noted that all calls to Intake would be handled by employees as well.

Sen. Katz noted that the Governor spoke about seeking criminal penalties for mandatory reporters who don't report. All agree that they ought to report, but he asked if there was, in fact, a problem that the Commissioner has seen on mandatory reporters dropping the ball and not reporting. If so, how do you even learn about that?

Commissioner Hamilton said that is what he is hearing. To the extent it is happening, he does not know, but has heard it did in specific cases. A DHHS investigator will say professionals that were involved did not report the situation. The Department has seen that in cases that have been internally reviewed. He said not reporting is not new or isolated to OCFS, it is in any state and is for elder or child abuse.

Sen. Katz said there seems to be a consensus, as the Commissioner has mentioned, that not all mandatory reporters are getting the training they are supposed to be getting and that the contents of the training itself is

a problem. He asked if the Department is looking at, or contemplating, changes in the actual training regimen.

Commissioner Hamilton said they are looking at updating training all the time. Also technology is important. Police chiefs cannot send people to training so there has to be something on-line. He said the basics are on line and anyone can copy it. DHHS can retrain the trainers, but there are costs to upgrade and update.

Sen. Katz thinks everybody has heard frustration from mandatory reporters that they do what they are supposed to do, they make the call and they never hear back. That is a disincentive for them for reporting in the future because they are getting the feeling that their complaints are being ignored when they may not be. He asked if there were statutory or administrative rule changes that could be made so there is a way that the reporter will get a follow-up that says the case has been received and action has, or has not, been taken.

Commissioner Hamilton said the Department can look at that, but his quick answer would be yes, there may be something they can do. The first person he always contacted when he was a DHHS investigator was the reporter because they have the most information. If the case worker calls the reporter, then the reporter would know. He will talk with the intake staff. The Commissioner said it is unacceptable though for any mandated reporter to blame not hearing back as a reason for not making future calls.

Sen. Katz said there seems to be a pendulum and first the effort is to reunify kids with their families because it is the best place for them and if not with a parent with a relative. Then there is another school of thought which says that is fine, but the key concern is for the child's safety and to err on the side of caution. That militates towards putting kids in foster care. He asked if the Department had a general philosophy on that.

Commissioner Hamilton said the Department's philosophy was to reduce the number of kids in care. To him, that is centering on the child and the child's needs. He thinks it is a balance and wants to work together with the Legislature on what the statutory proposed changes are. Working with the courts, law enforcement and others, is there a way they can bring balance so that the child's best interest is there. He has heard from a number of experts, has listened to the panels, and has read the articles about how important kinship placements are and that is great and makes sense. But they are also saying there needs to be a balance to those decisions for the child's safety and well-being. If he had to err, he would always err on the side of child safety.

Rep. DeChant asked the Commissioner how he would take care of the workforce he has now if more staff is added. How do you triage the workers now who are churning and arguably not making as much as CNAs?

Commissioner Hamilton agreed with Rep. DeChant. One of the things that leadership has is responsibility. If members on the GOC take action, they are responsible for it. When an employee tells him they are leaving his first question is always what would it take to have you stay, what is the issue? A lot of times it is the hours, they can't do this kind of work anymore, or they want to be with their families. There are some things the Department cannot fix. He thinks that question has to be asked more and that is now one of the first questions he is going to ask when visiting the Rockland Office later in the week. How many people are thinking about leaving and why, how many people just left and why, what would it take to stay? Some of the feedback he has gotten to some of those questions is why does Massachusetts pay for a Master's degree and Maine doesn't.

Rep. DeChant said if you are working and are in the high burnout position, but are passionate about what you are doing and believe totally in doing what is best for the child, where do you go if you feel you are burning out and is there a service to help. How do you unburden that load if it is not with your supervisor?

Commissioner Hamilton said there were a number of times he would be assigning cases and it would be a certain type of case and the employee would come to him and say they couldn't take another one of these for a while. He said in the context of Child Welfare if you are a supervisor, program administrator or assistant



program administration you would look at can the person do intake, permanency, or adoption instead for a while. He would look at all of the alternatives, but cannot say that conversation happens in every case. A few weeks ago he did an all staff call and he can do that again and encourage that type of discussion. If someone is doing that kind of work and has been doing it for a while, they are an exceptional person. If they are burning out, it is because an exceptional person is burning out, it is not that they are failing. DHHS is going to bring in a psychologist to discuss with staff what it has been like in the last month doing their job and how it is affecting them. He said it is sad that was not in place, but it is coming back. He would bend over backwards to try to keep someone in OCFS that wants to stay and if there was a way to do a respite, he would. The Commissioner said the heart of the program is the frontline staff.

Rep. DeChant said if an internal survey is done that will be feedback that the Commissioner will find useful.

Commissioner Hamilton said the GOC, OPEGA and the Department has a golden opportunity for partnership to learn some more things and to validate what they are hearing. The Commissioner said he was looking forward to today's conversation and working together with the Committee. Areas of importance that have come up is mandatory reporting, training, employee ongoing training and communication. Those are some areas the GOC may decide to work with the Department on and he would welcome that partnership.

Rep. Mastraccio said if the Governor is going to present a bill and call a Special Session she assumed part of that process would be a public hearing on the bill. From her perspective, the lack of participation by the Administration is one of the issues the Legislature has had around a lot of bills. She asked, as Commissioner, wouldn't he want to be at the HHS Committee meeting to talk about the bill.

Commissioner Hamilton said he could not speak for the Governor. Rep. Mastraccio said she was asking the Commissioner if a bill comes out that affects his Department what would his participation be with the committee of jurisdiction in working the bill so it comes to the point where it gets through the process and not vetoed at the end. Commissioner Hamilton said his Department would participate to the full extent that they have been doing. Julian Baer has spent a lot of the time in the HHS Committee and is doing all of the liaison work and DHHS staff have testified before the HHS Committee. He would anticipate no change in that whatsoever.

Rep. Mastraccio asked the Commissioner if he agreed that the public hearing part of the legislative process is incredibly important. The Commissioner said the legislative process should be followed.

Sen. Saviello thinks that the Commissioner meeting with staff behind closed doors is a good idea, but pointed out that some staff may not say what they want because they are talking with the Commissioner. He suggested that the Commissioner find a way to get feedback to the employees so they do not think meeting with him was for nothing.

Sen. Saviello said in Franklin County the Franklin County Children's Task Force introduced the Century 21 program with the DOE because sadly they are one of the counties with the highest child abuse. They tried to find out when the abuse happened and discovered it is after school so DOE has created an after school process. He asked whether it was within the Department's scope of work to do prevention efforts like that or is it someone else's purview? What needs to be done to bring the number of child abuse and neglect cases down?

Commissioner Hamilton said it is the Department, in partnership with the DOE to look at prevention. He did not have an answer to the question, but they can look at what is occurring. He does have conversations with agencies in different areas all the time. The Commissioner said he looked forward to talking with Sen. Saviello about it. Sen. Saviello noted that as a result of their intervention the number of child abuse and neglect cases has declined in Franklin County.

Sen. Katz returned to the outsourcing topic because it sounded like some tasks will be left to outsourcing. He asked what kind of measurements does DHHS have in place to see exactly how well the agencies are

doing, how are they measured, how is their performance detailed and how does the Department know what control they have over them?

Commissioner Hamilton said the Department has oversight in the Department for Contracts. The OCFS will have be a contract manager who will work with the agency. They also have the Division of Contract Management Services within his Office. He said DHHS also appreciated the comments from OPEGA's TANF Report. One comment was encouraging the Department to continue to do more work with putting more performance expectations in contracts. They are going to look at what it is they expect out of prevention, what is it they are asking them to do. It can be as specific as how many children the Department wants a contractor to see and how soon. Anything can be put in a contract, but that is what is monitored. What is measured will be what has been done, not what is in the contract. DHHS is doing that with all of their contracts. To answer Sen. Katz's question, the Commissioner said DHHS is looking at what the measures are, what is expected, what will be referred back to DHHS, what are the expectations, and who will be providing that services, i.e. is it a licensed social worker or someone else. The Department will be tightening up on contracts as they have over the last 7 years.

Rep. Mastraccio referred to the Child Welfare Services' Ombudsman's Report and asked how DHHS uses those Reports.

Commissioner Hamilton said he did not know if DHHS has gone before the HHS Committee regarding the Ombudsman's Report. He said there was a recent review or input that was provided by the Ombudsman and he thought the insight, criticisms, challenges, and suggestions in the review were extremely valuable. You cannot do everything 100% correct so for those types of reviews you don't take it personally, you use them to make the system better for the people that are being served.

Commissioner Hamilton said DHHS receives the national review of how Maine is doing against federal measures and he did not like what he saw last year. DHHS has taken those federal measures, whether it is contacting a family within a certain period of time, closing a case, safety plans, and included them in the day-to-day operations. It is going to take another year before that data comes up, but that is how DHHS operationalized it.

Sen. Katz asked the Commissioner to share with the Committee, to the extent he could, share with the Committee, the details of what the Governor's bill is going to suggest the Legislature do.

Commissioner Hamilton said from his memory of the last draft of the bill he saw, and noted it could change, the bill had an addition for a significant number of human services caseworkers for the Office of Child and Family Services. He thinks the number is around 75. The intent is to have an additional Assessment Unit with a supervisor within every District Office. Also to have another Unit within the Intake Unit to get a specific number of caseworkers within that Unit so that all of the intake, data, systems and contacts will be done by State employees. The idea is to also have more staff to do the increased safety checks and for taking cases back. Wherever the community intervention programs end up there is going to be more work for DHHS and will need more staff to do that. He thinks compensation proposed in the bill may be looking at those who do investigations. Is the Department going to be expecting those people to do a different type of investigation? Do they want those people to be most senior, and what would be the appropriate compensation? That will be open to discussion. He also wants to look at people with master's degrees or encourage people by providing a stipend towards getting a master's degree. Looking at mandated reporting and criminalizing reporting. He said DHHS has discovered during some of the recent reviews that their records are being destroyed. Caseworkers did not have access to hard records so they are going to change that so the records stay in hard copy form longer. They heard from frontline staff that they would rather have the hard copies than having to find it in different forms. They also want the Department to have greater access to criminal records to see what is in the past for someone who may want to take a child into care. The bill also includes funding for updating technology.

Commissioner Hamilton said as the process goes forward there may be other ideas that come into the bill and he hopes there will be a healthy open process in looking at the bill. Nobody wants children to be abused and neglected, and everyone knows how passionate and invested the Governor is with child abuse and wants the bill to come through the legislative process while he is still Governor.

Sen. Katz asked how quickly the Legislature would see the Governor's bill, but the Commissioner did not have an answer. He thought it would be sooner rather than later. It is his understanding that the Governor plans to call a Special Session for the Legislature to work the bill.

Sen. Gratwick asked if it had taken the death of 2 children to bring the issue up to the front burner and is this truly the Governor's bill or is it the Department's bill. He was interested in the origin of the bill.

Commissioner Hamilton said he uses the term Governor's bill because that is what it is called to bring it forward. In his experience with working with the Governor, the Governor's Office and the Department, is that it is always a team effort. He said the deaths absolutely forced the issue and made them look at the process differently, but it was not the deaths that made the need for more staff. That was decided based on the Department's review and practice changes at different levels.

Sen. Libby said 12 or 14 years ago Health and Human Services were merged into one Department creating the biggest Department in the State with over 4,000 employees, \$3.5 billion for a two year budget, and hundreds of programs. He asked, given all the issues heard about over the last several years, were the social programs run by the State better managed by 2 separate departments or now as a mega department.

Commissioner Hamilton said he could remember some of his comments when the 2 departments were merged. The cultures were very different and some of the cultural differences still exist. Back when the merge happened he would have said what are you doing creating such a big department. Now in 2018 after all these years of services, he would say he thinks they are getting the process right. It took a long time. The accounts were different, departments could not share accounts and now there is one account, and the merge made all of them work together. There used to be a lot of silos and the two departments programs were totally different. He said it is a big department but he thinks the Commissioner's job is the best job in State government. Back then something had to be done to cut overhead and redundancies and to provide more money to the people served. It probably took too long, but he would not turn back time now.

Sen. Katz said he hoped the Commissioner felt that he was treated fairly at the meeting. Commissioner Hamilton said he is surrounded by a great team and that is how he felt at the meeting. He felt that the Committee and he had a good conversation and Committee members have been very polite and that the meeting had been helpful. The Commissioner hoped that the Committee sees where he is coming from and that there will be more opportunities to work together. He said everyone can see they are on the same page.

Sen. Katz said the Governor's bill will come out and a good piece of legislation is only going to come out of that work if the Administration participates in the discussion of the bill. He was not blaming the Commissioner, but said that had not always been the case. The only way they are going to get the work done is to work together and he hoped the Commissioner will communicate that to the Governor.

All the members of the GOC thanked the Commissioner for providing information to them and for answering their questions.

## **RECESS**

Sen. Katz recessed the Government Oversight Committee at 11:33 a.m.

## RECONVENED

Sen. Katz reconvened the GOC meeting at 12:08 p.m.

The Committee continued with their work session on OPEGA's Report.

Director Ashcroft summarized where the GOC was at on the matter of CPS. The GOC is still on a track to try to determine whether there is any action the Committee wants to take, specifically with regard to Child Protective Services right now. Also to understand what kind of general scope the Committee would like OPEGA's next piece of work to encompass. It was her understanding at the last meeting that the special project work they are currently doing is meant to inform the second question of what might be an appropriate scope to be spending resources on in another review. The Director thinks the Committee is working toward if there is anything specifically this Committee wants to take for action. Director Ashcroft said because it is a special project it is not her intention to wait until it is all done to provide the Committee with any information that might be relevant to their ongoing work. Whatever portions are done and can be reported out to the Committee, OPEGA will do that as they go along.

Director Ashcroft said there were some question at the last meeting about truancy and what coverage there was under the State's current statute for truancy and when truancy became educational neglect under statute. She said Christine Alberi, Child Welfare Ombudsman, was at the meeting and she might be able to address some of those questions.

Ms. Alberi introduced herself. She said the truancy statute is in Title 20-A, the Education statute, and in sections 5051-A and 3272. The truancy law, and she noted it was not the child protection law, for all of Maine children, is divided into two sections. There is a section for older kids and a section for younger kids. They define older kids as kids who have completed 6<sup>th</sup> grade and are up to age 17. For those kids, they are considered to be truant if they have missed 10 full days of unexcused absences sprinkled throughout the school year or 7 consecutive days. For the younger kids, those who are 7 years old up until completed 6<sup>th</sup> grade, the truancy criteria is 7 full days of unexcused absences throughout the school year or 5 consecutive days of absences.

In the Child Protective statute, the older group of kids is really not contemplated. If those kids are truant under the law that does not fall under something the Child Protective Services is required to deal with. It is not considered child abuse or neglect. Whether you agree with that or not, that is what the statute says.

For the younger kids between 7 years old to completion of the 6<sup>th</sup> grade, if they are truant under the law then Child Protective Services is supposed to investigate and, if they are found to be truant, the Department can do any number of things depending on the situation. If you look at Title 22 in the definition section 4002, you will see "abuse and neglect means threat to a child's health or welfare . . . and one of these things is failure to ensure compliance with school attendance requirements under Title 20-A" and it references the sections she gave earlier. She said it is also under the definition section for jeopardy. Jeopardy has to be proved to the court. They can take a child into State custody quickly and in different ways, but eventually to have that child stay out of the home DHHS has to prove jeopardy. In theory, just the fact of the child being truant under the young group of kids under the State statute is enough to take a child, on its own, into State custody. In practice she does not think that ever happens. She did not know for sure, but she has never heard of a situation where a child was truant and there were no other issues and that child was taken into State custody.

Ms. Alberi said how truancy generally works in practice is truancy reports come from schools. The school has to first follow a truancy protocol before it makes a report to the child abuse hotline. The school has to try to work with the parents first before they call the Department to report child abuse and neglect. What that looks like is first the school will send a letter and then schedule a meeting. If the parents don't respond to the letter and don't show up for the meeting and refuse to work with the school, or the problem is not solved, then the school makes the call to Child Protective Services. That call is marked as appropriate for a child

protective assessment and then it goes out to an assessment worker in the District Office and they do the assessment. She said that is the basic way it is supposed to work.

The addition of the truancy piece to the Child Protective statute is relatively recent, 2011, and when it was first introduced there was a lot of institutional pushback to the idea that a child being truant was abuse or neglect of any kind. She thinks they did a good job and through her work she sees few issues with it. She has seen a few issues in intake where a couple of times they would send a case for review when the school year is almost over, which is not relevant, but they would say the school year is almost over and the child cannot be truant over the summer. Those types of things are easy corrections to make.

Rep. Mastraccio says right now the statute says age 7 because that is the legal age you have to be in school in Maine. Maine has a lot of pre-K and kindergarten all-day programs and a district might say by virtue that you are signing up for the program, we expect you to be here and be a part of the whole attendance. That is not true of all districts from what she understands. Parents may say my child does not have to be in school until they are 7 so they could keep the child out, and you would not know the reason they are keeping them out is because somebody beat the child and doesn't want them to go back to school until they don't have any more bruises. She wondered if Ms. Alberi has seen that, or heard of that being an issue as a hole in the whole linking of the truancy issue with child protective.

Ms. Alberi said that is definitely an issue and pre-K teachers call about it all the time and for a number of other reasons. For example if the child all of sudden has issues that come out of nowhere, or said something that has made a teacher wonder what is going on, or the child was out of school for a week and then came back and said something that was concerning. The problem in the way the truancy statute has been implemented is that when DHHS gets a call from, for example, a teacher of a 6 year old in kindergarten who is going to turn 7 in 2 months and has 20 days of unexcused absences and the teacher is concerned, DHHS will not send that case for an assessment because it doesn't meet the truancy definition or the truancy protocols for some reason. Another example, a case where it is an out-of-home parent calling because the 7 year old has not been in school, but the school does not see it as an issue and hasn't done the truancy protocol. They have made it so it is a very strict box that things need to fit into in order to investigate based on school absences.

Rep. DeChant asked for clarification on the definition between "excused" and "unexcused". Ms. Alberi said an unexcused absence is the parent doesn't call, there is no note from the doctor, there is no reason given and the school never knows the reason. She thinks there is a technical definition in the truancy statute section 3272. Again, it is whether the case is opened in the first place and marked as appropriate for assessment. It is not one of the major issues with assessments that she has seen, but it certainly exists as an issue. Truancy is almost always the sign of something else. It is not just that the child wants to stay home with the parent, usually it is a sign of something else serious going on in the home, but it may not always be abuse and neglect. There are children who have underlying issues that make it difficult to get them to school. Until the Department investigates there is no way to know that. It is an assessment issue for sure and it is not always recognized as the risk factor it should be.

Sen. Libby said the Lewiston public schools, 4 or 5 years ago, asked him to file legislation on the truancy issue. Their concern expressed to him at that time was because Lewiston had a universal pre-K program and have a lot of 4 and 5 year olds in the public school system and the rate of truancy among that age group was about 20%. Truancy, he believes, is 14 or more days of unexcused absences and the schools told him that truancy among high school students is a different problem than truancy among 4 and 5 year olds. High school kids are making a decision to skip school, but 4 and 5 year old students are not making that decision. There is something else going on. The teachers would send truancy resources out to the home for the kids who were truant to meet with the parents. When that failed, they tried to make reports to DHHS and DHHS told them that because they are not 7 years old there was nothing they could do. He said the Legislature needs to find a way to change that and the solution they came up with, but was not enacted, was once the parent enrolls the child in school, they are expected to be in school unless they take formal action of un-enrolling the child. That was a way to cover some of the concerns of the home school advocate. Sen. Libby thinks they need to

figure out a way to weave this into the set of solutions the Legislature needs to come up with when they get the Governor's bill.

Rep. Sutton said she can see how some members want this to go, but what she is asking is if teachers are mandatory reporters and they suspect something is going on that is potentially abuse, they are able to do so, so why isn't that happening.

Rep. Mastraccio thought the problem was that truancy is not recognized as a risk factor, especially for the younger kids, by law, that DHHS can respond to. The pre-K teacher is calling and saying the child is truant. We know that in some cases parents will keep their children out of school while they have bruises that someone might ask them about so by the time they go back to school that bruise won't be there anymore. If the teacher, as a mandatory reporter, calls and says the child should have been in school, but hasn't been and thinks there might be something going on. The problem is that truancy in that situation does not qualify as potential child abuse or neglect under the law. She thinks truancy is a big hole and she also thinks the same hole exists with home schools. Rep. Mastraccio thinks truancy is a symptom of other things.

Rep. Pierce said just because somebody home schools their children does not mean that there is truancy or a problem. He wanted to make that distinction. Rep. Mastraccio agreed with him, but said the original law has changed for home schooling and she is concerned that anybody can say I am going to home school my child and there is not as much oversight of that educational process, or the fact that it could be a way for someone who is neglecting or abusing their child to avoid any kind of oversight. She is not saying that people do not have the right to home school their children.

Ms. Alberi did not know about a statutory change, but it would certainly expand the number of kids where DHHS would open an assessment. These things can also be done by policy changes within the Department and she didn't know if that would be easier to do. She thinks, for example, there are a lot of things that caseworkers have under that assessment policies – signs of safety, risk and danger. There are factors they look at and say, for example, this is a sign of risk, the refrigerator is empty. She said no child is taken into custody automatically because the refrigerator is empty, but everyone understands that is a sign of risk that maybe this child is not getting fed enough. A child who has been enrolled in pre-K and absent for 3 weeks without explanation could also be considered a sign of risk without it necessarily being truancy under the statute. She said there are alternatives other than changing the statute where these things can be addressed so caseworkers can have it as part of their practice to understand.

Sen. Gratwick said in the Bangor school district they are sometimes worried that if a kid has missed school or having problems in school and the school is beginning to push somewhat on the parent, the parent will simply say they are going to home school. Some home schooling is magnificent and some is abuse so you have to be aware of that part of the equation.

Rep. Sutton asked if it was possible for the Committee to receive some information on home schooling because what is being said is not her understanding of what is going on with home schooling as she thought an educational plan needed to be filed.

Sen. Katz said home schooling is a very viable alternative that a lot of people choose to use for their kids and they are entirely within their right in doing so.

Rep. Sutton would like to receive the statutory requirements for home schooling your child. Sen. Katz said that information will be provided.

Ms. Alberi said, after listening to the Commissioner's remarks earlier in the meeting, there is a lot going into all of this and there are issues with mandated reporting, staffing sizes, etc. From the Ombudsman's Office's perspective, the major issue they have seen that has impacted child safety the most are the child protective assessment practices. Caseworkers are the first people to meet with the child and the family to make sure the child is safe.

The Committee thanked Ms. Alberi for being at the meeting and answering their questions.

Director Ashcroft said it may not be so much that the child is truant, it is about the roles that schools play in the child protective system and being an observer of the children. Focusing on what is the technical definition of truant or not truant, or home schooled or schooled in public schools, may not be getting at the issue. It was fairly clear to OPEGA from the work they did for the GOC that the school is a critical piece, plays a critical role and is a critical mandated reporter. Whether it is about adjusting the truancy statute or doing something else, she thinks it is more about how to make sure that we are effectively using any school environment as a way of providing information to DHHS that will then lead to an investigation or an assessment, if that is appropriate. It is not just about unexcused absences from school. There is a component of excused absences also as they are not considered truant if the absences are excused and different school systems have different practices in terms of when they feel it is necessary to try to verify the reasons that are being given for the excused absences. She thinks it is a little bit bigger than just about what age groups the truancy statutes cover, how many days you are seen as being truant or not truant. Currently the way the law is written, it is basing what is considered child abuse and neglect on a piece of the truancy statute.

Rep. Mastraccio said based on what Director Ashcroft has gleaned so far, asked if some school districts do a better job at linking up and communicating with Child Protective Services than others. She was surprised from Sen. Davis' remark that there isn't even an Office in the County. She asked if Director Ashcroft has had the opportunity to look at whether it depends on where the child is, the school district and the DHHS Office is. Director Ashcroft did not think that matters. To her it appeared that it is right down to the individual and what individuals in the school system feel compelled to take extra next steps if they feel that something is not right. Whether that is calling DHHS or taking extra steps to verify the reason given for the child's absence. She said that is going to vary, not only by school districts, but by individuals within the school districts.

Director Ashcroft said the other complicating factor, which the Commissioner spoke of and OPEGA has not reviewed enough for her to understand what it means, is when that call comes into intake, they are judging whether it is an appropriate report versus an inappropriate report on the criteria established in statute as to what is to be considered child abuse and neglect. That is a component also. It may not be that decision that is being made at intake even, but that is another place where it is important to assess the risk correctly. If the criteria needs to be adjusted about what is being seen as a referable item, then that is another place you have to consider. That is about what is the information the reporter is giving. If the reporter doesn't know what it is that sets this thing up to be an appropriate report, they may not share additional information they have that might be critical to making that decision and visa-versa. OPEGA does not know yet if the training is helpful for mandatory reporters in helping them understand how DHHS is making its decisions.

Sen. Katz said an important piece of information the Committee received today is that the Governor is going to be introducing a bill soon and there will be a piece of legislation that the Legislature can have some impact on as opposed to making recommendations to a future Legislature or trying to create a Committee bill. He asked if there were other areas the GOC wanted OPEGA staff to be looking into now.

Director Ashcroft said OPEGA is looking to understand what challenges and barriers the frontline staff are facing in their work and that potentially could lead to something else.

Rep. DeChant was not sure where the GOC was going and asked what the Committee was trying to.

Director Ashcroft said the one path they are heading down is to try to determine whether and where OPEGA's resources might be next best used to understanding some of the root cause issues and things that need to be addressed on a more detailed scale than what they do right now. OPEGA is going to help with what the scope of that might be by getting frontline perspectives and understanding of what DHHS already has in progress for actions it is taking and how that might relate. OPEGA will come back with the results of that work and that will help with scoping a second review. In the meantime, the Committee is trying to decide if there is legislation this Committee wants to put forward, and if so, what is going to be in that legislation. The

Committee did hear about the Governor's bill so that opens up other options. Are there things that are not going to be addressed in the Governor's bill that this Committee thinks should be put in, either by amendment to that bill or a companion bill. The Committee is still in information gathering mode on that and is trying to prioritize where they need to focus because it is a big process and has a lot of different parts to it. It is about which things can be done that will make the most difference.

Sen. Gratwick asked if the GOC should be recommending there be a group like OPEGA within the Department that looks at how DHHS works because it has been heard many times that they don't have that feedback within their system.

Sen. Katz said the Governor is going to propose a bill and then it is the Legislature's bill and they will work it so will be their bill, not the Governor's bill.

Rep. Rykerson said the Commissioner said if there are problems in the Department go to him, but he would like to hear from the people who do the work. He is not sure how to do it, but is interested in hearing from the people who do the work.

Sen. Katz reminded the Committee that at their last meeting they tasked OPEGA to come up with a survey mechanism, or a focus group mechanism, to get that information. Director Ashcroft said OPEGA is currently working on that and will be reporting the results back to the Committee

Rep. Pierce said before the GOC keeps asking for more information from OPEGA, they ought to get their information back before they keep asking for more information.

Director Ashcroft said what she thought she would do for the next GOC meeting was frame-up everything that has been talked about over the last 2 meetings and see if she can summarize it in a way the Committee will be able to walk through it.

Sen. Diamond said the GOC has a unique situation with OPEGA having all the extra information that is above and beyond what would be contained in the Governor's bill. This is one of the rare times when this Committee will be positioned very well to not only receive the Governor's bill, but to add to it as they go through the process. Ordinarily it would be another jurisdiction, but the GOC has so much backup information they can apply and make the changes they have talked about.

Director Ashcroft said the HHS Committee gets mentioned a lot, but she has observed that a lot of bills that deal with child protection go to the Judiciary Committee.

Sen. Katz said where the Governor's bill is going to go will impact what work the GOC does or does not do with respect to it. The Committee Chairs are going to work in the next few days to try to get an answer to that question if they can and then when the Committee meets on the 26<sup>th</sup> hopefully they will have further direction about where the bill is going to go.

**Motion:** In accordance with Title 3, section 429 I move that testimony shall be released only as a full audio recording of the testimony or as a full consecutive transcript subject for an opportunity for witnesses to object as provided for in section 429 and a Committee decision on those objections. (Motion by Rep. Mastraccio)

**Discussion:** Sen. Katz asked if the Chair would accept a friendly amendment of in accordance with that section that the testimony shall be released only as a full audio recording rather than having the alternative by written transcript. Rep. Mastraccio agreed to the amendment.

**Vote:** The above motion was seconded by Rep. Pierce and passed by unanimous vote 11 – 0.



## NEW BUSINESS

### • Briefing on 2018 Expedited Reviews of Maine State Tax Expenditures Provided to the Taxation Committee

Director Ashcroft said under statute OPEGA is supposed to provide the 2018 Expedited Review to the Taxation Committee by July 1<sup>st</sup> and OPEGA has done that. The review is the information that OPEGA is required to pull together for the Taxation Committee on the tax expenditures that are scheduled for expedited review by that Committee in 2018. She has provided the report to the GOC for their information and asked Committee members to let her know if they had any questions.

## SUMMARY OF THE JUNE 14, 2018 GOC MEETING

The Government Oversight Committee accepted the June 14, 2018 Meeting Summary as written.

### • OPEGA Report on Maine State Lottery

#### - Committee Work Session to Review Draft of Legislation Amending Lottery Reporting Requirements

Director Ashcroft said at the last meeting she reviewed with the Committee what changes they might make for changes to statute with regard to the Lottery's annual reporting requirements to the Legislature, but also to remove a provision that required them to certify monthly financial items to the State Treasurer because the Treasurer has no need for such certified items, nor have they been provided to the State Treasurer. What is before the GOC is a draft bill to send to the Revisor's Office.

Rep. Sutton asked if anything has been done to ensure that future reporting will take place given the fact that they have just been reminded that they were supposed to get reports that never happened. Director Ashcroft said it was suggested that the legislation should include a requirement for BABLO to actually present the report to the VLA Committee, but it currently does not go that far. What it does do is establish a specific date and a specific committee that the report is supposed to go to. She is not sure OPEGA has done anything that would absolutely ensure that the reporting comes in other than informing the staff for the VLA and AFA Committees to be looking for it every year.

Rep. Sutton did not know where the line was for micro managing a department, but it gave cause for concern on her part. Director Ashcroft said agency reporting to the Legislature is an issue that has not been tackled comprehensively so they deal with it every time they run into a reporting requirement. The goal is to clarify what should be reported for information, when it should be reported and who is supposed to get the report.

Rep. Mastraccio noted that the Legislature just went through a process in most of the joint standing committees that came out because of what the GOC had put in statute through a recommendation from OPEGA. It required a process for reviewing the quasi-independent agency reports for oversight, because the reports were coming and committees were not discussing them. She thought it was a valuable experience for most of the committees who didn't understand why they were doing it, but after the fact, they did. Rep. Mastraccio thinks BABLO has a lot of oversight and nothing else needs to be added. Director Ashcroft agreed and she would not want to set a precedent for requiring committees to review every report received from an agency.

**Motion:** That the GOC approves forwarding all the pieces of the draft legislation amending Lottery reporting requirements to the Revisor's Office. (Motion by Rep. Rykerson, second by Rep. Mastraccio)

**Discussion:** Director Ashcroft said Ms. Fox suggested adding to the draft legislation language that would require Lottery to post their Annual Reports to their website because it would make them publicly accessible.

Rep. Rykerson amended his motion to include a posting to the website of the Lottery's reports. Rep. Mastraccio agreed to the motion's amendment.

**Vote:** The amended motion passed by a vote of 8-1.

## **ANNOUNCEMENTS AND REMARKS**

None.

## **REPORT FROM DIRECTOR**

### **• Status of Projects in Progress**

The **Maine Citizen Initiative Process** review is at mid-stage and waiting for OPEGA to have the time to spend on it to move it into fieldwork. The GOC has approved the scope questions for that review. OPEGA has initiated the review of **ReEmployME System** and has contacted the agency to let them know that OPEGA was starting their work on that review. OPEGA is still working on the **Sale of Timber From Public Lands** review. It was the Director's hope to have that report out before she leaves. OPEGA may be at a juncture before that where they would want a Committee decision about how to further proceed based on work that has been done to date. Hopefully, by the next GOC meeting they will have a read on whether any additional Committee action is need. The **Special Project: Office of Child and Family Services** was talked about earlier. OPEGA had previously told the GOC that on tax expenditure review of **Employment Tax Increment Financing (ETIF)** that they were shooting for the July 26<sup>th</sup> meeting to report it out to the GOC, but are going to bump the release of that report to the August 9<sup>th</sup> meeting. An extra special review process is built in where OPEGA is using confidential taxpayer information to inform their results so have had extra time that was needed to build that into the process. **Maine Capital Investment Credit** is technically in progress, but for all intents and purposes, OPEGA has not started the review yet and are currently trying to assess at this time whether that is still going to be a relevant review given the tax changes at the federal level. OPEGA will be back at some point on that issue. OPEGA continues to work on **BETR/BETE**.

## **NEXT GOC MEETING DATE**

The next Government Oversight Committee meeting is scheduled July 26, 2018 at 9:00 a.m.

## **ADJOURNMENT**

The Chair, Sen. Katz, adjourned the Government Oversight Committee meeting at 1:15 p.m. on the motion of Sen. Davis, second by Rep. Pierce, unanimous vote