



SEN. ROGER J. KATZ, SENATE CHAIR
REP. CHUCK KRUGER, HOUSE CHAIR

MEMBERS:

SEN. CHRISTOPHER K. JOHNSON
SEN. DAVID C. BURNS
SEN. PAUL T. DAVIS, SR
SEN. BILL DIAMOND
SEN. STAN GERZOFSKY
REP. MICHAEL D. MCCLELLAN
REP. RICHARD H. CAMPBELL
REP. ROBERT S. DUCHESNE
REP. ANNE-MARIE MASTRACCIO
REP. DEBORAH J. SANDERSON

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEEETING SUMMARY
January 23, 2015
Accepted 2-13-15 As Written

CALL TO ORDER

The Chair, Sen. Katz, called the Government Oversight Committee to order at 9:00 a.m. in the Cross Office Building.

ATTENDANCE

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| Senators: | Sen. Katz, Sen. Johnson, Sen. Burns, Sen. Davis, Sen. Diamond and Sen. Gerzofsky |
| Representatives: | Rep. Kruger, Rep. McClellan, Rep. Campbell, Rep. Duchesne, Rep. Mastraccio and Rep. Sanderson |
| Legislative Officers and Staff: | Beth Ashcroft, Director of OPEGA Wendy Cherubini, Senior Analyst, OPEGA Matthew Kruk, Senior Analyst, OPEGA Scott Farwell, Analyst, OPEGA Lucia Nixon, Analyst, OPEGA Etta Connors, Adm. Secretary, OPEGA |
| Executive Branch Officers and Staff Providing Information to the Committee: | Jody Breton, Deputy Commissioner, Department of Corrections Dr. Newby, Regional Vice President, Corrections Care Solutions |
| University of Maine System Staff Providing Information to the Committee | Jake Ward, Vice President for Innovation and Economic Development, University of Maine |

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

The members of the Government Oversight Committee introduced themselves for the benefit of the listening audience.

INTRODUCTION OF THE OFFICE OF PROGRAM EVALUATION AND GOVERNMENT ACCOUNTABILITY STAFF

Director Ashcroft introduced OPEGA staff.

SUMMARY OF THE NOVEMBER 13, 2014 GOC MEETING

Motion: That the Government Oversight Committee approves the Summary of the November 13, 2014 meeting as written. (Motion by Sen. Burns, second by Rep. Campbell, unanimous vote 12-0.)

ORIENTATION OF NEW MEMBERS

• Review of Functions, Roles and Duties – GOC and OPEGA

Chair Katz asked Director Ashcroft to review for Committee members the process for when members receive confidential documents. Director Ashcroft said under OPEGA's statute the drafts and final versions of OPEGA's reports are confidential until they are released to the public and statute specifies that they be released in a public meeting before the GOC. OPEGA tries to include a final draft version of any reports they are releasing in GOC members' advance materials so they have an opportunity to review it before the meeting. Those reports are to be maintained as confidential documents. It will be marked as confidential and a reminder will be included in the transmittal letter to the members that it is a confidential document. The contents of the document are not to be shared or discussed with anyone prior to the GOC meeting. OPEGA does post the report at the start of the GOC meeting and then it is available as a public document.

Rep. Duchesne asked if the confidential document can be discussed with other GOC members. Director Ashcroft said confidential documents can be discussed with other members of the GOC.

Director Ashcroft proceeded with the orientation of summarizing the functions, roles and duties of the GOC and OPEGA.

Chair Katz said the GOC is a unique committee in that there are an equal number of senators and representatives as well as equal number from each of the parties. The reason was to emphasize the nonpartisan nature of the Committee's work and he asked if Sen. Davis, who was a member of the Legislature when the OPEGA/GOC was created, to address that.

Sen. Davis said the GOC is made up with equal representation so that neither party would have the advantage and members have to work together to reach agreement on matters before them.

Sen. Diamond asked for a reminder of who formulates OPEGA's budget. Director Ashcroft said within the next few GOC meetings, at the direction of the Chairs, the Committee will be reviewing the proposed OPEGA budget for FY16 and 17 and will go through that budget in detail. At this meeting, she will be giving an overview of where OPEGA is with its current FY15 budget. OPEGA is a separate budget line within the Legislature's budget. She develops the proposed budget which is considered by the Legislative Council and its Budget Subcommittee and is included by the Council in the proposed Budget for the Legislature, although it is maintained as a separate line item. The GOC has responsibility for approving what Director Ashcroft has proposed for the OPEGA budget and in the past the GOC communicated to the Legislative Council and the Council's Budget Subcommittee any changes they thought should be made and/or their support for OPEGA's budget.

Sen. Burns referred to OPEGA's independence and the separation between the GOC and OPEGA. He asked the Director to speak to that issue. Director Ashcroft said OPEGA is part of a unique organization structure in the Legislature. Her position is appointed by the Legislative Council, but OPEGA intentionally does not report

to the Council in any way. That is to shield OPEGA, as much as possible, from partisan politics. OPEGA reports to the GOC in terms of its performance and takes its direction from the GOC, but at the same time, OPEGA has a certain level of independence from the GOC as well, and that mostly shows itself when OPEGA is assigned a project or review. Once the GOC assigns the review to OPEGA, the Office does some preliminary research and then comes back to the Committee to get their agreement on the detailed questions that they want OPEGA to pursue. Other than that, the Committee will not hear anything from OPEGA, other than status updates, until the review is complete. OPEGA may actively seek input on some topic from a Committee member, but the Office is not going to be directed by any GOC member, or group of GOC members, to pursue that project in any particular way. Director Ashcroft said that process is designed to make sure that OPEGA is staying objective in its work. OPEGA welcomes feedback and input, but will not make any commitments to the GOC about whether they will follow their suggestions.

Rep. Campbell asked about subpoena power. Director Ashcroft said the subpoena power rests with the GOC. It has been used more than once, but it has only been needed once in order for OPEGA to get the data needed to perform a review. In the other instances it was used because the Committee itself wanted to conduct a public inquiry of officials and the subpoena was needed to have them appear before the GOC and answer Committee members' questions under oath. The GOC also has the authority to put people under oath.

Rep. Duchesne asked if the GOC could introduce legislation after the cloture deadline. Director Ashcroft said there is authority in statute for the Committee to introduce legislation at any time, as long as the legislation is related to the implementation of an OPEGA recommendation, or something else derived from an OPEGA report.

Sen. Johnson asked the Director to talk about confidential data and information received by OPEGA from people who come forward. Director Ashcroft said confidentiality is maintained around the information that OPEGA takes in. In addition to having access to confidential records, statute establishes OPEGA's working papers on a review as confidential and thus they are shielded from public disclosure under the Freedom of Access law. The only documents that are made public with regard to a review project are those that OPEGA releases publicly through the GOC. For example, when OPEGA conducts interviews with individuals, the specific write ups of those interviews are not public documents. In addition, statute provides a specific provision for the Director to be able to keep the identify of anyone who is a source of information confidential should they so request.

Chair Katz asked Director Ashcroft to explain how OPEGA handles a request for confidential working papers from the Committee or the public. Director Ashcroft said OPEGA is happy to be transparent about the underpinning of their work and would provide the GOC the supporting information without violating the confidential nature of specifics. If the media requests particular backup detail for something in an OPEGA review, that information is not provided directly to the media. If the information was going to be made public, it would be done through presentation to the GOC.

- **Review of Key Processes:**

- **How Topics are Selected**

Director Ashcroft outlined the process of how topics are selected.

Chair Katz asked the Director to talk about Bills that require OPEGA to do work on certain topics. Director Ashcroft said that has occurred a number of times over the years where there has been a bill introduced that effectively directs OPEGA to do a particular review. It happened a number of times early in OPEGA's existence, but less frequently over time. It has consistently been the GOC's view that the preferred channel for directing OPEGA's resources be through the GOC as that is what it is established for and assigning projects through legislation would interfere with the Committee's ability to assign resources to other projects. In the past when legislation is introduced that directs OPEGA to do something, the GOC has worked with the

sponsoring legislators, or the committee of jurisdiction who is hearing the bill, to make them aware of the GOC/OPEGA process.

Director Ashcroft made Committee members aware that when they are working with constituents who have concerns that anything the constituent provides to a legislator is public record and can be subject to FOAA. If that information is provided directly to OPEGA by the person, it is taken in as confidential working papers and therefore the Office can protect the information. She wanted to make sure the members were aware of this because there have been many past Committee discussions with Linda Pistner, Chief Deputy Attorney General, trying to make legislators aware of that, particularly because sometimes constituents are sharing sensitive personal documents when they have concerns they want legislators to address.

Rep. Sanderson asked if there was opportunity to add questions to a review that was in process. For example, if a question comes up that was not necessarily part of the direction that OPEGA has been given by the GOC, is there an opportunity for the Director to come back to the GOC and ask if that question can be added to the tasks. Director Ashcroft said it could work either way. If OPEGA identifies something additional it thinks should be in the scope of a review and it cannot be covered by what OPEGA is already doing, she can go back to the Committee and propose the change. Similarly, although it has never happened, she would expect that if the GOC becomes aware of an additional question that they wanted to add to the scope, that it would be discussed and a formal decision would be made.

RECESS

The Chair, Sen. Katz, recessed the Government Oversight Committee meeting at 10:25.

RECONVENED

The Chair, Sen. Katz, reconvened the meeting at 10:40 a.m.

Chair Katz asked if there was objection to taking an item out of order. Hearing none the Committee moved to **Unfinished Business, Follow-up on OPEGA's Maine Economic Improvement Fund Report, UMS 2014 MEIF Annual Report.**

UNFINISHED BUSINESS

- **Follow-up on OPEGA's Maine Economic Improvement Fund Report**
- **UMS 2014 MEIF Annual Report**

Director Ashcroft said this item is informational, but if the Committee has questions regarding the Annual Report Jake Ward from the University of Maine Orono is at the meeting.

Director Ashcroft said OPEGA released the Maine Economic Improvement Fund Report in June 2014 and had several recommendations. One being that the University of Maine System should establish, and being reporting on measurable goals and objectives for MEIF as required by statute. The University System's action item on that was to establish those goals and objectives as part of a strategic plan approved by the University of the Maine Board of Trustees. The University informed OPEGA that they would see the results of that work in the 2014 Annual Report of MEIF. She noted that the University included in the Annual Report a discussion of the strategic outcomes, goals and metrics they are going to be using for the Fund going forward.

Director Ashcroft said OPEGA also noted in the Report that even though UMS did not have approved goals and objectives they did consistently report several metrics in their annual reports to the Legislature on MEIF. OPEGA had concerns with the reporting of the metrics, either that they were calculated incorrectly or reported inconsistently over time in the reports and, thus, were not as transparent and accurate for reporting to

the public. Another of the University's action items was to revise and review the processes they were using to gather the information for those metrics, to bring consistency and accuracy, both in the way they calculated them and reported them to the Legislature.

Director Ashcroft said OPEGA has reviewed UMS's 2014 MEIF Annual Report and did see the expected improvements in the contexts for and discussion of the metrics. OPEGA has not verified UMS's numbers for accuracy, it appears from the way UMS is portraying them, that they have addressed some points OPEGA had raised.

By virtue of UMS's Annual Report, Director Ashcroft said OPEGA is prepared to officially close out those two recommendations in the MEIF Report given the subsequent action the University has taken. She said there are other recommendations from OPEGA's Report that are still open and she will keep the GOC informed of the status of those. The University is due to report back to the Committee in March 2015 with regard to, not only the remaining open action items, but some significant discussion that the GOC had with the Chancellor of the University System about what their approach was going to be going forward in deciding where MEIF was going to be used.

Chair Kruger said when he was first appointed to the GOC he was totally unaware of MEIF and what it was supposed to do and what it does. He thinks the UMS MEIF 2014 Annual Report was what the GOC needed. He also believes it is a great program and hopes the Legislature continues to support it because they have been doing a good job for Maine.

Sen. Johnson appreciated seeing the information because that was the direction the Chancellor suggested the University was moving towards. He asked whether in the future there would be additional information that summarizes the planned percentages, or amounts that are to be allocated and invested in the different technology sectors.

Mr. Ward introduced himself and said what UMS has reported on are the outcomes and they do have some distribution by sector. UMS is less likely to have strategic targeted percentages, or amounts going in because, in part, what they are doing is reacting to opportunities, as well as reacting to needs. He said the University can show how they are projecting the budgets and directions, but it is not, for example, that they are going to put 25% here because it is more responsive to what is coming about in the State and also were federal funding is available

Rep. Duchesne presumed the MEIF review was a wakeup call and required some institutional changes in order to produce a report that is more transparent. The accounting has changed and he asked if those changes were institutionalized and routine. Mr. Ward said UMS had always done reports, but as OPEGA pointed out, UMS did not have it aligned with any specific strategic goals or objectives. UMS has always been very open about how the money has been spent, but they had found USM was counting things a little different so now there is a uniformed process and it is more routine. Very extensive accounting packages and software changes are being implemented to be able to track that more uniformly and consistently. Mr. Ward thinks all the report recommendations were for the right things and UMS is acting more like a system which is part of what the Chancellor was trying to do and the Board of Trustees overall.

Sen. Burns thanked Mr. Ward for his work with the GOC saying it was not always easy, but believes it got to a good end. He also thanked him for the tour he was given at the Franklin Aquaculture Center and recommended the tour to other members of the Committee.

Chair Katz asked if the federal money was more scarce than it has been in the past and within MEIF's seven technology sectors is there more opportunity within certain sectors for getting federal matching dollars. Mr. Ward said yes, no, and maybe. He referred to the table in Figure 1 in UMS's MEIF 2014 Annual Report which shows the overall amount of federal dollars in the combined seven sectors. They had a good year in 2010, but then and with the way the congressional budgets have worked, there was a fall off, but they are now starting to see a turnaround in available opportunities. Areas that they have seen strength are Department of

Defense, Department of Energy, and US Department of Agriculture because of UMS's natural resource base and some of their industries. Mr. Ward said for their own institutions, NIH funding is not as robust as, for example, the Jackson Lab, which is almost one hundred percent NIH. So it is about where UMS has capacity and where those opportunities are, but like the natural science foundation grants it is not so much targeted at one sector, but targeted to overall approaches. For example, they have the new award for aquaculture from the National Science Foundation where the Foundation had never funded aquaculture before. Mr. Ward said that is why he stated earlier his answer was yes, no and maybe. (A copy of UMS 2014 MEIF Annual Report is on file in OPEGA.)

The Committee thanked Mr. Ward for attending the meeting and answering their questions.

Director Ashcroft continued with **Orientation of New Members**

- **How Requests for Reviews Are Processed/Considered**
- **Checklist for Considering Potential Topics**
- **How Reviews are Conducted**
- **How Reports are Received**
- **Voting Processes and Procedures**

Sen. Johnson referred to the voting process and procedures noting that it said there are no abstentions allowed and when the Committee is voting to place a review on the Work Plan or On Deck. He could envision that there may be a circumstance where there is a conflict if a member had an opportunity to vote against investigating something that he/she had a particular interest in or where a family member would benefit. He was curious of the origin of that and the thought process around not allowing abstentions in that situation. Director Ashcroft thought there was more specificity to that in the GOC's Committee Rules. She said the GOC's Rules are modeled from what exists in the Joint Standing Committees' Rules, but she did not know if that provision was specifically added to the GOC Rules.

Sen. Johnson believed the Joint Rules allows abstention for reason of being excused for conflict. Chair Katz thought it might be a recusal. He said if the GOC's Rules don't provide for them, the Rules should be amended to do so.

- **Description of GOC/OPEGA Website**

Director Ashcroft summarized what information was on the GOC/OPEGA Website.

Chair Katz asked if there was objection to taking an item out of order. Hearing none the Committee moved to **Unfinished Business, Review of OPEGA Information Brief on Follow-up on Health Care in State's Correctional System**

- **Review of OPEGA Information Brief on Follow-up on Health Care in State's Correctional System**

Director Ashcroft said at the last meeting of the 126th GOC in November 2014 OPEGA released its Information Brief on Follow-up on Health Care in State's Correction System. OPEGA did a review of that subject matter in 2011 and were continuing to follow the actions taken by the Department of Corrections (DOC) in response to OPEGA's recommendations from its report with the goal of improving, not only the health care service provision in the institutions, but more importantly, the DOC's monitoring of how the contractors being hired to provide those services were performing. DOC has taken a number of significant actions toward improvements regarding some of OPEGA's Report recommendations and other actions they were already planning on doing. Those actions included issuing a new request for proposal for a health care services vendor. Correction Care Solutions (CCS) is the new vendor who began providing services in July 2012. As OPEGA was completing its follow-up work, some advocacy groups came forward and made OPEGA aware that they were still receiving a number of complaints and requests for assistance with regard to health care services in the Corrections System.

The groups thought the communications and requests they were receiving indicated that there were still real areas of concern with the services that were being provided to prisoners within the corrections system. That letter came to the GOC as a request for an additional review. Because OPEGA was already involved in follow-up work, the Committee assigned OPEGA to do a formal follow-up review to determine whether the complaints being received by the advocacy groups are really indicative of systemic problems that still exists in the provision of health care services.

OPEGA's Information Brief was presented at the last meeting of the 126th GOC so it has not been through the entire process yet. Director Ashcroft said it was the intent to present it to the new GOC and then move forward with the rest of the Committee's process for receiving a report.

Mr. Kruk summarized OPEGA's work on the review of medical records for a sample of prisoners that was the majority of OPEGA's work on this project. Director Ashcroft summarized the Information Brief.

Sen. Gerzofsky asked for a short description of what inaccurate information means. Mr. Kruk said it was something that OPEGA thought of as substantively incorrect. For example, a claim that the prisoner was not seen by a medical professional when OPEGA could see in the medical records when they were treated and by whom or a prisoner claimed that no one had taken his vitals and it could be seen where they were in the Infirmary and their vitals were being taken every four hours. The documentation clearly refuted what the claim was. Director Ashcroft gave the example of the prisoner saying he had not received anything for his pain, but OPEGA saw that what it was translating to was that the prisoner had not been given opiates for their pain, because it can be seen that they were actively prescribing a pain regiment for the prisoner, so OPEGA would have determined that to be inaccurate.

Rep. Sanderson asked whether DOC's pain management philosophy was being shared with outside specialist so there be no conflicts and there is continuity between prescribing practices once they are returned to the facility. Director Ashcroft thought that would be a good question for DOC. Chair Katz said they would come back to Rep. Sanderson's question later in the meeting.

Sen. Johnson said if DOC was substituting what the specialist recommended with what they believe to be appropriate, was someone consulting with the specialist in determining if DOC's treatment was appropriate for the person's problem.

Mr. Kruk said at times OPEGA could see in the progress notes almost a negotiation where the providers at the prison would contact the specialist to inform them of their philosophy. Director Ashcroft did not want to give the impression that the specialist sends their recommendations and they are completely ignored by DOC. That is not what was seen. The pain medication cases were the most typical examples seen of where those prescriptions were changed when the prisoner went back to DOC. In cases where they were sent out for a diagnosis or surgery consult, OPEGA could see in the records that there was a discussion with the inmate about that, similar to if you went to have a surgery. There is a component of is this elective, is it necessary, what are the risks associated with it that might make them decide not to do it. The factors are similar to if your primary care provider sent you to an outside specialist and that specialist reported back to your primary care provider and you worked with your provider on it. The specialists' reports are received, they might have telephone conversations, they might be able to see from what is directly in the specialist's report what they need to see and then, if it is not incongruent with the philosophies of DOC, they would proceed.

Sen. Johnson asked then if there was in fact a consultation that happens and a handoff process of what the treatment should be within the prison setting. Mr. Kruk said his understanding is that DOC's treatment is in consultation with the specialist.

Rep. Mastraccio's questions were regarding when a prisoner had surgery, or had to be hospitalized and treated by a specialist, who makes recommendations for pain meds. She asked whether DOC ever gave opiates. Mr. Kruk said DOC will provide opiates due to a surgery, or an acute episode, but they do not want to treat chronic long time pain with opiates.

To answer Rep. Sanderson's earlier questions, Chair Katz recognized Deputy Commissioner Breton.

Deputy Commissioner Breton said the medical services' component is directly under her. She said Kim Robbins, Health Services Coordinator, and Holly Howieson, Nurse, III, DOC and Dr. Newby were also in attendance to answer questions.

Deputy Commissioner Breton said they do share information with specialists about their policies. They started through the Board of Physicians. Dr. Clinton, who is the Medical Director, has presented in front of the Board regarding DOC's philosophies and about the way opiates are being changed in society in general for pain management. If a prisoner comes back from an outside procedure and has been prescribed opiates for a long period of time for pain management, Dr. Clinton will reach out to the provider and do one-on-one education. DOC does provide opiates in the infirmary if someone has had surgery, but opiates inside a correctional facility become money, a strong arm issue and highly sought after. So they do limit opiates to those medically necessary situations and try to confine it to the seven bed infirmary. DOC tries to control it closely and that is as much for the security of everybody else in the facility because it is a highly sought after drug.

Sen. Burns said he would recommend that OPEGA's Information Brief be shared with the Board of Visitors as well as other advocacy groups for future reference and thinks it would improve the communication in the future. Deputy Commissioner Breton said she was more than willing to share it with them. When the Brief was presented in November the Maine Prison Advisory Group was at the GOC meeting. She said CCS meets with advocacy groups and she will make sure the Brief is available to them, the wardens and superintendents for their Board of Visitors meetings.

Chair Katz noted that prior to DOC's new medical contract with CCS DOC was contracting with a variety of vendors to provide health care services. One of the goals was to have better coordination and hopeful to reduce costs among other things. He asked if costs have been reduced, or at least held cost stable, as a result of changing to a single vendor. Deputy Commissioner Breton said DOC has stuck to its budget for the last three years, which was very unusual for DOC prior to that. DOC is managing it closely and meets with CCS once a month to review their financials, performance, vacancies, and any critical events that have happened. They consider it a partnership with CCS. DOC's contract with CCS is a risk shared model so there is a penalty to both if DOC starts to go over budget. The shared risks contract allows DOC and CCS to work together. She said they do not cut costs in lieu of services. They maintain costs for medically necessary services. If there are two drugs that do the same thing, and the pharmacy company says they are the same, but one is less, they will switch to the lower cost medication.

Chair Katz recognized Dr. Newby.

Chair Katz asked Dr. Newby if he resided in Maine and he said he did. Deputy Commissioner Breton noted that DOC's last medical services contractor managed services from away, but CCS has actually brought people to Maine, housed them in Maine, and they are available to DOC 24/7. She said it is a different management style and it has worked very well. DOC can get any issue quickly resolved without having to wait for their corporate office to respond.

Sen. Johnson asked Dr. Newby to describe CCS's process for deciding when to use generic or equivalent medications because some doctors have concerns and reasons why they are using a particular formulation rather than the generic brand. Dr. Newby said they utilize what they refer to as a formulary, which is a list of approved medications that match specifically to other non-generic type medications that are used in the community. They look at those medications, not based solely on costs, but which may be deemed most appropriate for use in the correctional setting.

Sen. Johnson asked who was responsible for compiling that formulary and is there a standard reference being utilized. Dr. Newby said they had a full steering committee of physicians from all over the country that they utilize with CCS's main Corporate Offices located in Tennessee. Dr. Clinton and a group of physicians meet on

a regular basis to discuss formulary medication changes. Medications are looked at extensively and then they make a decision of what would be considered formulary. He said they also have a non-formulary list of medications and it just requires a signature to use a medication that is outside the formulary. Dr. Newby gave the example of medication they are using to treat Hepatitis C noting the medication cost \$1,200 per pill but it is being actively used within the Correctional System. They do look at all means of treatment and said it would not be cost effective to withhold treatment to anyone.

Sen. Gerzofsky said he has been a long serving member of the Criminal Justice and Public Safety Committee and medical services in the correctional facilities has been an issue for at least the twelve years he has been involved. He noted that he has seen a reduction in the letters he is receiving from inmates.

Chair Kruger asked if CCS had a preferred, or exclusive, medication supplier or pharmacy. Dr. Newby said CCS uses a national vendor, Diamond Pharmacy, located in Pennsylvania. They send requests and it is overnighted to them. He said as backup they use local pharmacies located near the various correctional facilities.

Chair Kruger referred to the use of outside specialists and asked why CCS would send a patient to an outside specialist who then does not have prescription privileges, or staff privileges, so CCS has to redo what the specialist has done. Dr. Newby said that was a good question. One of the things people have to understand is that CCS takes each patient one at a time and assesses them on a case-by-case basis. The perception you may have that individuals are sent out, seen and then those recommendations may, or may not, be followed is a misperception. There is an active interaction and dialogue that goes back and forth between them about the ways in which certain ailments can be treated and CCS's physicians work their hardest to abide by the recommendations given to them. For example, if there is a recommendation that someone needs to have a knee replacement and all the other alternative means of treatment and therapy have been done, CCS will absolutely do a knee replacement and ensure that the person gets the adequate follow-up, occupational therapy, etc. The overwhelming majority of recommendations that are made from the outside are followed to the best of CCS's ability.

The GOC members thanked both Deputy Commissioner Breton and Dr. Newby for attending the meeting and answering their questions.

The GOC will hold a Public Comment Period on OPEGA's Information Brief on Follow-up Review of Health Care in the State Correctional System at their next meeting on February 13, 2015.

RECESS

The Chair, Sen. Katz recessed the Government Oversight Committee at 11:55 a.m.

RECONVENED

The Chair, Sen. Katz, reconvened the meeting at 12:30 p.m.

REVIEW AND ADOPT COMMITTEE RULES

Director Ashcroft referred members to the GOC Committee Rules and noted that she had previously discussed with the Chairs an issue in "**7. Procedures for public hearings.**" She said it states that "the Committee may not hold a public hearing to solicit public input on a final report until at least 15 days after that final report is received by the Committee and distributed to the public...". She said there are times when the GOC is meeting on a two week schedule and that public comment period comes at 14 days rather than 15.

Director Ashcroft also referred to "**9. Voting**" because of the GOC's earlier discussion regarding abstain or recusing themselves from a vote.

Chair Katz thought the Committee Rules would supersede OPEGA's voting procedure document. Director Ashcroft will make the change to the Voting Procedures.

Director Ashcroft said section "H." addressed the Committee's vote on OPEGA's reports using the word "Endorse" and questioned whether there was any additional language that the Committee wanted to add to clarify what the Committee considers the endorsement to represent. Statute does not define it in any way, but almost every time the GOC first takes a vote of endorsement a question arises regarding what that really means. If the Committee wanted to add any clarification to that, she wondered whether the Committee Rules would be the vehicle to do that.

Chair Katz asked if Director Ashcroft could write something for the GOC to consider as an amendment and suggested that the word "endorse" be changed to "accept" because endorse seems to carry a lot more implications than accept. To him it means that he agrees with everything that is said as opposed to accepting the report indicating it was done right and the work product is what the GOC had asked OPEGA to do.

Sen. Johnson asked if the word "endorse" was statutory language and Director Ashcroft said it was.

Chair Katz apologized and said his previous suggestion of changing the word "endorse" was out of order.

Rep. Duchesne asked under what circumstances an OPEGA report is sent back to the drawing board. Director Ashcroft said the GOC really does not have that opportunity and the vote is the Committee's way of conveying to their peers what they think of the report, as opposed to sending it back to OPEGA for further work.

Sen. Burns asked if the GOC could ask for more work to be done rather than actually endorsing a report or does it have to be done incrementally. Director Ashcroft said they usually do that incrementally. There is a period where the GOC asks for additional information, either from OPEGA, or the agency, as part of what they are considering. If there is actual further review work that needs to be done, that is carved out as a separate project and moved on to the Work Plan.

Sen. Burns had concerns about absentee votes needing to be in by "5:00 p.m. on the date of the vote" and said that was also discussed with the joint standing committees he serves on. He would like to have that changed to "5:00 p.m. on the following business day of the vote" because of the conflict of having two committee meetings at the same time. Director Ashcroft said that is up to the Committee and what they want to maintain for consistency with the other committees.

Motion: That the Government Oversight Committee moves that E. 2) of the Committee Rules be amended to read "up until 5:00 p.m. on the next legislative day". (Motion by Sen. Burns, second by Rep. Campbell.)

Discussion: Sen. Johnson noted that in E. 1 the language used is "business day following the vote" and perhaps it should be up until 5:00 p.m. on the next business day after the vote rather than legislative day.

Rep. Campbell preferred legislative days because business days are sometimes not consistent with legislative days.

Director Ashcroft said as a practical matter trying to track a legislative day would get difficult for the Office and she thinks the way it is currently written is consistent with the voting procedures for the Legislature as a whole.

Rep. Duchesne, Sen. Burns and Rep. Campbell each gave examples for using legislative days or business days and what would constitute a legislative day questioning whether that would be a day you have Committee work or is it only when there is a session day.

Sen. Gerzofsky said the issue of legislative versus business day is being brought before the Joint Rules of the House and Senate Committee on Thursday, January 29th.

Sen. Diamond asked if the member who missed the vote have to be present to register their vote or can they vote long distance. Director Ashcroft said if the member was not on campus at the time of the vote they would have until noon on the 2nd business day following the vote. Director Ashcroft said within that time frame, and with the permission of a presiding officer, a member can register their vote from long distance. Sen. Burns said he followed that process once and he had to jump through a lot of hoops to get a presiding officer's permission.

Chair Katz said because the Rules Committee was meeting and would be discussing this issue next week, and because the GOC was waiting for language from Director Ashcroft regarding "endorse" any way, perhaps the GOC should wait for that information before voting on the above motion. Sen. Gerzofsky said there have been concerns from other legislators regarding the voting procedures and that is why the Rules Committee will be discussing it.

The Committee agreed to wait until the next GOC meeting to take action on the above motion.

NEW BUSINESS

• Presentation of OPEGA 2014 Annual Report

Director Ashcroft presented OPEGA's 2014 Annual Report.

Rep. Mastraccio referred to the mention in the Annual Report of the contracted evaluation DECD most recently had done on Economic Development Programs. She remembered seeing the first Report on Economic Development Programs from that evaluation but, although she is and had been a member of the LCREED Committee, she does not recall receiving a copy of the second report. Director Ashcroft said she would forward that report to the members of the GOC. Director Ashcroft had talked with the GOC Chairs about adding this item to an Agenda for GOC discussion of what they want to do for next steps on OPEGA's Economic Development reports as that report still has open recommendations that have not been addressed – some of which are repeated in the most recent report from the consultant.

Rep. Campbell noted OPEGA's Annual Report said 268 Maine towns had visited the OPEGA's website and asked if the Director had a breakdown for which towns those were. Director Ashcroft said she will get that information for the Committee.

• Discussion of Process for Establishing OPEGA Work Plan for 2015-2016

- Review of Current Work Plan**
- Review of On Deck List Topics**
- Solicitation of New Topics**

Director Ashcroft said the GOC will decide what will be on OPEGA's Work Plan for the next two years and there have been various ways that past Committees have gone about that. She said she was going to suggest a proposed process that seemed to have worked in the past.

Director Ashcroft said currently OPEGA has four projects in progress, two in suspended status, and two that are still in planned status. For one of those in suspended status OPEGA will bring a project direction statement at its next meeting. She noted that several of the projects were added by the GOC in 2014. With what is on the current Work Plan, OPEGA has enough work to keep them busy for the rest of the year, but the way they had proceeded with the effort in the past is to have a discussion and a voting process for what will go on the Work Plan, including the topics that are currently on the Work Plan that are rolling over from one GOC to another.

Director Ashcroft referred members to the On Deck list in their notebooks with the topics that the GOC has placed on that list for the purposes of reconsidering at a future time. Typically there are also new topics Committees members would like to propose for OPEGA's Work Plan. In the past, she had OPEGA staff do a bit of research to update the background information for one of the topics on the On Deck list prior to bringing it to the GOC. She said that research can be time-consuming to do so instead she is providing the list to the Committee for purposes of identifying topics that members are interested in. OPEGA can then update the information for those topics for the GOC's consideration.

Director Ashcroft said typically the GOC will also solicit ideas from other legislative committees, from members of the GOC, and the Legislature at large. Last week the GOC Chairs sent letters to the Joint Standing Committees to see if they have any particular requests for reviews. She said what has been done in the past is they have taken the topics from all these different sources and the Committee identified fifteen to twenty topics to vote on according to their highest priority or level of interest. Those topics are the ones that the GOC had further discussions about whether to add them to OPEGA's Work Plan or deciding what else they would like to do with the topic.

Sen. Diamond asked if there would be an opportunity for the Transportation Committee to make a specific request for the OIT Follow-up project that OPEGA already has underway. He said in particular he was referring to the police radio system that has been struggling for years. Director Ashcroft said OPEGA did not get into any specific project with regarding to the police radio system in the review that is in progress. She said OPEGA is hiring a consultant to do a final assessment of the improvements that OIT has made within the three areas that are the focus of that review. As part of their methodology, the consultant proposed looking at a couple of projects so she might suggest to the consultants that that would be one in particular that would be valuable to review.

Rep. McClellan wanted to clarify that a review request can be brought forward at any time and would not have to be done now or within a few months. Director Ashcroft said that was correct. What the GOC has done in the past is to select a certain number of topics to put on the Work Plan and leave the flexibility for the Committee to consider new topics, change them out or add more. The GOC then has discussions regarding the priority of the topics.

Sen. Burns asked if the GOC had to go through the voting process again for the current Planned topics on the Work Plan. Director Ashcroft said her suggestion, and she thinks it is what was done last time, was any topic that OPEGA does not already have in process be added to the group that are being reconsidered and, by virtue of that, the Committee would vote on them again. Sen. Burns asked what the notification process was for those topics so that people could provide information before the GOC votes on the topics. Director Ashcroft said the Committee can decide which topics they would like more information on then OPEGA will do the research, or get information from agencies and bring updates back to the Committee.

Chair Katz said people can come forward at any time, legislators or members of the GOC, with suggestions on reviews, but in order for the Committee to set their collective priorities, he asked that people get their suggestions to Director Ashcroft in the next week or so. He noted that staff would need at least a week lead time to be able to process the topic before it gets presented.

Chair Katz said currently there is a list of On Deck topics and without knowing what new priorities might be suggested, it would be difficult to prioritize them at this meeting. He suggested that if any new topics are received within a week or so, that those requests be circulated to GOC members. Director Ashcroft said if they come in as a letter to the GOC directly, OPEGA would disseminate them to the members. If they come as a letter to OPEGA, they are held as a confidential working document. She suggested if the Committee wanted the request shared to direct them to the GOC.

Rep. Mastraccio thought the Committee was talking about the On Deck list and first they had to decide if everything currently on the Work Plan was going to stay on it. Director Ashcroft said her suggestion was that the topics in the In Progress section OPEGA needs to finish. For the next meeting she will have a suggestion

on a Suspended status topic, the DHHS Workplace Culture and Environment, and the Committee will have an opportunity to make a decision on that at that time. She suggested taking the others, the other review in Suspended status and the two in Planned status and set those in the bucket for what the GOC is going to consider for the next biennium Work Plan. OPEGA will provide the Committee with all of the background information about how and why they are currently on the Work Plan. In addition if there are topics that are on the On Deck list that anybody has interest in knowing more about she asked members to get those topics to her as soon as possible in order to assign staff to update the information.

Sen. Burns said the process concerns him because one of the Planned items has been a concern of legislators for the last couple of GOCs. He thought the Public Utilities Commission topic was to be on the Work Plan and was to be done, but other topics came along that took top priority so the GOC never got an opportunity to focus on the scope. Director Ashcroft said that was one that the GOC added in April 2014 and was at the request of Rep. Boland. Sen. Burns was concerned that PUC had to go back in the bucket again. Director Ashcroft wanted to make sure the scope of the PUC project was clear because it is not the general operations of the PUC. It was a very particularly scoped concern about whether the PUC was properly and independently assessing costs and benefit impacts with regard to information that was presented to it during cases and whether the staff was doing independent analysis to support the decisions of the PUC. The Committee was split on the original vote. If the GOC is interested in something broader then that is an additional discussion.

Chair Katz remembered three issues regarding the PUC. Whether it was user friendly and that review was done and completed. The second regarded whether they were relying too much on industry analysis and the third was the concern of Rep. Boland's with respect to electromagnetic fields and whether the PUC was doing enough to make sure that horrible things did not happen with respect to that. Director Ashcroft said that was not On Deck. There was not a vote taken on that.

Sen. Johnson did recall the discussion when PUC was added to the Work Plan in the Planned category. It had come out during the GOC's questioning of PUC staff and others that there were differing definitions of what levels of electromagnetic field densities constituted safe conditions. There appeared to be no logic to how they were applying criteria nor could they indicate why those particular values were being used and what the basis was for determining that it was safe. The discussion was they wanted to know that there is a properly based reason for all of the criteria the PUC is using in assessing the safety which is one of their responsibilities.

Rep. Mastraccio said the Committee members who were not involved in the discussions probably need to have the explanation to be able make an assessment.

Rep. McClellan reviewed what Committee members were supposed to be doing regarding selecting topics. Members are to review the current Work Plan, prioritize the On Deck list and then any new ideas for topics. He asked for clarification regarding a formal letter. Chair Katz said with respect to anything that is On Deck or any requests that might come forward, the Director in the past provided a survey document, and members had the opportunity to take it with them for scoring their priorities. The results of the survey were correlated and brought back to the Committee and then at the following meeting the GOC set their priorities. Director Ashcroft agreed. She said the Committee could potentially start with the On Deck list, new ideas that come in and what is on the current Work Plan and then the Committee can decide from there how they want to proceed. If a member had a new idea for a topic then OPEGA is looking for a formal letter that is consistent with the Request for a Review form that would address the particular points the GOC will be considering. If there are topics currently on the On Deck list that they find of particular interest, send her an email with a list of those topics.

Rep. Campbell mentioned the Beverage Container Recycling topic and Rep. Sanderson mentioned the Leased Office Space topic.

Chair Kruger said reviewing the Work Plan and the On Deck list is not done on a fixed date and there is no deadline in terms of bringing new topics.

Chair Katz summarized what the members of the Committee were to do.

1. If they have specific ideas for new review topics to get them to the Director within the next week or two.
2. To review the current Work Plan and the On Deck list and let the Director know if there is further information they would like to have on any of the topics for presentation at the next meeting.
3. That the members be ready to have a general discussion regarding topics and decisions of what the Work Plan will be going ahead.

UNFINISHED BUSINESS

- Review Status of LD 6 – **Resolve, To Implement Recommendations of the Government Oversight Committee To Strengthen the Ethics Practices and Procedures for Executive Branch Employees**

Director Ashcroft said LD 6 was initiated by the GOC and called for some strengthening of the ethics framework. The legislation comes out of the work the Committee did on the Healthy Maine Partnerships Maine CDC review and directly addresses a recommendation made in the Public Utilities Commission's report where OPEGA identified ethics as a piece of the question OPEGA was asked to answer for the GOC around what measures are in place to ensure that the PUC is not biased and is staying neutral in its decisions. OPEGA identified that the Commission on Governmental Ethics and Election Practices, in 2009, at the direction of the Legislature, had issued a report on ethics laws which contained recommendations for improvements for the ethics framework which have never been acted on. The basis for the legislation is to implement, at least the idea, if not the actual content of some of those recommendations as well as additional items the GOC had identified as issues when reviewing what existed for ethic policies, standards and laws, etc.

Director Ashcroft said the LD is up for public hearing on Wednesday, February 4, 2015 at 1:00 p.m. before the State and Local Government Committee. Typically one or more members of the GOC will go before the Committee to speak on the bill. Chair Katz said Chair Kruger and he plan to be at the State and Local Government public hearing. He said the more support the better and everyone is welcomed to attend and testify. Chair Katz asked that if members were planning on attending that they let Director Ashcroft know.

REPORT FROM DIRECTOR

- **Status of Projects In Progress**

Director Ashcroft said OPEGA is currently giving priority to the **Riverview Psychiatric Center (RPC)**. The GOC placed the review on OPEGA's Work Plan in September 2014 with priority status. OPEGA has just finished doing the work plan for the project and staff is carrying out that work plan. Chair Katz said the scope of the work was tailored taking into account the fact that there were other players involved. Justice Wathen had retained a consultant to come in and do a report with regard to RPC's compliance with the Consent Decree. That report has been done. He said there was also a referral to the Attorney General's Office on some allegations made to OPEGA. Chair Katz asked, now knowing the information gathered from those actions, is the Director certain that the GOC has the proper scope questions for OPEGA's review. She said the scope questions were proper.

Office of Information Technology is a follow-up review. OPEGA has been monitoring the progress on OIT's action plan and reporting that information back to the GOC. As a final piece of the review, OPEGA is in the process of engaging a consultant with technical expertise in the information technology area to do a more thorough and independent assessment of what progress OIT has made over the past two years and whether there continues to be challenges or gaps that were expected to be addressed that have not been. OPEGA is finalizing

the contract with the consultant and they are expected to start working on Monday with their final report due by the end of April.

Special Project: Tax Expenditure Programs Phase II. OPEGA is in the process of drafting a full proposal which also includes Director Ashcroft proposing a schedule on which tax expenditure evaluations will be done, who would do them, what kind of data would be needed, and what the sources of the data are. The original process envisioned OPEGA being the ones to conduct the full evaluations under the oversight of the GOC with their results and recommendations going to the Taxation Committee for their consideration and implementation as opposed to being worked by the GOC. She is also to put forth an estimate of what additional resources might be needed in OPEGA or elsewhere in order to have a process. The proposal is due to the Taxation Committee on March 1, 2015 so OPEGA is in the last phases of the review. She will be at the Taxation Committee on January 28, 2015 to bring the 127th Committee up to date on what work OPEGA is doing for them and what they can be looking forward to receiving.

State Lottery is a project that is still in progress because staff is working on it as resources are not engaged in other work.

DHHS Workplace Culture and Environment and **DHHS Licensing and Regulation of Child Care Providers** are in suspension and were discussed earlier in the meeting.

• **Status of OPEGA Action Items From Past GOC**

Not discussed.

• **Status of OPEGA's Budget**

Director Ashcroft provided the status of OPEGA's budget through the end of the second quarter for FY15 and she will plan on bringing this information, and the proposed budget for FY16 and 17 to the next GOC meeting.

NEXT GOC MEETING DATE

Chair Katz said in terms of scheduling GOC meetings, the general plan was to meet on the second and fourth Friday's of each month on a regular basis. He asked if Committee members had any objection to that schedule. Hearing none, the next GOC meeting was scheduled for February 13, 2015 at 9:00 a.m.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 1:55 p.m. (Motion by Rep. Duchesne, second by Rep. Campbell, unanimous vote.)