SEN. DEBORAH L. SIMPSON, CHAIR
REP. DAWN HILL, CHAIR

MEMBERS:

SEN. RICHARD A. NASS
SEN. JOSEPH C. BRANNIGAN
SEN. BILL DIAMOND
SEN. EARLE L. MCCORMICK
SEN. DAVID TRAHAN
REP. EVERETT W. MCLEOD, SR.
REP. BRUCE A. BICKFORD
REP. DAVID C. BURNS
REP. PEGGY A. PENDLETON
REP. MARGARET R. ROTUNDO

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

Meeting Summary
November 20, 2009

CALL TO ORDER

The Chair, Senator Simpson, called the Government Oversight Committee to order at 9:44 a.m. in the Burton Cross Building.

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

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

ATTENDANCE

Senators:	Sen. Simpson, Sen. Nass, Sen. Brannigan, Sen. McCormick and Sen. Trahan Absent: Sen. Diamond
Representatives:	Rep. Hill, Rep. McLeod, Rep. Burns and Rep. Bickford Absent: Rep. Rotundo and Rep. Pendleton
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Wendy Cherubini, Senior Analyst, OPEGA Scott Farwell, Analyst, OPEGA Etta Begin, Adm. Secretary, OPEGA
Executive Branch Officers and Staff Providing Information to the Committee:	Chris Zukas-Lessard, Deputy Director, Maine Center for Disease Control and Prevention, Dept. of Health and Human Services Shirrin Blaisdell, Sr. Budget Analyst, Dept. of Administrative and Financial Services

OPEGA FINAL REPORT

- **Fund for a Healthy Maine Programs**

The presentation of the Fund for a Healthy Maine Programs Report was given at the October 16, 2009 GOC meeting. OPEGA advertised in four weekend newspapers an announcement of the Public Comment Period scheduled for today on the Report.

82 State House Station, Room 107 Cross Building
Augusta, Maine 04333-0082
TELEPHONE 207-287-1901 FAX: 207-287-1906

- Public Comment Period

Director Ashcroft referred members to material in their notebooks which included a list of organizations belonging to the Friends of a Fund for a Healthy Maine and the information provided to the GOC at its October 16, 2009 meeting by Dennise Whitley, Director of Advocacy, American Heart and Stroke Association. No other written comments were received.

Chair Hill recognized Deputy Director Zukas-Lessard. The Deputy Director read a memo from Brenda Harvey, Commissioner, DHHS in response to the Report and comments made at the last GOC meeting. The memo included the following:

A summation of comments by Dr. Dora Anne Mills, Director, Maine Center for Disease Control and Prevention (Maine CDC), Guy Cousins, Director, Office of Substance Abuse (OSA), and their staff who worked closely with OPEGA staff. The comments noted that this review had turned out to be very staff intensive for both the Maine CDC and OSA. Dr. Mills estimates that the Maine CDC staff alone spent about 50 hours, which includes reviewing and preparing materials, answering requests, and spending time with OPEGA staff. Commissioner Harvey asked both the Maine CDC and OSA to read the final Report and comment on accuracy, need for clarification, and possible differences in perspectives. They noted that not all of their clarifications were included in the final Report in the way they would have liked to see them.

Ms. Zukas-Lessard addressed the four recommendations and DHHS' comments on each.

Recommendation 1: Allocation of FHM funds should be reviewed in context of changing health environment and goals.

DHHS agrees with this recommendation, and will take its lead from the Legislature on how best to accomplish this.

Recommendation 2: Budgetary programs should be better aligned with State's health goals, efforts and related performance information.

There is a sentiment reflected by some involved in this process that the State Health Plan (SHP), which is in statute, and appropriate elements of the FHM should be aligned. The SHP priorities are determined to some degree by objective data, and primarily data that are collected in Maine as well as across the country, allowing for state and national comparisons. The priorities are also determined in part by participation from many stakeholders through District Coordinating Councils and the Advisory Council on Health System Development, the latter overseen by the Governor's Office. In other words, while we are committed to regularly looking at how we coordinate all of our work across our own offices and other state entities, we believe we have a structure in place to do that. The extensive task, however, of aligning the entire State budget is outside DHHS' scope, and requires a serious policy discussion with DAFS and the appropriate legislative committees.

Recommendation 3: Budget descriptions should be updated and more specific.

We agree, and have worked carefully with DAFS to be certain our descriptions reflect the actual program work.

Recommendation 4: Costs for major activities within budgetary programs should be tracked within the State's accounting system.

This is in the purview of DAFS and will require significant State resources. DHHS does have a budget/expenditure tracking system for all funding streams which is available on the intranet.

Ms. Zukas-Lessard also commented on what appears to be an on-going concern about the Maine CDC's evaluation efforts being adequately "independent". The Maine CDC has placed a strong priority on evaluation of all programs. The FHM evaluation is performed by a 3rd party entity that specializes in public health. Public health evaluation is often an integral part of program operations as in the case of tobacco cessation programs. The functions of public health evaluation are more akin to that of a company when it performs a 360 evaluation, using tools such as employee and customer engagement with the evaluation. Effective public health evaluation is done involving all stakeholders, including those involved with program operations. In the memo DHHS is submitting, there is a link to, and some highlights from, a 1999 article by US CDC on public health evaluation, http://www.cdc.gov/mmwr/preview/mmwrhtml/rr4811a1.htm.

Ms. Zukas-Lessard also noted that the report references conflict of interest. DHHS staff views these remarks as questioning their integrity. The Maine CDC has very few employees overseeing FHM-funded programs. When $25 million of FHM was originally allocated to the Maine CDC 10 years ago, 5 new positions were created in Maine CDC. One of those was eliminated from Maine CDC several years ago, leaving 4 positions overseeing most of these funds and dozens of contracts. Staff is encouraged to be active in their communities, but not to sit on boards that their programs fund.

In addition, if there were not some long term relationships, there would be frequent turnover among those working on particular efforts and criticism for not having consistency. The vast majority of activities funded by FHM are put out to bid regularly, and contracts do change as a result of this process. Contract management has also changed since we've had quite a bit of turnover of these staff in recent years.

Lastly, OSA believes the text box on page 29 of the Report – OSA Activity: Intervention indicating that the prescription monitoring program cost approximately $188,000 in FY 08 and was funded solely by the Fund for Healthy Maine should have also contained the information that was noted elsewhere in the body of the report that there is other funding that the PMP gets. OSA attempted to have OPEGA correct this in a previous draft of the report but the edit was not made.

Commissioner Harvey and Dr. Mills' absence from the GOC meeting should not be interpreted as disinterest, and both would be happy to appear before the Committee later in the session, along with their staff, to address questions the GOC may have about their management, accountability and transparency.

A copy of Commissioner Harvey's Memo regarding comments on the Final Report issued by OPEGA regarding the Fund for a Healthy Maine Programs is on file with OPEGA.

Following Ms. Zukas-Lessard's presentation the Government Oversight Committee had the following questions and comments.

GOC: Sen. Nass said that from his point of view the Fund for Healthy Maine and its various tentacles, which he thought were well described in OPEGA's Report, and DHHS' response still leaves him with the problem that the State funds various programs from multiple sources, his favorite example being child care. There is General Fund money that funds child care and there is also Fund for Healthy Maine money that funds child care. The connection between the two is not always made in a way such that legislators have a sense for the totality of funds for child care. He said he could not see where the Department is offering any kind of resolution of that.

DHHS: Ms. Zukas-Lessard said she believes the child care piece is within the Office of Child and Family Service and she is not familiar with that so she will take Sen. Nass' comment back to the Department to provide additional information.

GOC: Sen. Nass noted that there may be other areas, but that is the one he remembers and keeps bringing up because of the calls he has received regarding child care. There is no realization of the total State commitment to child care, a large piece coming from tobacco money. He would appreciate receiving the information.

GOC: Chair Hill referred to the Department's comments regarding Recommendation 1 which suggested that DHHS would take its lead from the Legislature. She asked how that would happen. Would the Department make recommendations and give some information to the Legislature so they could make a good determination about realigning or reallocating the funds?

DHHS: Ms. Zukas-Lessard said she believed it would involve Commissioner Low and DAFS because of the connection to the budget and how things are separated by program or by unit. It should probably start with Commissioners Low and Harvey.

GOC: Chair Hill referred to Recommendation 4 – OPEGA's suggestion that costs for major activities within budgetary programs should be tracked within the State's accounting system. She said that personally she likes to use technology to track as much information as possible so that it can continually be looked at in different ways to whichever groups, agencies or departments that need to use it, as well as, making more information available to the public. In DHHS' response it was indicated that was in the purview of DAFS and would require significant State resources. Chair Hill said that the term "significant State resources" is a term that is tossed out often, not only within DHHS, but throughout State government and she wondered whether in fact that was a guess or are there figures that can be applied to that. She would like to have a better understanding of what is considered "significant State resources".

DHHS: Ms. Zukas-Lessard will bring Chair Hill's question back to the Commissioner.

GOC: Sen. Nass referred to the conflict of interest paragraph in the memo and said as he recalls the Report and reading the minutes of the last meeting, there was concern that there was a conflict of interest, but he did not hear the specific suggestion of what the conflict was. He noted that DHHS' memo stated "We have encouraged staff to be active in their communities, but not to sit on boards that their programs fund" and asked if that had been an issue.

DHHS: Ms. Zukas-Lessard said no and from what she understands the issue that was raised during the review was that there was an individual within Maine CDC who was a contracted staff person. The Department was contracting with the individual because they were short on staff. There was a question that she was overseeing contracts, yet she was not a State employee. Ms. Zukas-Lessard said that person was not overseeing contracts, she was approving invoices, was supervised by a State employee and the agreement administrator oversaw the contract.

GOC: Sen. Nass also referred to a statement in the memo "The vast majority of FHM funds are put out to bid regularly" and said one of the observations in the Report was that re-bidding not necessarily need to be done every year, but the regularity of it was a little too long between periods when it was bid out.

DHHS: Ms. Zukas-Lessard said she believes it is 3 years and the Department of Purchases can give an extension if they feel it is warranted. She said DHHS is going out to bid this year for both the evaluation and the media activities supported by the Healthy Maine Funds.

Chair Hill asked if there were any other questions. Hearing none she said she had a comment on the conflict of interest because she does remember the GOC took it up at its last meeting. She does not believe the Report said that there was a conflict of interest and she wanted to be clear on that. She said the Report said there could be a perceived conflict of interest based on the way the relationships are set up now and how long term they are. The Chair believes the explanation is good and if anyone in Ms. Zukas-Lessard's Department has been in any way insulted, she hopes the Deputy Director carries back the message that they really need to read the language more carefully. OPEGA was simply saying this could be the way it could be looked at or actually start to occur. The GOC questioned OPEGA on that point to make sure they were not saying there was a conflict of interest because if there was, the Committee needed to know more detail about that. The conclusion was that there is not one that was known at this time. Chair Hill believes it is important to take that a little further and not have it be a sore spot.

Chair Hill, on behalf of the GOC, thanked Ms. Zukas-Lessard for attending the meeting and answering the Committee's questions.

Chair Hill recognized Shirrin Blaisdell, Senior Budget Analyst, DAFS.

Ms. Blaisdell said she did not have any particular comments to make to the GOC about the Report. She commented on Recommendation 3 and that DAFS certainly agreed there should be clarity in the budget and DAFS will work with the Department on that. She noted that some of the fields in the budget system are formatted with a limited length, partly to try to make the budget document smaller. She said there are supplemental budget materials that expand on that information. She said she could not address the significant State resources component, but if any of the GOC's recommendations were to require DAFS to modify the actual format of the budget, those would require certain programming efforts. Current resources available in DAFS' All Other budget are not adequate to cover significant programming. Ms. Blaisdell said she is not the person in the Budget Office who could describe what kind of resources that would take. She said the suggestions in the Report, such as creating a separate fund for the Fund for Healthy Maine rather than having that as a component of the Other Special Revenue Fund, would be something that could be done without a significant use of resources.

The GOC questions and comments included:

GOC: Sen. Nass said he was surprised that the Fund for a Healthy Maine was not a separate fund with its own coding. He said not having its own coding contributes to the problem, using the same example, how much is being spent on child care in total. Sen. Nass referred to the 014A code used by the Executive Branch that is listed in the Meeting Summary, and asked if it was the code for Other Special Revenue.

DAFS: Ms. Blaisdell said 014 is the fund designation for the entire Other Special Revenue Fund account of which the Fund for a Healthy Maine is a component. Ms. Blaisdell said she was not familiar with 014A.

GOC: Sen. Nass is in hopes that the Fund can be recognized as a separate fund. It may be somewhat controversial, but would be a help if it had its own coding. Grant Pennoyer, Director, Office of Fiscal and Program Review, indicated that from OFPR's standpoint it looked like it would be a possibility to separate and designate.

DAFS: Ms. Blaisdell said she does not believe it would be an issue from the Budget Office's standpoint if the Fund were created as a separate fund. She said she was not in the Budget Office when the Fund was created so is not sure why there was some hesitancy at that time to create it as a separate fund.

GOC: Sen. Nass believes it is time to separate and clearly identify the Fund and he would be looking for that kind of response from the Budget Office or whoever would be the correct department to make that decision.

DAFS: Ms. Blaisdell said she assumed it would be a recommendation from the Government Oversight Committee and then the Budget Office could work to at least put the existing funding account structure within its own fund, but if there were other changes the GOC wanted to make to program names or dividing current programs into multiple programs, the Budget Office would be looking to the Committee working with the Department for direction on that.

GOC: Sen. Nass said obviously it would be easier to change the Fund to have its own code in the next budget cycle and is something that should be done. He was looking for the next step that should be taken to have that happen.

DAFS: Ms. Blaisdell said she will take the comments back to Commissioner Low and the Budget Officer.

GOC: Chair Hill said it seems there is definitely room for improvement. The GOC is not looking to make any improvements unrealistically expensive so further dialogue needs to happen in terms of what DAFS can do, but she would like to move in a direction of doing it better and to share ways that would be possible.

Chair Hill thanked Ms. Blaisdell for the information she provided to the GOC.

Chair Hill asked if there was anyone else in attendance who wanted to comment on the Fund for a Healthy Maine Programs Report. Hearing no response, she closed the public comment period and asked if Director Ashcroft would move to the work session.

Director Ashcroft said she had conveyed to the GOC Chairs that neither Commissioners Low nor Director Pennoyer were able to attend today's meeting. The Committee indicated at its last meeting that members wanted to hear from them and she thinks hearing from them is important, particularly if the GOC wants to have discussions about what to do with OPEGA's Recommendations beyond sending them to a Joint Standing Committee for consideration. Both Commissioner Low and Director Pennoyer had indicated they would like to be available to answer the GOC's questions and would be happy to come to the next GOC meeting. Director Ashcroft noted that as part of the work session the GOC usually talks about whether to endorse, not endorse or endorse in part the Report. That is something that could be done today or wait for the next meeting as well.

GOC: Sen. Brannigan said he thought it unusual that none of the advocates for the Fund were at the meeting and said it may be because of the curtailment announcement planned for today.

GOC: Sen. Nass asked if the public comment period could be continued.

A: Director Ashcroft said there is nothing in the GOC's statute that restricts them from continuing a public comment period.

GOC: Sen. Nass said he would be interested in hearing from Commissioner Low on the coding for the Fund because he does not know what the down side of that would be.

A: Director Ashcroft said the only reason she had heard given as to why the Fund was not originally set up as a separate fund was because of efficiency issues. If it were set up with a separate fund, the Controller has an obligation to reconcile it. They now do the reconciliations on the Special Revenue as a whole and were not sure whether there was value in breaking the Fund out. She said that is the only consideration she has heard that went on as part of the discussion about whether to create a separate fund.

Motion: That the Government Oversight Committee continue the public comment period on OPEGA's Fund for a Healthy Maine Programs Report until the next meeting of the Committee. (Motion by Sen. Brannigan, second by Sen. Nass).

Chair Simpson recognized Richard Brown, CEO, Charlotte White Center, Dover-Foxcroft, ME.

Mr. Brown said that he would like to speak in support of the Healthy Maine Fund. The Charlotte White Center receives money from the Fund for it's after school programs. He described some of the programs at the Center and said with the help of Healthy Maine Funds they were able to expand into two more school districts and served 60 children through the school year. The Center's Program was awarded Maine's Number One Exemplary After School Program by the Maine After School Network in the National Lights On Foundation and said they could not do it without the funds from the Healthy Maine Funds.

GOC: Sen. Nass said he did not see anything in the Report that challenges any specific program and did not think there was anything in the Recommendations that would affect the Center.

A: Mr. Brown said he was speaking in case there was intent to wheedle funds down he wanted it known that there are some prize programs at the Charlotte White Center.

GOC: Chair Hill congratulated Mr. Brown for having such a recognized program. She asked how much the Center receives from the Healthy Maine Fund for its program.

A: Mr. Brown said it costs approximately $120,000 to run the whole program and believes the Center receives $40,000 from the Funds for a Healthy Maine.

Chair Hill thanked Mr. Brown for the information provided.

Chair Simpson asked if there was anyone else who would like to participate in the public comment period.

Chair Hill said it would be helpful if those at today's meeting could bring back to the next GOC meeting information in response to questions asked by the Committee today.

Chair Simpson asked if the Committee was ready to vote on the above Motion by Sen. Brannigan. The Motion passed by unanimous vote.

-Committee Work Session

The Committee Work Session will be held at the next GOC meeting.

SUMMARY OF THE OCTOBER 16, 2009 MEETING

Motion: That the Meeting Summary of October 16, 2009 be accepted as written. (Motion by Sen. Nass, second by Sen. Brannigan, PASSED by unanimous vote).

RECESS

The Government Oversight Committee recessed at 10:24 a.m. on the motion of Chair Simpson.

RECONVENED

Chair Simpson reconvened the meeting at 10:29 a.m.

NEW BUSINESS

- **Personnel Matters**

Motion: Pursuant to 1 MRSA section 405, subsection 6A, the Government Oversight Committee moves into executive session for the purpose of discussing the performance evaluation of the Director of OPEGA and her request for reappointment. (Motion by Sen. Nass, second by Sen. Trahan, PASSED by unanimous vote).

The Government Oversight Committee recessed at 10:20 a.m. to go into an executive session.

The Government Oversight Committee adjourned its executive session at 11:18 a.m. (Motion by Rep. Bickford, second by Sen. Nass, PASSED by unanimous vote).

Chair Simpson reconvened the Government Oversight Committee meeting at 11:18 a.m.

UNFINISHED BUSINESS

None

REPORT FROM OPEGA DIRECTOR

- **Project Status Report**

Director Ashcroft reported on the status of projects:

Public Safety Answering Points and Dispatch Centers is proceeding through the fieldwork phase. OPEGA does have a consultant assisting with the project management and lending his expertise on the operations of the Centers. OPEGA has designed the methodology and the target for issuing the final report is February, 2010.

Medical Services in the Correctional System is proceeding as OPEGA has lulls in other projects. OPEGA has completed the preliminary research phase and we are in the process of doing a risk assessment of the information gathered in preparation for developing a Project Direction Recommendation Statement for the GOC's consideration. Depending on when the next GOC meeting is scheduled and how many staff resources are required to work on the Special Project with AFA and OFPR, OPEGA is hoping to have that Recommendation Statement ready for the GOC's consideration at its next meeting.

Director Ashcroft reminded members that the Recommendation Statement is where OPEGA puts forth what has been learned about the subject so far, what questions OPEGA thinks would be valuable to answer as they proceed in the detailed part of the review. The GOC weighs in on what the scope of the remainder of the review should be and ultimately approves which questions OPEGA will pursue.

Special Project: Assistance to AFA and OFPR – OPEGA is working with professional and administrative contracts as requested. This has involved proceeding through a process to narrow the focus down to a subset of contracts that will receive first priority for exploration with the agencies about what is being procured and whether the State might be able to get by without procuring that service. At this point OPEGA has reviewed about 140 contracts and entered basic information about them into a data base. Using that information, a smaller subset of about 65 contracts have been selected to begin asking questions about. Director Ashcroft said she wanted to make it clear that the contracts are professional or administrative in nature and are contracts that have had expenditures in the object code 4000 to 4099 series which is Professional Services Not Provided By State. For the most part, these contracts are not related to providers or direct services to citizens. OPEGA has developed a line of questioning on these contracts that will be covered with the responsible agencies.

Director Ashcroft said she will be meeting with OFPR Director Pennoyer and Maureen Dawson, AFA Committee Analyst, to let them know what OPEGA has for information and to discuss what might be most helpful to the AFA Committee, or any other committee, at this time. She will be looking for guidance on how far OPEGA should go in terms of the suggestions or recommendations that we might seek to make about any of the contracts. OPEGA has not made contact with the agencies yet as we have been adhering to the agreement AFA made to let them focus on the other budgetary matters up until last week. The Director hopes to start discussions with them within the next week or two.

GOC: Sen. Brannigan said the AFA Committee asked the HHS Committee a series of questions regarding DHHS' budget. One of them was about the impact of cutting contracts by 5 or 10% and the HHS Committee is preparing the answer to those questions. He said the Department indicated they would rather give a list of contracts they think could be eliminated rather than having an across the Board cut. He said they should be receiving that information from the Department prior to having to report back to the AFA Committee and it may dovetail with what OPEGA is doing.

A: Director Ashcroft said she is staying in touch with Jane Orbeton, OPLA Analyst, so is aware of what is going on with the HHS Committee and that is one of OPEGA's first questions to the agencies, are the services in these contracts something they will continue to procure or are they already planning to eliminate it. There is no sense in OPEGA asking questions about it if it is something an agency has already identified for elimination.

GOC: Sen. Nass said he had lost track of the economic development piece and asked whether AFA had wanted OPEGA to do any work on that.

A: Director Ashcroft said a specific request was never received from them to work on anything related to economic development. There has been a lot of discussion about what to do and, most recently, the Analyst for the Taxation Committee had been talking with her to clarify what was in OPEGA's Economic Development Report.

GOC: Sen. Nass said he has noticed that the BRED and Taxation Committees have a lot of smoke being generated but does not see either doing anything. There is some confusion about the difference between economic development and tax expenditures generally that seems to be interfering with taking action.

A: Director Ashcroft said she had looked back through the GOC meeting minutes and it appears that the GOC's discussion regarding economic development had not been completed regarding whether the GOC, as a Committee, wanted to be prodding on issues from OPEGA's Economic Development report that had not been addressed yet. There was discussion about sending the BRED Committee a communication outlining the items that appear to not have been implemented yet and asking if they wanted to take the lead on it. Director Ashcroft said she does not believe the Committee gave her a direction action to take, or any other.

Following Committee discussion, it was decided that Director Ashcroft will draft a letter to the BRED, Taxation and AFA Committees that includes a brief summary of the history of what has occurred regarding OPEGA's Economic Development Report, and an offer to meet with them.

GOC: Chair Hill referred back to OPEGA's PSAP review stating that it is very important that the review be completed. Given the financial situation of the State, she wanted to make sure that OPEGA's funds for the consultant are secure, that they have started on the project and will be able to finish it.

A: Director Ashcroft said OPEGA currently has the funds available for the consultant.

NEXT COMMITTEE MEETING

•Discussion of Committee's Next Meeting

Rep. Burns suggested that the meeting dates stay consistent during session and the interim.

The next Government Oversight Committee meeting was scheduled for Monday, December 14, 2009 at 9:30 a.m.

The agenda for the December 14th meeting will include:

- Continuation of Public Comment Period and Work Session on OPEGA's Fund for a Healthy Maine Programs Report;
- Personnel matters;
- Project Direction Recommendation Statement for the Medical Services in the Corrections System review (tentative);
- Possible revisions to OPEGA's statute regarding confidentiality of working papers. (Looking for a meeting where there would be enough time to give it the attention it deserves so that could be within the next few meetings.)
- OPEGA is following up on the Statewide IT Report and at some point will have a summary of status; and
- the Quarterly Request List for new requests that have come into OPEGA.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 11:40 a.m. on the motion of Chair Simpson.