



STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0001

Paul R. LaPage
GOVERNOR

Hand Delivery

October 5, 2015

Beth Ashcroft, Director
Office of Program Evaluation and
Government Accountability
82 State House Station
Augusta, Maine 04333-0082

Dear Beth:

The Governor's Office received the Government Oversight Committee's (GOC's) invitation for Aaron Chadbourne and me to appear before the GOC on October 15, 2015. As you know, the situation about which the GOC members wish to question us is the subject matter of a federal lawsuit against the Governor. Consequently, we must respectfully decline the GOC's invitation.

I have reviewed the OPEGA report several times, however, and it seems clear from the information you've gathered, that Good-Will Hinckley (GWH) ultimately decided to terminate the Speaker's employment because of the concerns expressed by the Harold Alfond Foundation (HAF) Board Chair, not because of the Governor's objections. According to your report, the Governor learned on June 5, 2015 that GWH was "leaning towards selecting" the Speaker as its president.¹ The report also indicates the Governor called the GWH Interim President and expressed his displeasure with the choice.² According to the report, while the GWH President indicated there was no threat regarding state funding for GWH, the GWH lobbyist thought there was.³ In either case, your report indicates GWH hired the Speaker anyway.⁴

The report further says that the Governor sent his June 8th letter to GWH expressing his objections to the Speaker as President of GWH.⁵ The next day, after GWH had received the Governor's letter, it announced publically that it had hired the Speaker.⁶ The report also indicates that GWH's decision to hire the Speaker despite the Governor's objections is consistent with the GWH Director of Finance's opinion that, should there be a loss of the discretionary state funding, it would have no significant impact on GWH.⁷

¹ page 12, ¶1

² page 12, last bullet

³ page 12, last bullet

⁴ page 13, 4th bullet

⁵ page 15, ¶2

⁶ page 15, 2nd and 3rd bullets

⁷ page 17, 2nd bullet



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Beth Ashcroft, Director

October 5, 2015

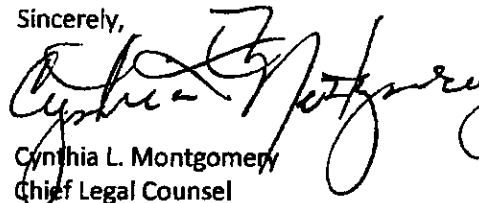
Page 2

Finally, the report shows that it was not until June 18 when the HAF Board Chair expressed concern in a letter to GWH over the loss of the discretionary funding that GWH began to seriously reconsider its choice.⁸ The report further makes clear that no one in the Governor's office, including the Governor himself, had anything to do with HAF's decision-making in this regard.⁹

I highlight these facts to show that Mr. Chadbourne's and my absence from the October 15th GOC meeting will likely have a minimal impact on the GOC's ability to wrap up its inquiry. In the spirit of cooperation, however, if the GOC has specific questions it will present to us in writing, as is a common practice of this Administration, we are willing with the assistance of counsel to attempt to answer them.

Thank you for your time and attention.

Sincerely,



Cynthia L. Montgomery
Chief Legal Counsel

cc: Aaron Chadbourne
Patrick Strawbridge, Esq.

⁸ pages 17-19

⁹ page 13, last bullet; page 15, ¶4, and pages 17-19



STATE OF MAINE
DEPARTMENT OF EDUCATION
23 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0023

PAUL R. LEPAGE
GOVERNOR

THOMAS A. DESJARDIN
ACTING COMMISSIONER

October 13, 2015

Sen. Roger Katz, Chair
Government Oversight Committee
Maine State Legislature
Via electronic mail

Dear Senator Katz:

In its report to the committee, OPEGA provided the summary below of my answers to their questions regarding my decision on June 9 to hold a payment to GWH. I made this decision in response to a statement from DOE's Director of School Finance and Operations that she had already requested a check be sent to GWH and her question to me "Should I have it pulled?"

"The Acting DOE Commissioner explained the rationale for his decision as being rooted in not knowing what would occur between GWH and the Governor, or even what would occur with the FY2016 and 2017 budget as a whole. He believed it would be easier to issue payment a week later (if funded) rather than making the payment in error and trying to get the funds back from GWH. The Acting Commissioner also cited fundamental problems with issuing payments before the budget is finalized and said this practice has now ceased."
(OPEGA, p. 16)

For clarity, I wish to provide more detail to the committee as I did to the OPEGA investigators. Specifically, I think some general context surrounding the potential issuance of a check to GWH on June 9 may be helpful.

1. The state budget had not yet been enacted.

DOE had *no legal authority* to issue the check in question at that time. The \$132,500 quarterly payment to GWH was based on the FY 16-17 budget which the legislature had not yet enacted. Even if a budget had been in place at that time, the start of the new fiscal year was still more than three weeks away. Issuing checks from the state treasury for a budget that had not been enacted and a fiscal year that had not begun would have been highly irresponsible. Between June 9 and July 1 any number of things may have occurred that would have changed the scenario surrounding these funds.

For example, the legislature could have reduced or eliminated these funds from the budget prior to enactment. Had they done so, and the check had already been issued to GWH, DOE would have no legal recourse to retrieve this money, thus incurring an unrecoverable loss to the taxpayers.

2. There was no written agreement in place governing use of the funds.

When the funding for GWH's residential program was first appropriated to the school, DOE drafted a written agreement to govern the use of these funds. This agreement covered only the first biennium of funding, fiscal years 2012-2013. On June 9, 2015, no such agreement existed between GWH and DOE. Had DOE sent a check to GWH in mid-June, it would have done so without this important safeguard.

3. Good Will-Hinckley stated that it had no immediate need for the funds.

None of the information that was available to DOE on June 9 indicated that GWH was in need of the funding before the passage of the budget and the start of the new fiscal year. In fact, just a few days after the meeting at which the funding was held up, Jonathan Wayne, executive Director of the Maine Commission on Governmental Ethics and Election Practices, interviewed James Jurdak, Treasurer of GWH, about the impact that the loss of this funding might have on GWH. Wayne reported in a letter to Speaker Eves on June 15 that, according to Jurdak, the loss of these funds would have virtually no impact on GWH.

"The GWH Director of Finance (who had consulted with the School's Director of Admissions) believed that the loss of the funding would have no significant impact on the number of students attending the School and would not expect a change in the salary of any manager or the laying off of any faculty or administrative staff." (OPEGA p. 17)

The next sentence of this letter states that "The other programs of GWH, such as the Glenn Stratton Learning Center and the College Step-Up program, would continue as well."
(Wayne to Eves, 6/15/15)

4. DOE still needed to make \$1.5 million in cuts from the source of the GWH funds.

The funds from which this GWH payment is drawn do not appear specifically in the enacted state budget. Instead, they fall under a line item in the budget known as "Miscellaneous Costs" that totals \$67 million. During its deliberations, the legislature reduced the amount allocated in this line item by \$1.5 million. At no time did it communicate to DOE where this reduction should come from. As such, the GWH funding was just as likely as many others to be reduced or eliminated to address this reduction.

Until the final budget was enacted into law, DOE leadership could not meet to decide what programs these cuts would come from. As such, sending a payment to GWH in June was

effectively making the commitment as to how much funding it would receive well before the appropriate time to make that decision.

As it turns out, DOE had no legal authority to send the check on June 9 due to the absence of an enacted budget and there were still more than three weeks left before the first day of the new fiscal year. I anticipated on June 9 that during the following three weeks any number of factors related to this funding could change. I was fully aware, for example, that DOE had to find more than \$1.5 million in unspecified cuts to the line item from which the GWH funds would be paid. Knowing that DOE still had these three weeks before it must issue this payment, I told staff to hold (not cut, eliminate, or withdraw) the payment until we had all of the information that might become available during these three weeks.

After these three weeks had passed, the budget had been enacted and the new fiscal year had begun, I drafted and sent a new written agreement to the interim president at GWH to govern use of these funds. Just after the new fiscal year began, DOE leadership met and made the \$1.5 million in cuts to various programs, deciding to leave the total GWH funding intact. During this interim, I also learned that the GWH Treasurer's statements to the Ethics Commission were grossly inaccurate and that GWH was in jeopardy of closing if they did not receive these funds. Once DOE received the signed agreement back from GWH, I asked staff to issue the quarterly payment which it did.

Had the payment been sent on June 9, it would have been too late to implement this written agreement. For this and other reasons, my decision to postpone the payment to GWH while we awaited further information was a sound one.

I have since directed DOE staff that the department will no longer issue checks prior to the enactment of the appropriate budget and the start of the new fiscal year.

I hope this helps provide some clarity to the committee.

Sincerely,

Tom Desjardin
Acting Commissioner

RECEIVED OCT 15 2015

PO Box 608
West Kennebunk, ME 04094
October 13, 2015

Government Oversight Committee
82 State House Station
Room 107, First Floor, Cross Office Building
Augusta, ME 04333-0082

I would like this to be entered into the record for Thursday's meeting regarding Governor LePage's actions against House Speaker Mark Eves and Mr. Eves' pursuit of a position at the Goodwill-Hinckley School.

Indeed, I feel that the Governor illegally threatened and intimidated the school for the sole purpose of punishing Mr. Eves.

I do hope Governor LePage is found guilty of this shocking abuse of power and subsequently removed from office.

I am so embarrassed to live in this state because of Mr. LePage's disdain for and manipulation of our state government.

Sincerely,


Susan A Bloomfield

To the Maine State Legislature and to the Committee hearing Public Testimony today, 101515, at 82 State House Station, Room 107, Cross Office Building, Augusta, Maine:

Governor Paul LePage has, I believe, broken the law in regards to his actions in the Mark Eves/ Good Will-Hinckley episode. He has bullied his way to have his agenda supersede the mechanisms for the school to hire the person they felt was best qualified for the position. He has committed blackmail to get his way. This is wrong, I believe, both morally and legally. This behavior alone warrants the Legislature's mechanisms to be initiated and see if criminal or civil charges may be considered or if impeachment proceedings are warranted.

He has also bullied, blackmailed, lied and broken promises he made in regards to the LMF debacle. This is voter approved bond money to be used for a specific purpose. He refuses to sign off, this, a second time unless the Legislature gives in to his wishes. Again; he is a bully, and more importantly, he uses blackmail as his ultimate tool in hopes of achieving his agenda. Further, he has hogtied the LMF to keep it from functioning. This is also wrong and warrants your serious attention.

A third revelation about Gov. LePage is the recent disclosure of his request to investigate the Maine Human Rights Commission after they refused his requests in regard to the Moody's Diner case.

Firstly, it's not his business - just as Good Will-Hinckley and the LMF case are not his business. Secondly, the public notification date was grossly ignored, which is illegal. This is not an "Oh, sorry, I forgot" situation. Again, it is incumbent on you to respond with an inquiry.

A fourth concern is his present policy to have his Chief of Staff deal with the Legislature, because he "can't do anything in Augusta" This is no way to govern. He is thwarting anything and everything he can to get his way. He is costing the taxpayers of Maine a huge amount of money in his blind adventure. He will continue to hold this state hostage until his term expires if nothing is done, and frankly, we cannot afford that. We did not elect him for that function. We elected him to govern, not command or rule as would a dictator.

This pattern has been evident in other situations, though with so many examples of his poor leadership and poor techniques in governance, as well as his general lack of rapport with the citizenry of the state, it is best to stick to just these four high profile situations at hand.

I would ask the Maine State Legislature: Please reconvene and deal with this sad and costly saga; not in January, but now. Maine needs a governor that is able function for the people of Maine.

William J. Brown

- William J. Brown,
16 Frohock Dr., Lincolnville, Maine 04849

RECEIVED SEP 22 2015

Andrew A. Cadot
45 Eastern Promenade 9.E
Portland, ME 04101

September 19, 2015

Government Oversight Committee
82 State House Station
Room 107, First Floor, Cross Office Building
Augusta, ME 04333-0082

Re: Government Oversight Committee's inquiry into Governor LePage's interference with Good Will-Hinckley's choice for President

Dear Senator Katz and Rep. Kruger:

Thank you for the opportunity to submit comments on Governor LePage's interference with Good Will-Hinckley's choice for President in connection with a public hearing on October 15, 2015.

As set forth in the Summary of the Information Brief captioned, *Financial Risks Associated with Potential Loss Of State Funding Led GWH Board to Change Course on Its Decision for New President*.

"Good Will-Hinckley (GWH) is a non-profit organization located in Fairfield, Maine that offers educational programs for at-risk youths, one of them being a charter school. In 2009, GWH was in dire financial straits and had to discontinue many of its programs including its high school. In 2011, the Governor and the Harold Alfond Foundation (HAF) were pivotal in funding a plan to revitalize GWH, in part by re-opening a high school that earned charter school status as the Maine Academy of Natural Sciences (MeANS) in July 2012. The Governor's support of this effort effectively took the form of a State grant from the Department of Education (DOE) through a statutorily established program called the Center of Excellence for At-risk Youth (COE). The Governor proposed funding for COE in his Fiscal Year 2012 and 2013 biennial budget and the Legislature ultimately provided \$330,000 and \$530,000 for those years respectively. An Agreement between DOE and GWH required that GWH use those funds for its residential program. Although the funding was intended to be temporary to support MeANS until it got established as a charter school, GWH has continued to need the State's support. GWH has lobbied to retain the funding, the Governor has continued to include \$530,000 per year for COE in each biennial budget, and the Legislature has approved continued support for this program.

In early June 2015, the Governor learned that GWH had hired the current Speaker of the House of Representatives as its next President. Both the Governor and the current Acting DOE Commissioner objected strongly.... The Governor, the Acting Commissioner and one of the Governor's Senior Policy Advisors immediately began

**Government Oversight Committee's inquiry into Governor LePage's
interference with Good Will-Hinckley's choice for President
Page 2 of 2**

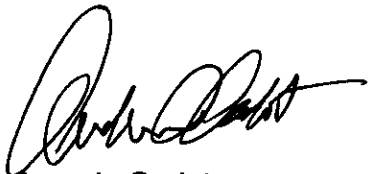
communicating to various GWH representatives and stakeholders that the Governor would have trouble supporting, or could not support, GWH with the Speaker there as President. Those on the receiving end of these communications clearly understood the Governor's "support" to mean the \$530,000 in COE funding for the upcoming biennium. GWH began assessing how it might manage without the funding, as well as reaching out to other funders to try to replace the State dollars.

Events described in this Information Brief strongly suggest that the threat of GWH losing State COE funding, and the subsequent holding of a payment already in process for GWH's first quarter of FY2016, are directly linked to the Governor learning that GWH had decided to hire the Speaker as President."

To me, these facts constitute sufficient grounds to impeach Governor LePage for improper conduct and for misdemeanor in office. Finally the Governor's pettiness in opposing those with whom he disagrees has slid over the edge and become truly offensive and a breach of public trust. Please use your leadership of the GOC to begin the impeachment process.

Thank you for all you do for Maine.

Sincerely,



Andrew A. Cadot
45 Eastern Promenade 9E
Portland, ME 04101



HOUSE OF REPRESENTATIVES

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Government Oversight Committee Public Hearing October 15, 2015 Testimony from Rep. Ben Chipman

The people of Maine deserve to have confidence in the integrity of our political system. The actions of Governor LePage raise serious questions about the misuse of public office and public funds.

I'm one of four lawmakers – Republican, Democratic and independent – who requested an investigation into the governor's threats to withhold state funds from Good Will-Hinckley, an organization that helps at-risk youths.

The independent Office of Program Evaluation and Government Accountability – OPEGA – confirmed the allegations: the governor threatened Good Will-Hinckley because it hired Speaker Mark Eves as its president, a state payment which was in process was withheld and restored only after the organization fired Speaker Eves to avert financial crisis.

If the governor is able to abuse his power to take revenge on a political rival, can any elected official – or any independent organization or any everyday Mainer – be safe?

Every elected official in Maine must be free to vote his or her conscience. Every independent organization should be free to make decisions in its own best interests. All Maine citizens should be free from the fear that their livelihoods depend on the whims of the governor – or any elected official.

While the report was very thorough, some matters need further attention. For one, there's a key meeting of top LePage staffers and Department of Education officials. It led to the Department of Education's extraordinary actions of pulling back more than half a million dollars that was already being processed for Good Will-Hinckley. There were differing accounts of what happened at this highly unusual meeting. This is why the Government Oversight Committee asked some individuals to appear at this public hearing.

Two top LePage staff members are refusing to appear and answer questions. I encourage you to issue subpoenas to these staff members so we can get to the bottom of what happened. These staff members are not parties in the lawsuit filed by the Speaker of the House so there is no reason why they should not appear before this committee and answer questions. I hope you will issue subpoenas right away.

OPEGA's task is a fact-finding one. As you know OPEGA does not determine whether laws were broken or not so it should not be a surprise to anyone that the report that was issued on September 8th does not say either way whether laws were broken. OPEGA gathers information and presents facts.

The OPEGA report is the beginning of a process that should not be considered finished. What we need to do now is determine, based on the information in the report, what specific laws, if any, were broken by the governor. My second request today is that you refer the 25 page OPEGA report and all other information associated with this investigation to a prosecutor or the Attorney General's office to make this important determination.

We need to get to the bottom of what happened and, if any laws were broken, hold the Governor and/or any staff members accountable. The people of Maine deserve and should expect nothing less.

RECEIVED OCT 13 2015

Government Oversight Committee at:
82 State House Station
Room 107, First Floor, Cross Office Living Building Challenge
Augusta, ME 04333-0082

Friday, October 9, 2015

Maine State Government Oversight Committee:

The purpose of this letter is to call to fore, during your investigation of Governor Paul LePage's recent, targeted actions against Representative Eves and other respected lawmakers, several other actions of our current governor throughout his reign that I find troubling, suspect are illegal, and compromise the integrity of the state of Maine. It is written in support of the public outcry to investigate impeachment of the governor, and put an end to this embarrassing and destructive assault on the reputation, procedural conduct and progress of Maine.

In addition to Governor LePage's blatant disregard of Maine law and his disdain for the thoughtful, humanistic past practices and environmentally sound decision-making from which the elected officials of this state have built their reputation, I, as a public school teacher for the past fourteen years, strongly object to the manner in which Mr. LePage governs himself and his administration on a day to day basis. Paul LePage's official conduct has often exhibited insulting, crude, bullying behavior, which exposes a horribly disfigured role-model for the young people of Maine, and taints our heretofore well deserved and hard earned reputation as a people who may disagree with each other, but do so in a way that inspires growth, embraces diversity, and promotes further understanding. Paul LePage's many embarrassing, irresponsible, disrespectful, demeaning, ridiculous and false statements (slander) about our citizens and elected officials make a mockery of Maine's governmental traditions.

While typical political rhetoric inevitably involves partisanship and party preference, LePage's behavior takes this language and attitude to an unprecedented level. His statements and actions make it clear that he favors the polarization of Maine people and views them as either "us" - anyone who agrees with him - or "them" - anyone who disagrees with him. Maine's Governor consistently applies this simplistic attitude to an absurd, irresponsible degree-referring to Southern Maine as the home of crooks and welfare cheats. It would seem that Mr. LePage isn't concerned with being the governor of all the people but of only the 38% who elected him. Most notably is his arrogant dismissal of Maine's democratic process in citizen initiatives by withholding funding of citizen-approved bond issues. In my view, this action alone warrants the dismissal of Paul LePage as our governor.

Another particular concern to me is one of our governor's first initiatives. Soon after taking office he began pushing for incentives that encourage natural gas pipeline expansion resulting in an infrastructure that used techniques that have since proven many of the pipelines dangerous, polluting and undependable. Undoubtedly catering to (and likely funded by) the ubiquitous, reckless and polluting natural gas industry, LePage claimed that natural gas would reduce the energy costs to businesses and homeowners dramatically. Meanwhile, he consistently acted to defund initiatives that encourage the development of renewable energy sources for both business and homeowners, most recently proposing a bill that, according an article by Tux Turkel

published May, 2015 in The Portland Press Herald, "would end Maine's four-to-eight million-dollar initiative that saves the largest manufacturing and industrial energy users and all ratepayers money on their bills through energy efficiency contracts."

Additionally, "[a] longstanding law that requires electricity suppliers to make up a percentage of their output from renewable generation is being targeted for destruction by a proposed bill called An Act to Focus Energy Laws on Energy Cost, a bill designed to repeal Maine's renewable portfolio standard." The fact that this bill would (a) do away with compensation to homeowners for their power generation and shift the focus of long-term contracts at the Public Utilities Commission away from wind and other renewable sources, (b) cut money available for energy conservation programs, and (c) have utilities provide a credit for agreements between natural gas shippers and large businesses seeking pipeline capacity, further illustrates our governor's commitment to an industry that favors the exploitation of a non-renewable, explosive, dangerous and air/water/ground polluting energy source *at the expense of* the development of renewable, safe, cost-effective and sustainable sources.

There are too many other violations by Governor LePage to cover in detail in one letter - unilateral assault on The Affordable Care Act, unfulfilled jobs promises, disrespect and disdain for Maine's educators and institutions of learning, attacks on Maine's unions, to name a few. Rather than exhaust all these issues here, I simply ask that in light of the practices of illegal actions, displays of disrespect, and abuses of power aimed to attack the environment and principles that have been stalwart mainstays of the people of this state (regardless of their political affiliation), I implore you to fully investigate these behaviors and seriously consider the dismissal of Paul LePage from the office of governor. To allow an elected official to conduct illegal actions, carry out a hidden anti-environment agenda, and erode the appropriate, respectful language, manner and attitude that we have come to expect of each other, is to be complicit in the degradation of all that Maine stands for. If to rid the office of this poison and deliver punitive measures to right the wrongs against the people of our state is what is warranted, then you must have the wisdom and find the courage to carry out this duty as our representatives. If public service is to remain effective, it must be conducted in a way that is acceptable *to* the public, of which I am a member. Please do not allow Paul LePage to wreck havoc on Maine in the way and for the same reasons that Scott Walker has done so in Wisconsin.

Respectfully,



Mary Chouinard
Mercer, ME

October 15, 2015

TO: Chairs and Members of the Government Oversight Committee

RE: **OPEGA Hearing on LePage v. Goodwill Hinckley**

Hello Senator Katz, Representative Kruger and Members of this committee,

My name is Jeanie Coltart. I am testifying in support of removal of Governor Paul LePage from office through his forced resignation, or if he doesn't agree to resign, then by impeachment. My reasons for advocating for Governor LePage's removal from office are as follows.

Governor Lepage has consistently abused his powers ever since his first term as governor. He consistently uses bullying and blackmail tactics to intimidate people who don't agree with him into submission and silence. He has interfered in situations in which he has no right to do so. **Some of many---known---examples of LePage's bullying and blackmail tactics** are:

Threatening and interfering with the Maine Human Rights Commission (over the Moody's Diner case);

Threatening to withhold state funding for two University of Maine college campuses unless the presidents of those two campuses resigned, which they did in order to protect their campuses;

Interfering with Maine's hearing process for unemployment insurance by pressuring hearing officers to rule in favor of employers and against unemployed workers (as per a letter released by the U. S. Department of Labor, which investigated this issue);

Blatantly insulting the NAACP, an organization that had kindly invited him to attend their annual function, instead of just graciously declining to attend;

Blatantly insulting several times by words and actions the U. S. President, including refusing to represent Maine at White House functions for state governors;

Meeting not once, but several times, in his office with members of a known Maine terrorist organization;

Withholding approved bonds and grants, such as the approved funds for Land for Maine's Future, in order to blackmail officials into submission;

Blatantly ignoring legal advice from Maine's Attorney General on several legal issues, resulting in taxpayer dollars being wasted in court proceedings---all in which the courts ruled against LePage, as the Attorney General warned would happen;

Intentionally out of spite against the Maine Legislature, he withheld legislative bills that had been sent to him for approval or rejection, missing the deadline for veto over the legislative session break, which resulted in his forcing the Maine Legislature to overtime, which cost Maine

taxpayers over \$100,000 in overtime pay, while at the same time he continues trying to cut funding for welfare programs and victimizing the most vulnerable people in Maine---unemployed workers, food stamp recipients, and so on;

And most recently---threatening to withhold state funds from Goodwill-Hinkley unless their board fired Mark Eves, whom the Goodwill – Hinkley Board has hired to be president of their school.

It is very unfortunate that Governor LePage never learned how to work with people effectively, but instead resorts to bullying and blackmailing tactics in order to get his way. **Bullying and blackmailing people is NOT OKAY!** Effective leadership requires the ability to communicate well with people, to know when to push and when to stop pushing, to know how to use the art of compromise in working with people who don't happen to agree with you. Governor LePage has proven to lack these all-important leadership abilities.

The members of the Maine Legislature, both Democrats AND Republicans AND Independents, need to band together to do the right thing for Maine, however unpleasant it may be, and force Paul LePage out of the governorship. He does not serve in the best interests of the state of Maine and its citizens.

If the members of the Maine Legislature do not force Paul LePage out of the governorship, then they are part of the problem by being “enablers,” by allowing LePage to continue his ravings and rants, and his blackmailing tactics. This would NOT be “okay!” It would instead, reflect very badly on members of the Legislature, who would be letting Maine citizens down by not forcing LePage out and replacing him with an effective person to be Governor who knows how to work well with people, which would be the current the Senate President.

Governor Paul LePage needs to either resign as governor or be impeached. Enough is enough!

Thank you for listening to my testimony.

Jean S. Coltart
127 Academy Road
Monmouth, ME 04259
Sunflower18@roadrunner.com
(207) 933-3293

**Testimony of Rep. Janice Cooper
Before the Government Oversight Committee
October 15, 2015**

Good morning Chairmen Katz, Chairman Kruger and other distinguished members of the Government Oversight Committee. I am Janice Cooper, representative for House District #47, comprising Yarmouth, Chebeague Island and Long Island.

I appreciate this opportunity to present my statement to this committee as it oversees the OPEGA investigation of the withdrawal of the position as president of Good-Will Hinckley to Speaker Mark Eves by that school, allegedly because of threats of state defunding made by Governor Paul LePage.

On July 24, 2015, I wrote the Director of OPEGA, Beth Ashcroft, requesting that the Committee broaden its investigation to include other episodes that also may suggest similar improper uses of governmental power by the Chief Executive.

My requests urge the Committee to also instruct OPEGA to investigate the alleged threat by Governor Paul LePage to withhold public monies already committed to the World Acadian Congress unless that entity terminated its president, Jason Parent. According to newspaper accounts, the governor was displeased with Mr. Parent because of his association with the governor's campaign opponent, Mike Michaud. The coup de grace, according to the *Portland Press Herald*, was the fact Mr. Parent presented Mr. Michaud with some commemorative token before he had given one to the governor. Mr. Parent has resigned and I believe the state funding was subsequently provided. The newspaper accounts indicate that its sources are second hand, and that the parties directly privy to the alleged threat either denied the connection or were unwilling to confirm that Mr. Parent's resignation was a result of the governor's purported threat. There can be, of course, a world of difference between what a party will tell a newspaper and what evidence it must tell a legislative committee with the authority to compel testimony under oath through a subpoena. What is clear, in any event, is that if true, the reported allegations are disturbingly similar to the one at issue in the Goodwill-Hinckley matter.

When this Committee completes its work, its findings can be used in many different ways, at its sole discretion. One possibility, although certainly not foreordained, is that it will be used by other members of the legislature or the Committee as the basis for the Maine House of Representatives to determine whether the governor has committed an impeachable offense. While this step is not at all certain to be taken, and I take no position on this, the Committee, **in determining the scope of its present investigation**, should bear in mind the relevant history and precedent regarding impeachment, an unprecedented step in Maine history.

What constitutes an impeachable offense is both a factual and legal determination. As counsel to the U.S. House Judiciary Committee in the late 1980s, I was part of a

legal team that represented the House in impeachment proceedings concerning a federal judge accused of conspiracy to commit bribery and other misdeeds. The factual investigation, the legal analysis, the proceedings before the Judiciary Subcommittee and full Committee, and presentation to the House, and the subsequent trial in the U.S. Senate consumed over three years. Accordingly, I became well acquainted with the concept of “impeachable offenses” as well as the process and procedures most commonly used and accepted in impeachment cases both at the federal and state level. “Impeachable offense” is a concept that goes back to English common law’s understanding of the relevant terms in the 18th century, the time of the writing of the Constitution. So, for example, the federal standard of “high crimes and misdemeanors” does not mean “misdemeanors” in the modern sense of the word. Rather, the founders intended to reach only offenses that go to the heart of the civil officer’s misuse of **official powers**. Purely private malfeasance was not the point of impeachment. I think it is fair to say that the absence of this element of official duty was the key reason for the acquittal of President Bill Clinton in his impeachment trial.

Second, the gravity of the offense—whether it is serious enough to warrant impeachment—relates to its impact. If the offense sets a chilling precedent for other government officials or members of the public, this is a factor the House may and, I believe, should consider. Indeed, the courts, including the U.S. Supreme Court, have made it clear that the legislature, not the courts, has the final say over impeachments, including what constitutes an impeachable offense. Likewise, process and procedures are up to the House and Senate to construct for each stage of the proceeding, although the public expects fundamental notions of due process and fairness to be followed.

Third and most important in this context, if there is a **pattern** of arguably impeachable offenses, this should weigh heavily in the determination of whether the misdeeds warrant an impeachment proceeding. This, too, however, initially is up to the House and then, if appropriate, the Senate, but I believe that the Committee should investigate whether there has been such a pattern.

My experience in Congress also taught me that it is appropriate to consider other charges against the official under investigation that may demonstrate a different type of malfeasance. In the case I prosecuted, the House charged the judge not only with several counts relating to his alleged conspiracy to commit bribery (upon which the Senate convicted him) but also violations of the federal wiretap laws for allegedly alerting the subject of an undercover investigation that his telephone calls were being monitored. Although the Senate acquitted the judge on these counts, no Senator questioned the propriety of combining the charges in the same proceeding.

This precedent is relevant in Maine because other examples of alleged misuse of official power have been raised, even substantiated. In particular, there is the federal report of February 2014 that concluded that the governor tried to pressure and intimidate administrative law judges to issue decisions more sympathetic to

employers. Senator Troy Jackson called for impeachment proceedings based on this report, but I do not believe any further action was taken by the legislature at that time. This conduct, if true, however, arguably goes to the heart of the separation of powers between executive and judicial functions, and seems to be an unethical if not illegal interference in the independence of administrative judges. Whether successful or not, such intimidation is surely chilling. In light of the above other claims of improper conduct, I urge this Committee to review this episode as well, to determine whether this is also an example of improper exercise of the governor's powers.

In addition, as we all know, at the end of the last session, Gov. LePage vowed to veto all bills sent to him. Initially, he applied this only to bills sponsored by Democrats; later, as tensions with his own party increased, he promised and did veto all bills that landed on his desk, regardless of merit (except for those bills he failed to veto within the allotted time). His explanation for the across-the-board veto policy was that all legislation should receive a 2/3 vote of approval by the legislature. This is not what the Maine Constitution requires. Vetoes are intended to be selective, based on reasoned legal or factual grounds. The governor has effectively de facto rewritten the Constitution. If this Committee finds that the additional requirement was motivated by political retribution for matters unrelated to the merits of the bills at hand, this, too, should be part of your inquiry.

Finally, I would add that recent statements by the governor to refrain from appointing new members to executive branch agencies or to allow his appointees to participate in agency votes and deliberations, if implemented, have the potential to bring many official acts of government to a halt. This, too, could be viewed as an abdication of the governor's official responsibility to govern as the chief executive.

Thank you for your attention to these complex issues. I hope that this Committee will, at some point, determine that an investigation of some or all of these additional points is of value to the legislature and the people of Maine.

EXHIBIT A

E-Mail of August 13, 2015

To the member of the Government Oversight and Accountability Committee:

In an email dated July 24 to OPEGA Director Beth Ashcroft, I requested this Committee to broaden its review of the facts pertaining to Governor Paul LePage's alleged activities regarding his threat to withhold public funding to the Good-Will Hinckley School to also include similar activities. As I wrote to Ms. Ashcroft, I request this Committee to also investigate "the reported involvement of Gov. LePage in threatening the loss of public funds to the World Acadian Congress unless its president, Jason Parent, were dismissed from office. President Parent did in fact leave that position, and according to news reports, his departure was the result of the governor's alleged threats. See <http://bangordailynews.com/2015/07/24/news/state/lepage-denies-forcing-ouster-of-acadian-congress-president/>

"If accurate, this scenario closely resembles the one previously reported and now under investigation by your office, involving the governor's threat to withhold state funds unless the Good-Will Hinckley School rescinded its job offer to Speaker Mark Eves. The two episodes also mirror the sequence of events reported with respect to the firing of President John Fitzsimmons from the Maine Community College System. If true, these three events demonstrate a highly disturbing pattern of abuse of power by the governor, more than the previously reported albeit egregious episode.

"In addition, I ask that the committee use your offices to investigate the incident wherein the governor purportedly called workers compensation administrative judges to his office and berated them for issuing decisions he deemed pro-labor or pro-worker. If true, this, too, is an instance of improper use of the governor's authority, this time to influence the judicial process in administrative proceedings, also a clear violation of his duty to faithfully execute the powers of his office."

I understand that the Committee has already investigated and reached its conclusions on the incident regarding undue influence on administrative judges. However, if it appears that this is part of a pattern of misuse of government authority it may be appropriate to revisit this episode and consider whether it falls into such a pattern that together, form a serious violation of the governor's duty to faithfully execute the powers of his office.

Finally, I also advised Ms. Ashcroft and now this Committee that I believe the Committee should consider retaining independent counsel to advise it and the House, should that step become necessary. As I wrote, "Prior to moving to Maine, I worked for three years for the US House Judiciary Committee as counsel on the impeachment of US District Court Judge Alcee Hastings. In that capacity, I was part of a team that conducted the investigation, presented evidence to the House Judiciary Committee, the House of Representatives, and subsequently, in the trial before the US Senate. Accordingly, I am very familiar with the law regarding impeachment, including the meaning of impeachable offense, preferred procedures, standards, rules of evidence, etc. If I can be of any assistance to the committee or your office, please do not hesitate to contact me. One issue that has arisen that I think requires a closer look is the reliance on the Maine Attorney General Office for your legal advice. In the congressional impeachment cases, we took the position, which is shared by the federal courts, that impeachment is wholly a legislative function, and the executive and judicial branches have little if any role to play. Accordingly, I urge the Committee to retain outside counsel, responsible only to the House, so that this line is not crossed. I can anticipate situations where the advice of the AG's office may differ from those of the committee or other legal experts."

With best wishes,

Rep. Janice Cooper (Yarmouth, Chebeague Is., Long Is.)

RECEIVED OCT 14 2015

Filling In Some Blanks

Governor LePage's political enemies eagerly attribute the meanest of motives to him for rescinding Speaker Eves' appointment to head the Good Will-Hinckley school at the same time they attribute the purest of motives to the speaker's overnight conversion from a charter school critic to a wannabe charter school champion. The speaker's allies also want to gloss over Eves' paper-thin qualifications and the likelihood that a "sweetheart deal" was the deciding factor in his nimble move into a cushy, high-salaried job that is so unburdensome he could retain his job as speaker, virtually assuring Good Will-Hinckley that there would be no interruption in state funding.

In light of the speaker's previous opposition to the establishment of charter schools in Maine -- an achievement for which LePage is largely responsible -- the governor's preemptive action is eminently reasonable and justified. In an 8 June letter to the Board of Directors the governor laid out the reasons for opposing Eves' appointment -- that he was unfit for the job by virtue of his anti-charter school record plus his lack of credentials and experience.

LePage did not stand idly by and acquiesce in the appointment of a person to lead a school who might compromise its mission or, conceivably, close it because the speaker had recently stated that he "still had reservations" about charter schools. Would it make sense to appoint an atheist to be pastor of a church.

The combined enrollment of the two schools is a modest 112 students, staffed by sixteen or so - dedicated teachers and administrators, including a school principal. Hiring a moonlighting \$120,000 a year novice to head the school would have imposed an additional cost of more than \$1,000 for each of the 112 at-risk students -- an exorbitant charge of dubious worth.

Raise the principal's salary and hire a couple more teachers.

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