



SEN. NATHAN LIBBY, SENATE CHAIR  
REP. GENEVIEVE MCDONALD, HOUSE CHAIR

MEMBERS:

SEN. LISA KEIM  
SEN. DONNA BAILEY  
SEN. RICHARD BENNETT  
SEN. JEFFREY TIMBERLAKE  
SEN. ELOISE VITELLI  
REP. KATHLEEN R.J. DILLINGHAM  
REP. AMY ARATA  
REP. H. SAWIN MILLETT, JR.  
REP. MARGARET O'NEIL  
REP. HOLLY STOVER

MAINE STATE LEGISLATURE  
GOVERNMENT OVERSIGHT COMMITTEE

**MEETING SUMMARY**  
**January 29, 2021**  
**Accepted as written 2-12-21**

**Call to Order**

The Chair, Sen. Libby, called the electronically conducted Government Oversight Committee meeting to order at 9:05 a.m.

**ATTENDANCE**

Senators: Sen. Libby, Sen. Keim, Sen. Bailey, Sen. Bennett and Sen. Timberlake  
Absent: Sen. Vitelli

Representatives: Rep. McDonald, Rep. Arata, Rep. Millett, Rep. O'Neil and Rep. Stover  
Joining the meeting in progress: Rep. Dillingham

Legislative Officers and Staff: Matthew Kruk, Acting Director, OPEGA  
Scott Farwell, Senior Analyst, OPEGA  
Amy Gagne, Senior Analyst, OPEGA  
Jennifer Henderson, Senior Analyst, OPEGA  
Kari Hojara, Analyst, OPEGA  
Joel Lee, Analyst, OPEGA  
Ariel Ricci, Analyst, OPEGA  
Etta Connors, Adm. Secretary, OPEGA/Clerk, GOC

**Introduction of Committee Members**

The members of the Government Oversight Committee introduced themselves.

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Augusta, Maine 04333-0082  
Telephone: 207-287-1901 FAX: 207-287-1906

## **Introduction of the Office of Program Evaluation and Government Accountability Staff**

OPEGA staff introduced themselves. Mr. Kruk noted that Lucia Nixon, currently an Analyst in the Office of Policy and Legal Analysis, has been appointed the new OPEGA Director and will be joining the Office on February 22, 2021.

Sen. Libby reviewed and summarized the electronic meeting procedure. He noted that a copy of the meeting procedures would be provide to any Committee member who requested one.

Sen. Keim wanted to clarify the Chairs' process for Committee members' questions during meetings. Sometimes in the middle of a presentation a committee member may have a question and then a follow-up question and asked if the Chairs prefer that members stop after every question and ask the Chair's permission to continue or, if the member is in a line of questioning, can they just continue without requesting to proceed with another questions.

Sen. Libby thanked Sen. Keim for the question. The Chairs are open to the Committee members' thoughts. His initial reaction is that if a member would like to engage in a line of questioning, they would note that when they first raise their hand to speak and that will give the Chairs a sense of what the member is intending to do. Although, there are times when a member may be interested in only asking one question and, based on the response, that triggers a follow-up question or two. In the in-person format the member usually asks the Chair for leave to continue, and Sen. Libby thinks that is appropriate. He also recognizes that with the Committee being in a virtual setting and needing to mute and unmute themselves, it may be awkward, but he thinks the Co-Chairs would like to facilitate the conversation at the Committee level and that all members should feel they can ask the questions they need to ask at the time it is right. The Co-Chairs will pledge to work with the GOC members to make sure they are able to ask the questions they need to.

Sen. Keim wanted to be respectful in how the Chairs wanted to run the Committee and to make sure members can continue their line of thought.

Rep. McDonald said she often has a follow-up question to a response so would be happy to let members continue with their questions until they receive all the information they would like to have.

## **Summary of the November 20, 2020 GOC Meeting**

The Meeting Summary of November 20, 2020 was accepted as written.

### **Committee Orientation**

Mr. Kruk explained that notebooks were sent to each Committee member and that is what they will be working from each meeting. Included on the agenda is a column listing what tab each agenda item will be under. All members will be emailed meeting material and, for those wishing to receive hard copies, that material will be mailed to you at home or delivered to your State House Office, with instruction for updating their notebooks.

Mr. Kruk noted that much of the orientation material covered at today's meeting will be in the back of members' notebooks as reference materials for when specific situation come up during meetings.

Mr. Kruk summarized the Committee orientation documents.

- **Statutory duties and responsibilities of the Government Oversight Committee and OPEGA GOC and OPEGA Mission Statements**

There were no questions by the members of the Committee on this section of Mr. Kruk's presentation.

- **Summary of GOC Key Processes:**

- Review selection process**

- Flow chart**

- Check list tool**

- How review requests are made**

- Overview of the review process**

- Receipt of OPEGA reports**

- Post report actions**

Sen. Libby asked Mr. Kruk, for the benefit of the new Committee members, to talk about the last Rapid Response Review the GOC initiated.

Mr. Kruk said the GOC directed OPEGA to undertake a review regarding the death of two children. OPEGA stopped its work on other reviews in process to focus on the request so that a report could be released as fast as possible.

Sen. Libby noted that it was a case where there was significant media coverage over the murders of the two young people. A number of legislators approached the GOC and asked that they use OPEGA's resources to dive in and try to understand the breakdown that allowed those two murders to occur. That was the last rapid response request the Committee conducted.

Mr. Kruk also noted that the GOC can indicate to OPEGA that something is a priority and that can be reflected in the Work Plan without making it a rapid response. There have been other times that there was a sense of urgency around a topic and OPEGA can shift more of its resources to that project.

Sen. Libby referred to the confidentiality of information and said if a constituent is contacting a legislator regarding an investigation, any documents a constituent sends to the legislator would be subject to public inspection under FOAA. However, if the legislator directs that constituent to send documents directly to OPEGA staff, those documents could remain confidential. Mr. Kruk agreed.

- **Description of GOC/OPEGA Website**

Mr. Kruk gave a description of some information on the GOC/OPEGA website

- **Additional reference documents**

Mr. Kruk explained the purpose of the two examples included in this agenda item, the OPEGA Recommendation for Project Direction of the Beverage Container Redemption Program and the Parameters for OPEGA's Full Evaluation of the Employment Tax Increment Financing (ETIF) Program as approved by the Government Oversight Committee 1-22-16.

OPEGA's Tax reviews will be talked about at a future GOC meeting.

## Review of Committee Rules of Procedure and COVID Addendum

Mr. Kruk explained that the draft Rules are the rules that have been sent down to Committees from the Presiding Officers as model rules. Also included is the COVID Addendum which has been added for the purpose of holding electronic meetings. Danielle Fox, Director of OPLA, edited these Committee Rules for the GOC to reflect the fact that the GOC does not have public hearings on LD's. Other than the electronic meeting information, the 130<sup>th</sup> GOC Rules are the same as the 129<sup>th</sup> GOC Rules.

Sen. Libby asked members to review the draft Committee Rules and to offer any amendments they may have.

Rep. Millett said, based on Sen. Libby's opening comments and Mr. Kruk's assurance that the 130<sup>th</sup> Rules resemble the Rules for the 129<sup>th</sup> GOC, with only the virtual pieces asterisked and with the understanding that the GOC can revisit them, if and when we return to the real world, made the following motion:

**Motion:** That the Government Oversight Committee, with the understanding that the Committee can revisit the Rules, if and when, they return to meeting in person, adopt the 130<sup>th</sup> Government Oversight Committee Rules as presented. (Motion by Rep. Millett, second by Rep. Dillingham, motion passed by unanimous vote 8-0, 4 members absent.)

## Report From Director

### Status of projects in process

Mr. Kruk referred to the Work Plan noting that the Committee will receive an updated Work Plan for their meetings and the Director will note any changes on the reviews.

The **Maine Citizen Initiative Process** is in the late stages of fieldwork and some report drafting has started. OPEGA expects to report out on this review in the next few months. **Child Protective Services: Out of Home Placements for Children Removed from Care by DHHS/OCFS** is currently in preliminary research. OPEGA began its preliminary research in 2019. At that time the Office of Child and Family Services (OCFS) was beginning a new strategic plan. OPEGA recommended to the 129<sup>th</sup> GOC that preliminary research be extended for one year to allow OCFS time for their strategic plan to be implemented. While OPEGA has waited, they have collected data and metrics from OCFS and expects to analyze that data and provide the GOC with more information in the next couple of months so the Committee can decide what actions they may want to take, or want OPEGA to take. **Maine Commission on Indigent Legal Services (MCILS)** - OPEGA has completed Phase 1 of the evaluation and reported out to the GOC in November 2020. The GOC has remaining work to do on that review. The second part of the MCILS evaluation is currently in the fieldwork phase. **Follow-up Survey: OCFS Frontline Workers** - in early 2019 OPEGA conducted a survey of Child Protective workers. The GOC was interested in re-surveying these same workers and was in a planning stage of a follow-up survey, but have not started that work in earnest yet. **Pine Tree Development Zone** was a special project assigned by the GOC following a tax expenditure review and was reported out in November 2020. The GOC has remaining work to do on this report. **Seed Capital Investment Tax Credit** is a full tax expenditure evaluation and is currently in the fieldwork phase and OPEGA hopes to report this review out in the fall of this year.

Mr. Kruk said not included on the Work Plan, but he wanted to let the GOC know about, is regarding two proposed parameters for full tax evaluations. They are the Research Expense Tax Credit and the Rehabilitation of Historic Property Tax Credit. Both are in progress and expect to have these to the GOC in late Spring of this year.

**Update on certain action items from 129<sup>th</sup> GOC**

Mr. Kruk reported that the MCILS, Phase 1 report was presented to the GOC in November 2020. The Committee drafted a memo to the 130<sup>th</sup> GOC that will be provided at the public comment period. Following the public comment period on the report the GOC will have committee work sessions as necessary.

The Pine Tree Development Zones Special Project report was presented to the GOC in November 2020. The public comment period and work session for that report need to happen and will be scheduled for a future GOC meeting.

A new request for a review of the Wild Blueberry Commission that came from several legislators was not discussed by the 129<sup>th</sup> GOC so has been carried over to the 130<sup>th</sup> Committee.

Director Fox had presented to the GOC a proposed amendment to statute governing the confidentiality of OPEGA working papers. Mr. Kruk said he was referring that item to the new OPEGA Director, Ms. Nixon, to decide whether she wants to bring it to the Committee this session.

Sen. Keim and Rep. O'Neil asked what the review request is regarding for the Wild Blueberry Commission.

Mr. Kruk said OPEGA has not brought the review request forward because usually when a request is brought before the Committee, OPEGA has some background information from doing preliminary research in order to help the GOC sort through the request. OPEGA has not yet done that work. The Maine Blueberry Commission review request was brought forward by six legislators who are looking for a review of the Wild Blueberry Commission, its stewardship of State blueberry taxes earmarked for marketing, and its relationship to an industry marketing group, Wild Blueberries of North America.

Sen. Libby asked if those requesting the review would be invited to the meeting it appears on the GOC's agenda. Mr. Kruk said OPEGA will notify them.

Sen. Libby said the Committee members needed to keep in mind that they will regularly be reviewing the Work Plan and entertaining new requests for investigations. He expects there will be other requests coming forward in the Spring. The Wild Blueberry Commission letter is the most recent request that he has been made aware of and currently on the Work Plan, and has been for 11 years, is the Substance Abuse Treatment Programs in the Corrections System. He said the Committee needs to take care when deciding which projects, they want to prioritize.

Mr. Kruk said hopefully OPEGA will have the opportunity to provide the Committee with updates on the status of a lot of the projects on the Work Plan so the GOC can consider the relative merits when developing this Committee's Work Plan.

Mr. Kruk noted that there were members back on screen who had not voted on the previous motion. Sen. Libby said the Committee would have to move for reconsideration because there was a roll call vote. He did not believe the Committee could add a vote outside of that procedure.

Rep. Dillingham said because the GOC closed the vote, they would have to reconsider in order to take another vote.

The Chair, Sen. Libby said he would agree to a reconsideration motion if members wanted to revisit the previous vote on the motion to adopt the 130<sup>th</sup> GOC Rules.

Rep. Millett moved to reconsider the vote on the adoption of the Committee Rules. Second by Rep. McDonald. All Committee members were in favor of reconsidering the previous vote by those present.

**Motion:** That the Government Oversight Committee, with the understanding that the Committee can revisit the Rules if and when they return to meeting in person, adopt the 130<sup>th</sup> Government Oversight Committee Rules as presented. (Motion by Rep. Dillingham, second by Rep. O’Neil, motion passed by unanimous vote 12-0. Rep. Vitelli voted on the motion in accordance with the GOC Rules.)

## Unfinished Business

None.

## Planning for Upcoming Meetings

- **February 12, 2021 meeting - the agenda will include the public comment period and work session on OPEGA’s Maine Commission on Indigent Legal Services report.**

Sen. Libby said the Maine Commission on Indigent Legal Services, Phase I report is at the point for a public comment period so the Committee will be hosting that public comment period at the next scheduled meeting on February 12, 2021. This will be the first time the Committee solicits public comment in the virtual format. OPEGA staff have worked with the Chairs and IT Office to make sure that this process runs as smoothly as possible. He provided information about how that process is going to proceed.

Like today’s meeting, anyone who wants to watch or listen to the public comment period, but not necessarily testify are welcomed to do so by using either the YouTube channel for the GOC or to use the Legislature’s streaming audio from the Legislature’s website. If anyone wants to submit written testimony, but again not necessarily testify, they can send that testimony to Etta for inclusion in the Committee members’ materials. The interested parties from the Maine Commission on Indigent Legal Services have been invited to the meeting. The invitations went to the Co-Chairs of the Commission with an extended offer for them to be present and participate and include any staff members that they wish to be present as well. The GOC expects other interested parties, outside of MCILS, to join the conversation. If someone wants to testify they will need to register for the Zoom webinar and send any written materials to Etta. We are asking that only those wishing to testify register for the webinar to make it easier for us during that session to identify who we have called upon and who we have not called upon. If members of the public are interested in watching the Committee proceedings, but are not planning to testify, we would ask them to view the meeting either on the YouTube channel or through the Legislature’s audio stream.

As members, as well as any invited guests, we will serve as panelists in the Zoom program and have functionality similar to today. Members of the public who register will receive an attendee invite, or a dial in number, but will not have functionality as an attendee per se. We will promote attendees to panelists, one-by-one, to give their testimony and then change them back to attendees when they are finished with their testimony and Committee members have no further questions for them. The Committee will then move on to the next person. For any member of the public who wishes to participate with any of these connections, all instructions, links and contact information will be posted on OPEGA’s website under the GOC Meeting page.

For Committee members, interested parties, the public, etc., information that you will need, or will be helpful for you to access the GOC meetings, will be posted on the GOC meetings page on the website. OPEGA staff are happy to answer any questions that any member of the public has about how the meeting will proceed. The contact information is also on that website. At the next meeting the GOC will have the public hearing on Phase I of the MCILS review, followed by a work session on that review.

## **Next GOC meeting date**

The next GOC meeting is scheduled for Friday, February 12, 2021 at 9:00 a.m. Sen. Libby asked if there were any other questions or comments before the meeting was adjourned

Sen. Keim said some people have been following the review of MCILS and wondered when the Committee would be having a discussion on Phase II of the MCILS review.

Sen. Libby said typically the Committee will have a public hearing which is followed by a work session. The work session is an opportunity for the Committee to discuss their next steps. He said the Chairs have talked about having a work session on the same day as the public comment period and also at the following meeting. He asked Mr. Kruk to outline what work the Chairs were planning for upcoming meetings.

Mr. Kruk said at the February 12<sup>th</sup> meeting after the public comment period closed, the Committee will move into the work session on the MCILS report. He wanted to clarify what Sen. Keim meant when she referred to Phase II. Is she referring to the remaining 3 questions of MCILS or what happens as a result of Phase I.

Sen. Keim thought both. The Committee might discuss the whole report in a work session after closing the public hearing on February 12<sup>th</sup>. Mr. Kruk said the Committee may discuss any actions they want OPEGA to take as a result of the Phase I report, or could discuss what direction they want to take from there. He will provide an update of where OPEGA is with regard to Phase II of the MCILS review for the next meeting.

Rep. Millett commended Sen. Libby on his handling of the meeting. He was hoping that the House Chair will have an opportunity to comment and be participating as they get into the YouTube hearings. It is a delicate function and it takes a lot of teamwork between the two Chairs. He thanked Sen. Libby for his openness and for the way he conducted the meeting.

Sen. Libby said Rep. McDonald is a very capable Co-Chair and there will be opportunities for her to lead the Committee's work.

Rep. McDonald appreciated Rep. Millett's comments. She said it is her first time Chairing a meeting so had requested the Senate Chair to help show her how it is done. She looks forward in the future to participating more.

Rep. Dillingham said she looked forward to working with everyone over the next two years.

## **Adjourn**

The Chair, Sen. Libby, adjourned the meeting at 10:51 a.m. on the motion of Rep. Stover, second by Sen. Bennett, unanimous.