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REP. ANNE-MARIE MASTRACCIO

**MAINE STATE LEGISLATURE  
GOVERNMENT OVERSIGHT COMMITTEE**

**MEETING SUMMARY  
May 19, 2016**

**CALL TO ORDER**

The Chair, Sen. Katz, called the Government Oversight Committee to order at 10:05 a.m. in the Cross Office Building.

**ATTENDANCE**

Senators: Sen. Katz, Sen. Johnson, Sen. Burns, Sen. Davis, Sen. Diamond and Sen. Gerzofsky

Representatives: Rep. Kruger, Rep. McClellan, Rep. Campbell, Rep. Duchesne and Rep. Mastraccio  
Absent: Rep. Sanderson

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

Rep. Crafts and Rep. Gattine  
Ana Hicks, Chief of Staff, Speaker's Office  
Robert Caverly, Chief of Staff, President's Office

Executive Branch Officers and Staff Providing Information to the Committee: Matthew Dunlap, Secretary of State

**INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS**

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

Director Ashcroft introduced Kari Hojara, who was recently hired as a Senior Researcher with OPEGA. The GOC welcomed her.

Director Ashcroft also noted that Maura Pillsbury, a former OPEGA, Analyst has been hired on a part-time basis to work on the Tax Expenditure reviews.

## **SUMMARY OF THE APRIL 8, 2016 GOC MEETING**

The Meeting Summary of April 8, 2016 was accepted as written.

### **Final Report on Riverview Psychiatric Center**

#### **- Public Comment Period**

No public comments were made on OPEGA's Riverview Psychiatric Center Report.

#### **- Committee Work Session**

Director Ashcroft noted that she had asked DHHS for additional information with regard to DHHS' responses to Recommendations 3, 4, 5, and 7 in the Report. She said the responses in Commissioner Mayhew's letter made it unclear as to whether they intended to do anything to implement the specific recommendations OPEGA made in the Report and that information was needed in order to know whether those recommendations can be closed out or considered for further action by the GOC. Director Ashcroft apologized for not following up with DHHS sooner to get that information for the GOC's discussion today.

Members of the GOC agreed to wait until their next meeting to have the benefit of further communications with DHHS before their discussion of what action they want to take on the Riverview Psychiatric Center Report.

#### **- Committee Vote**

**Motion:** That the Government Oversight Committee endorse OPEGA Riverview Psychiatric Center Report. (Motion by Chair Kruger, second by Rep. Campbell. Motion passed unanimous vote 11-0.)

## **NEW BUSINESS**

- **GOC Consideration of New Requests for OPEGA Reviews.** (A copy of the Quarterly Listing of Audit Requests for GOC Consideration is attached to the Meeting Summary.)

#### **- Independent Living Services Program**

Rep. McClellan said he is the Executive Director of an organization that advocates for independent living and recused himself from the discussion and vote on this review request.

Director Ashcroft summarized the Independent Living Services (ILS) Program review request. She noted that the Department of Labor (DOL) and the Department of Health and Human Services (DHHS) were currently working together to determine if ILS Program clients on the wait list could, or should, be provided the goods or services they need under DHHS programs they are already enrolled in. Their work done on this to date has shown that there are clients who should have been served under other programs rather than be on the wait list for the ILS program.

Rep. Mastraccio noted previous GOC discussions regarding the computer systems' communication between different State agencies and asked if it was a technology problem that kept them from identifying sooner that clients could get these services under other programs. Director Ashcroft did not know for certain about

systems talking with each other, but thought the problem might be broader than that and it was more about process, communication, and clear understanding of roles and responsibilities and what is expected. Clients also might not know, or remember, what programs they are enrolled in. She thinks DOL has discovered a number of areas that could be improved upon going forward and could make those changes on their own.

Director Ashcroft said if the GOC decides they want OPEGA to look at ILS then it might warrant looking at the topic more broadly than just the one Program. Independent living services generally are intended to support disabled citizens in living more independently in their homes or communities. DOL and DHHS have already identified crossover between people who are applying for, or enrolled in, ILS and other DHHS programs. She also believes there are four or five different councils, like the State Independent Living Council, that all have oversight or some role in the broader arena of independent living services programs.

Sen. Johnson thought what was lacking was having enough communication, awareness and coordination to implement a "no wrong door" policy for helping people get connected to whichever program they qualify for and whatever State agency will address their needs. He said if the GOC moved forward with the review request he agreed the review should be broadened to look at that problem.

Chair Katz recognized Rep. Crafts, the requestor of the ILS Program Review.

Rep. Crafts noted that there were areas that needed to be looked at, changed and/or coordinated to do a better job for individuals who were trying to become independent in a lot of different areas of their life. He thanked OPEGA for their information regarding the ILS Program and thinks that there has been light shined on the Program as a result of his request for a review.

Rep. Crafts talked about his own experience of becoming independent after an accident paralyzed him more than 30 years ago. He noted how important it was to have the support services and resources available to individuals in need of those services. Rep. Crafts said there has been a lot of emphasis on helping disabled people get jobs, but it was not just about jobs. There are many things to do with disabilities that can stop people in their tracks and, with the right resources available for them, that does not need to happen.

Rep. Campbell asked for Rep. Crafts' reaction to the information provided by Director Ashcroft regarding the ILS Program. Rep. Crafts said today was the first time he heard the information and thinks there has been some light shined on his concerns and people are beginning to take notice. He has been involved with Rep. McClellan and some Statewide Independent Living Council (SILC) Board members. He was told by the Board Chair that he has watched the State funding keep going down. Fifteen years ago the funding was \$600,000 to \$700,000 and the State has been cutting their portion over the years to now being \$100,000 to \$200,000. He said that is concerning and we need to look at whether the Program is being run effectively.

Rep. Campbell asked if there were ways the Program could be more creative to stretch those dollars and if there are any obstacles that are not being addressed. Rep. Crafts said one of the things he has heard multiple times is that there has been a lot of emphasis on trying to get people to work. He said that was good, but what if someone cannot get to work because of transportation problems and because of that it is not working out for the employer. He said not everyone who is disabled is going to go back to work, but they still have other needs in their lives.

Sen. Burns asked Rep. Crafts if he thought the issues raised regarding the ILS Program could be best addressed by the GOC or the policy committee, noting that he believed the legislative policy committees should be making sure that policies are carried out and are the right policies. He knows that the joint standing committees have a lot of work to do during the session, but they have the inside knowledge that many members of the GOC do not have. Can a realignment and refocus best be done through the GOC, the policy committee or a combination of both.

Rep. Crafts thought it would be helpful to invite other individuals to a meeting such as the SILC Board Chair, and other board members and experts, who have been involved in the programs and who could give a better opinion of how the Program should move forward.

Rep. Duchesne said there is federal money, but there is not enough to take care of everyone on a waiting list and the question is why not. He said it could be due to decreasing resources, diverted resources being spent somewhere less useful. Another possibility is that there may be enough money there, but it is being administered slowly and not in the right places. He said there are silos and there might be two departments that have jurisdiction. DOL currently has the ILS Program, but there is overlap in another department. He asked Rep. Crafts which of the issues he just stated are the problems? Rep. Crafts thinks all the issues mentioned are problems and that is why he thinks the different departments need to coordinate better. He was not being critical, but noted that a lot of money has been spent on immigrants, and that is great because the State should help them, but there are Maine citizens being left behind in not giving them the resources to get back into the communities to live again. Rep. Crafts said another thing to look at would be how much it would cost to get people off the waiting list.

Rep. Duchesne asked if the need is bigger than the amount of federal funds received and should the state be diverting resources from somewhere else to be covering the need. Rep. Crafts thought so. He noted that there was a lot more money funded locally through the State in the past and that has been shrinking. He thinks that is part of the reason why there is a long waiting list. He said another concern is whether the State is running the programs the way the federal government expects it to be done. The programs should be implemented according to the guidelines of the federal government because that is where most of the money comes from. Rep. Crafts thinks that everybody is trying to do their best, but it is time to focus on how to coordinate each Department to be more effective with helping more people and getting the waiting list down.

Sen. Gerzofsky asked if the problem began during the recession when the State lost revenues. Rep. Crafts said this past session was the first one since he became a legislator that the State had a surplus and he is concerned about where the priorities are going to be as more revenues start coming in.

Sen. Gerzofsky asked if Rep. Crafts had any ideas of how to make that happen. Rep. Crafts thought part of his own problem was he did not look, or did not know, what resources were available to help. Education in the communities needs to be done.

Sen. Davis thought it was about setting priorities and the State needed to reprioritize some of their programs.

The members of the GOC thanked Rep. Crafts for being at the meeting to answer their questions.

Sen. Katz said his understanding of the relationship between SILC and DOL is that DOL administers the ILS Program primarily because the SILC Board has recommended that they be the State agency to do that. Director Ashcroft said that was correct and said her further question to DOL was whether the State could make a decision itself about who the designated State agency should be. She said when DOL looked at the federal rules in response to her question they found it does seem that there is some ability for the State itself to decide which agency is the better designated State entity. But, if there is a change in the administering agency then that affects the ILS Program Plan, so SILC would be required to go through a process to change the plan and get it approved at the federal level. Sen. Katz said he also understood that it is DOL that determines the allocation back to SILC for its administrative costs. Director Ashcroft thought there were some limits in the federal grant as to how the grant can be spent on different things, but she did not know the breakdown. She thinks there are governing rules about the grant and it also appeared that there was some opportunity for some funds from other federally-funded vocational rehabilitation programs that DOL administers to be swapped over to the ILS Program. DOL is trying to provide the needed services in those other programs as well. Consequently, they have been looking at whether there are other places these needs should be getting met, not only from an efficiency standpoint, but also because the ILS Program is supposed to be the Program of last resort.

Sen. Burns thought it would be informational to hear from Rep. Gattine, House Chair of the HHS Committee. The GOC Chair invited Rep. Gattine to speak to the Committee.

Rep. Gattine said the HHS Committee spent a lot of time over the past two sessions working through the results of the Blue Ribbon Commission on Independent Living and a number of the recommendations from that Commission made it through. He said what he learned during the process is that there are silos and a lot of what has been discussed at the GOC meeting does not go through the HHS Committee because it is administered through DOL. He said if you look at all of the issues expressed by Rep. Crafts you would ask is the policy committee DHHS, LCRED, Education and Cultural Affairs, or Transportation. Rep. Gattine was not sure the GOC was the right place to bring it all together, but the other issue is that there is not necessarily one policy committee that is the right place to bring it together either. He thinks that is why the efforts of the Blue Ribbon Commission are important. He also thought it made sense to have some dollars flow through the State agency that promotes vocation and employment, but as noted by Rep. Crafts, the social and community interaction are also important.

Rep. Gattine said he would be happy to have the HHS Committee continue to review the issue, even the parts that are not necessarily within their jurisdiction. He again said he believes one of the issues is that there are a lot of policy committees that have a stake in the matter.

Rep. Mastraccio said the ILS Program does come under the LCRED Committee. She thinks one of the issues is in identifying where somebody fits in, is it in multiple places and how do you keep track of that.

Rep. Gattine thinks that most people think the ILS Program comes under the HHS Committee and agreed with Rep. Mastraccio.

Director Ashcroft was not sure that a Blue Ribbon Commission would have the time or technical support resources to get the details. Getting to the detailed understanding of the various programs might require more than what a Blue Ribbon Commission normally gets to.

Rep. Duchesne asked if there were any turf struggles between the State Departments on this subject matter. Director Ashcroft said she did not detect any, it was more that the departments did not know the lack of coordination was happening. He asked if the Executive Branch had the energy, or interest, in looking into the matter itself. Director Ashcroft said she could ask. She said they are intent on working out the issues with the wait list and trying to figure out how these people can get served as quickly as possible. They have identified some things they want to put in place in the future to help make sure the list does not grow again unnecessarily, but she was not sure to what degree people have the time and resources to get a broader review done.

Chair Kruger thought a strong case could be made to proceed with a review, but as often is the case, he was concerned about OPEGA resources being stretched too thin.

Chair Katz said one of the Committee's options is that Director Ashcroft comes back with suggestions about what the scope of a review might be and what resources it might take to do that. He said the Committee could ask OPEGA to draft a general scope for a review and come back to the GOC with information about staff resources. The Committee can decide at that time what action it wants to take on the request. Sen. Johnson agreed.

Rep. Campbell said with some legislation that has been submitted over the years, it is a function of getting people's attention and sometimes that is enough. He noted from what Rep. Crafts said that this has gotten people's attention and there is now some focus. He asked Rep. Crafts if the GOC should be aggressive or take the less action approach.

Rep. Crafts said he would like to see as much pressure put on as possible and thinks it is an important enough issue. Hopefully some things will change with the recent light that has been shined on to the matter, but he hopes the Legislature can deep a little deeper in trying to resolve the issues.

Sen. Gerzofsky would like to see more coordination between the joint standing committees and would like to see something substantial done regarding the ILS Program and similar programs.

Sen. Diamond did not see the ILS Program review, as important as it is, bumping the three priorities the GOC already has established, but by not putting it on a list for the next GOC he was afraid the matter would get lost. He said he would be interested in having a summary of what the Executive Branch is doing and what their plan is. He would also like to send a communication to the committees of jurisdiction that this is not a reason for them to stop the work they are doing, especially in the LCRED Committee, should the GOC put it on OPEGA's Work Plan.

Rep. Duchesne suggested that OPEGA review what the roadblocks and problems are and then present that to the Chairs of the Committees and a bill could be introduced by one or two of the joint standing committees.

Sen. Burns said he would like to have some preliminary information and thinks it is important to keep momentum going. He said from personal experience he knows how important it is to maintain continuity and responsiveness when having to deal with two or three different agencies and how delays impact people's lives.

Director Ashcroft summarized what the GOC wanted to take for action and what information she would bring back to them at the next meeting. She said first OPEGA would get additional information on what efforts are going to stem from what has already been started at the Executive Branch. She would also come back to the GOC with an idea about what the scope of the review would be, both from the perspective of doing a broader review of independent living services, but also along the line of what Rep. Duchesne suggested of OPEGA taking it far enough to get basic information and identify what the questions are that need to be asked about the ILS, and then the GOC can decide how to move forward with the review request. She said there is also the possibility of hiring a consultant to do some initial piece of the review and/or to create an inventory of all the programs that have a component of ILS products and services across State agencies. Director Ashcroft said OPEGA could check if something like that already exists and weave it into what she brings back to the GOC. She can bring back to the Committee more background information about how broad a scope they would be talking about.

Committee members agreed that Director Ashcroft gather more information and report back at a future meeting.

#### - **Maine Capital Investment Credit**

Director Ashcroft summarized the Maine Capital Investment Credit (MCIC) review request.

Chair Katz noted that staff from the offices of the Senate President and Speaker of the House were at the meeting and said the GOC would welcome their comments on the review request.

Ms. Hicks said Speaker Eves apologized for not being able to be at the meeting and asked her to speak on his behalf. She said following the passage of the 2016 Tax Conformity bill the Speaker joined the Senate President in requesting that the MCIC be added to the list of tax expenditures to be reviewed by OPEGA. She said the Tax Conformity bill extended the MCIC for four years so it basically mirrors what Congress did in their tax extender bill in extending the federal bonus depreciation. Ms. Hicks said like the bonus depreciation, the MCIC was put in place during the recession as part of an effort to stimulate economic activity. The

purpose of the MCIC was to provide an incentive for businesses to purchase new equipment during the recession and it does that by allowing the businesses to depreciate large amounts of capital expenditures in the first year rather than depreciating the expenses over a period of time. Ms. Hicks said the changes made to the MCIC are expected to cost about \$38 million over the next four years. She said during the legislative debate many legislators expressed concerns about the costs and putting this in place for the next four years rather than having the chance to vote on it in individual years. The Speaker and President are interested in a broad review of the MCIC program, as the GOC is already doing with other tax expenditures, that will look at which businesses are affected or taking advantage of this benefit, whether the credit is benefitting Maine companies or mostly out of State companies, and are businesses making decisions about whether or not to buy equipment in Maine based on the Credit. Is it providing the boost to the economy that was expected and is it helping to maintain and create new jobs?

Ms. Hicks said the Speaker believes it is important to take the opportunity now that the MCIC is in place to better understand the program and whether it is meeting its intended goals. She said the Speaker was pleased that the GOC was doing that work with other tax expenditures and hopes they will add it to their list in an expedited fashion.

Chair Katz said the MCIC would be coming up for the GOC's consideration at some point in time, even absent this request, and asked Director Ashcroft when that would be. She said it would be sometime prior to October 1<sup>st</sup> of this year. The statute requires that by that time the GOC review the entire population of tax expenditures, reconsider what category they are in in terms of full evaluation versus expedited versus no review. As part of that process, the GOC will also be considering tax expenditures that have been enacted or amended in the previous session and now are part of the population of tax expenditures. The MCIC would be one of those. Director Ashcroft noted that MCIC is not a new credit, but it was not part of OPEGA's population before because Maine Revenue Services has not been including it in the Red Book because it has been a year-by-year thing. It is not a new Credit, but the extension of the Credit over time has brought it to our attention and it really should have been on the original list.

Chair Katz asked if the GOC voted today for a full review of MCIC to be done in the earliest cycle, would the Committee be moving the review up in time. Director Ashcroft said the current approved tax expenditure schedule calls for tax expenditures whose basic purpose is to incentivize equipment purchases to be reviewed in 2017. If the Committee were to agree that is the Rationale category that MCIC belongs in, then OPEGA would try to group it together with the others that are in that Rationale category. Director Ashcroft said there would have to be a conversation about whether some of the other tax expenditures scheduled for 2017 would need to go to a different year to stay within the OPEGA resources that are dedicated to these reviews.

Rep. Mastraccio said her concern is the Credit is a lot of money that deserves to be reviewed as soon as possible before the Legislature makes it one of the continuing programs that everybody just continues to pass. She did not care if it was done today or in October, but she will be pushing for a 2017 evaluation of the MCIC because there were a lot of legislators who agreed to a compromise. She is hopeful the GOC would want to make sure the program is doing what the Legislature had intended because of its cost.

Chair Katz recognized Mr. Caverly. Mr. Caverly said that the Senate President thought the October time line to decide on the review would be fine.

Director Ashcroft said if the GOC votes today that they want to do the MCIC review in 2017, in October OPEGA will come to the GOC with what is definitely scheduled for 2017 tax reviews and what the other programs are that they need to think about. The Committee will have to do some prioritization if it looks like there is too much to be reviewed in 2017. She said if the GOC waits to make a decision, then MCIC will become part of the Committee's conversation about what the priorities are. Director Ashcroft said there are already five reviews listed on the schedule for 2017.

Rep. Mastraccio said she was not sure MCIC would be a crossover at all unless the GOC did it.

Chair Kruger said he wanted to make sure that it is not forgotten and made the following motion.

**Motion:** That the Government Oversight Committee add to the 2017 Tax Expenditure Review Plan the Maine Capital Investment Credit. (Motion by Chair Kruger, second by Rep. Mastraccio.)

**Discussion:** Rep. Duchesne noted the GOC will still have the discussion in October about what tax programs reviews might get bumped out. Director Ashcroft agreed.

Sen. Diamond said his concern about voting on MCIC at today's meeting is that the GOC does not know what is going to happen in the next four months and asked what the advantage was of voting on it at today's meeting. Director Ashcroft said OPEGA has not yet put together the list of what tax expenditures got passed during the last session that would be new considerations for the Committee in October.

Rep. Kruger said it was his intention in making the motion to make sure that the MCIC is not lost between now and October. He said the GOC could make a motion in October to change this vote, but it keeps the Credit in view.

**Vote:** The above Motion passed by unanimous vote 10-0.

## UNFINISHED BUSINESS

- **GOC Consideration of Recommendations on Records Retention and Management From Working Group Report**

- **Report Back From Secretary of State Dunlap on Records Retention and Management Efforts**

Secretary Dunlap summarized his Interim Report on Implementation of the Report on Records Retention and Management. (A copy is attached to the Meeting Summary.)

Chair Kruger thanked Secretary Dunlap for his work on records retention and management.

Chair Katz noted that what brought this matter to the GOC's attention originally were the issues at the Center for Disease Control over the appropriate procedures for what draft documents needed to be kept. He asked Secretary Dunlap, with specific reference to that, did the Secretary have a timeline of when there will be guidance to the agencies on that specific subject. Secretary Dunlap believed it would be before the end of the year. He said the challenge is that working papers mean different things to different entities. There is also a question of what is a draft, and when should a draft appropriately be made public and when is it an archival record or even a semi-permanent record.

Secretary Dunlap believes he had given the GOC, at an earlier meeting, a document to use as a point of reference on redaction of private material from public records. He said with the emerging work of the new Advisory Board, and with a better understanding of their statutory authority, he anticipates that about the time the legislation is being submitted, they should have a better idea of what the retention requirements should be for working papers.

Chair Katz asked what subjects Secretary Dunlap's proposed legislation was going to deal with. Secretary Dunlap said it is going to deal mostly with the Archives Advisory Board's duties and authority.

Chair Katz asked if it was relatively clear in statute who has the rule making authority now. Secretary Dunlap thinks it is and the question now is if they want to extend that further. They are discussing whether the Board

itself should have rule making authority or should it come under the Office of the Secretary of State and the State Archives.

The Committee thanked Secretary Dunlap for the information he provided and for answering their questions.

• **Consideration of OPEGA Recommendation on Scope for Review of Child Care Licensing and Regulation**

Director Ashcroft introduced Lucia Nixon and Amy Gagne, OPEGA Analysts who are working on the Review of Child Care Licensing and Regulation.

Ms. Nixon summarized OPEGA's Updated Recommendation for Project Direction on the Review of the DHHS Office of Licensing and Regulatory Services – Children's Licensing. (A copy of the Updated Project Direction is attached to the Meeting Summary.)

Rep. Mastraccio noted from previous conversations with her constituents that concerns with child cares is about risk prevention and access to information. She noted that it was a surprise to her to find out that finger printing and background checks are not routinely done with anyone that is going to be working with children. Rep. Mastraccio gave an example of a parent looking on the website for childcare and the State is saying they are licensed. How, and at what point, is that parent being apprised that there may be problems with a daycare. She said she felt good risk prevention would be to conduct background checks and fingerprinting and that would have eliminated them from being licensed by DHHS and a child care provider. She wanted to know that they were not only taking action after the fact, but how much is being done ahead of time to make sure that people who should not be working with kids are not. Ms. Nixon said question 4 would definitely get at the second piece Rep. Mastraccio identified as to what information is available to prospective parents, when does it become available and how can they access it. She said as to Rep. Mastraccio's question of the identification and risk prevention in terms of hiring practices, she would need to think about how that would more fit in because the question is more on notifying parents. If that is a strong interest of the GOC, OPEGA would have to look into how to work that into the scope within the proposed questions or an additional question.

Rep. Mastraccio thinks prevention is a lot easier than dealing with all of the ramifications of having a person who should not be working with kids doing so. She would like to know if there are problems arising in child cares that have been related specifically to the fact that the State did not do background checks and fingerprinting for those who were duly licensed by the State. Ms. Nixon thought in questions 2 and 3 OPEGA would be looking at samples of specific cases where there were licensing violations and reports of abuse and neglect. Testing to understand those situations, OPEGA would, as part of that, see what is creating the risk.

Sen. Diamond said the State has a history of failing to protect children who are sexually abused in a number of forums and venues, including schools, homes and daycare centers. He would ask and suggest that OPEGA work with the Computer Crime Unit at the State Police in Vassalboro who will have detailed cases of daycare sexual abuse. He said one of the problems has been, which he hopes OPEGA gets into and has alluded to in questions 2 and 3, is what happens when a case of sexual abuse is reported. Somebody determines whether or not that needs to be acted on, and often times that determination is not acted on, so timeliness is very important.

Chair Katz referred to question 4. He hoped that as part of that OPEGA would consider at what point should parents be made aware that there is a serious allegation that something bad is going on when there are serious allegations of abuse that have not yet risen to the level of a finding or citation by violation. Situations where DHHS is might still be looking into it, but the parents should at least be aware of the allegation.

Rep. Duchesne noted that if the information on child abuse allegations was passed on to the parents and the claims were ultimately unsubstantiated that daycare could still be out of business. Chair Katz agreed, but said on the other hand there could be a longer period of time from the date of reporting a potential violation to the date that Licensing either substantiates it or not. He said that is the dilemma – not wanting to falsely raise issues about an otherwise well run facility that could have dire economic consequences but, on the other hand,

knowing for 3 months that there was an allegation of sexual abuse going on and not telling parents. He did not know where that balance would be.

Sen. Diamond said the other half of that is that the allegation is made to the Department and it sits on somebody's desk. More egregious to him is the time that allegation sits there and children continue to be abused. Ms. Nixon said that would be the focus in Question 3 specifically.

Rep. Mastraccio asked if OPEGA Analysts will be talking with parents who were involved in some of the most serious cases as part of their investigation. Ms. Nixon said potentially they would be. OPEGA has not yet gotten to the level of how they will do it, but it is OPEGA's intention to be reviewing records for a sample of cases. She said OPEGA would be planning that in the next phase of their work.

**Motion:** That the Government Oversight Committee approve the four questions that OPEGA recommended with an addition that Question 4 also cover allegations of licensing violations and abuse. (Motion by Rep. Mastraccio, second by Sen. Diamond.)

**Discussion:** Rep. Mastraccio would be agreeable to approving the Updated Recommendation the way it is currently written, but wanted to know if she was the only member who thought they should talk about finger printing and background checks for DHHS Licensing of child care centers or should they just wait for legislation.

Sen. Burns said the bill the Legislature passed last session is in two different parts. One would ask the Department to do rule making between now and the start of the 128<sup>th</sup> Session to bring Maine in compliance with the Federal law requiring fingerprints to back up the background checks. He said hopefully that information will come back to the Legislature from the Department in time for the next Legislature to introduce legislation. Sen. Burns said the second part is to have a working study group to invite participation and input from stakeholders and the public to talk about what is and is not currently in place, what needs to be done to better address this issue and to provide that information to the Judiciary Committee and eventually the full Legislature. He anticipates that at least one of the GOC members will be involved in that study group and would suggest to OPEGA staff that they may want to monitor the group.

**Vote:** Motion passed by unanimous vote 10-0.

- **Review Status of Open Recommendations From OPEGA's 2006 Report on Economic Development Programs in Maine**

- **Draft of Potential GOC Legislation re: DECD's Evaluation of Economic Development Programs**
- **Further Discussion of Other Potential Changes to Statute**

Director Ashcroft reminded members that they had previously decided to delay taking any action to introduce legislation for statutory changes to improve the efficiency and effectiveness of the Department of Economic and Community Development's (DECD) evaluations of economic development programs, in order to consider other changes that might need to be made with regard to economic development programs.

Director Ashcroft reported that she met with the DECD's Deputy Commissioner to look at the draft legislation that was provided to the GOC at this meeting, and at an earlier meeting, and other things that need to be added to address some of the concerns that the Committee had about the effectiveness of the evaluation. She reminded members of the briefing they received from Chris Steele, the independent evaluator DECD hired most recently to conduct the evaluations that were done in 2014 and 2016. Mr. Steele was at a previous meeting to go over the results of the evaluations with the GOC and members of the LCRED and Taxation Committees. She said there were questions that came out of that briefing that Mr. Steele was going to address. She said she has met with him and DECD about those questions. Mr. Steele

had most recently provided some responses in writing that she will be disseminating to GOC, LCRED and Taxation Committee members.

Director Ashcroft thought the current task of the GOC was to come to a decision about what changes needed to be made to statute regarding the scope and objectives of economic development program evaluations in order for the Legislature to receive the type of reports they would like to receive.

Rep. Mastraccio referred to number 5 of the Recommendations/Issues Identified for Potential GOC Action as of February 2016 (a copy is attached to the Meeting Summary) and said that could be under the macro evaluation piece and should be part of DECD. Director Ashcroft said the GOC had a previous discussion about whether there is an economic development strategy for the State and who should be developing it. She said so far it looks like the Maine Economic Growth Council, which is supported by the Maine Development Foundation, has responsibility for that but it is a task that has not yet evolved. She said, from an evaluation standpoint, it is important to have a strategy or know what benchmarks or standards an evaluator is trying to assess either individual programs or the overall portfolio against.

Rep. Mastraccio said what the Director explained above has always been her concern. The Committee heard from Commissioner Gervais that basically DECD did not look at any of the Recommendations from the evaluations that had been done and that their strategy is based on something else. Rep. Mastraccio referred to an informational sheet Director Ashcroft had previously provided her on how to evaluate a piece of legislation relating to economic development which she had handed out to other members on the LCRED Committee. She said that represents a different way of considering potential legislation and she thinks they need to make that something everyone does. She said there needs to be a long term look of where the State is going and thinks it has to be put in statute to make sure those considerations are built into the committee process.

Director Ashcroft suggested a few tasks GOC members might undertake to begin identifying what kinds of results could come out of the evaluations that would be helpful to legislators. Knowing this would help define what a useful scope and objectives for the evaluations might be.

- a) To look at the most recent DECD Evaluation Report which the GOC received at its last meeting. She was not asking the Committee to read the report in detail, but what she would be interested in is what members see in the Report that they feel is a useful theme or something they would like to continue understanding or getting an assessment of. For example, a comparison of where Maine stands in terms of our key industries compared to other States. If members went through the Report and identified what they think would be useful information for the Legislature to have regarding economic development, that will help identify what is currently done in the evaluations that the Legislature would not want to get rid of.
- b) To look at what was added to OPEGA's Statute for the Tax Expenditure Programs as the objectives that are getting covered for tax expenditures subject to full evaluations. These objectives are listed in title 36 section 999, 1-A. It would be helpful to know which of these objectives the Committee might also want to see covered for other economic development programs that are not tax expenditures. Are they interested in all the same kind of questions or are there subsets that they would be most interested in?
- c) To think about the idea of the macro evaluation that covers the State's whole portfolio of economic development programs, and what questions the Committee would be most interested in related to that whole portfolio. For example, how is this whole group of programs doing against the State's strategy and which are most critical to achieving the strategy?

Director Ashcroft said if Committee members could do the three things listed above that would help her figure out the scope. Currently she thinks it is getting reinvented every time DECD goes to do an evaluation in an attempt to hit the mark on what information will be useful.

Director Ashcroft will send an email to Committee members with a reminder on this homework assignment. Chair Katz said this item will be revisited at the next meeting.

Chair Katz asked if the Committee objected to taking an item out of order. Hearing none, the Committee moved to **Next GOC Meeting Date**.

## **NEXT GOC MEETING DATE**

Following Committee discussion about scheduling meeting dates over the interim it was decided that Etta will poll Committee members for their availability on various dates.

## **REPORT FROM DIRECTOR**

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

Director Ashcroft said OPEGA was in the fieldwork stage with the three tax expenditure full evaluations, **New Markets Capital Investment Credit, Pine Tree Development Zones and Employment Tax Increment Financing**. OPEGA is working to put together the package of information for the Taxation Committee by July 1<sup>st</sup> as is required under Statute and she expects OPEGA will make a presentation to Taxation on that. She said given that the package is for Expedited Reviews that the Taxation Committee will be conducting, she does not intend to present that information to the GOC before giving it to the Taxation Committee. However, she will make sure that members of the GOC receive a copy. For the tax expenditures receiving full evaluations, OPEGA will be presenting those reports to the GOC prior to sending them on to the Taxation Committee.

**State Lottery** is in fieldwork phase and **NNEPRA** is in preliminary research. The GOC just approved the Scope for the **DHHS Office of Licensing and Regulatory Services – Children’s Licensing** and that project will now move into fieldwork.

## **ADJOURN**

Chair Katz adjourned the GOC meeting at 12:53 p.m. on the motion of Sen. Davis, second by Rep. Campbell, unanimous vote.