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REP. CHUCK KRUGER, HOUSE CHAIR

MEMBERS:

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SEN. DAVID C. BURNS  
SEN. MARGARET M. CRAVEN  
SEN. CHRISTOPHER K. JOHNSON  
SEN. EDWARD M. YOUNGBLOOD  
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REP. ANDREA M. BOLAND  
REP. H. DAVID COTTA  
REP. LANCE E. HARVELL  
REP. JEFF M. MCCABE

MAINE STATE LEGISLATURE  
GOVERNMENT OVERSIGHT COMMITTEE

**MEETING SUMMARY**  
**April 12, 2013**  
**Accepted April 26, 2013**

**CALL TO ORDER**

The Chair, Sen. Cain, called the Government Oversight Committee to order at 9:08 a.m. in the Cross Office Building.

**ATTENDANCE**

Senators: Sen. Cain, Sen. Katz, Sen. Burns, Sen. Craven, and Sen. Johnson  
Absent: Sen. Youngblood

Representatives: Rep. Kruger, Rep. Davis, Rep. Boland, Rep. Cotta, and Rep. Harvell  
Absent: Rep. McCabe

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA  
Jennifer Henderson, Principal Analyst, OPEGA  
Etta Connors, Adm. Secretary, OPEGA

Legislators: Rep. Kathleen Chase, Rep. Nathan Libby and Rep. Gary Knight

**INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS**

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

Chair Cain noted that agenda items will be taken out of order so the Committee could accommodate legislators who also had other legislative business. She noted that it was the Committee's goal at this meeting to discuss and select the List of Topics to be considered for addition to OPEGA's Work Plan and to finalize the Work Plan at its next meeting.

Chair Cain asked if any member of the Committee objected to taking items out of order. Hearing none, moved to **Unfinished Business – Request for OPEGA Review of Charter Schools/Baxter School.**

## UNFINISHED BUSINESS

- **Request for OPEGA Review of Charter Schools/Baxter School – Additional Information Requested at April 2, 2013 meeting**

Director Ashcroft said OPEGA updated the Summary of Charter Schools that the GOC requested at their April 2, 2013 meeting. The Maine Charter School Commission (MCSC) met on April 8<sup>th</sup> and voted to go forward with a contract for Baxter Academy, but Baxter needed to take care of a few things including revising their bylaws and hiring an Executive Director before a contract would be signed.

Director Ashcroft reviewed the checklist for considering topics that the GOC had requested OPEGA complete at its last meeting. She noted the Checklist had been prepared with the following areas of focus in mind:

What processes, practices and standards has the MCSC used in soliciting, reviewing and making approval decisions on applications for public charter schools? Have the processes, practices and standards been in accordance with statute, rules and other established policies and procedures? Has the MCSC consistently applied these processes, practices and standards for all applications? What has been the MCSC's role in providing advice and assistance to applicants during the application process? Has the MCSC taken a consistent approach in this regard with all applicants? What factors have impacted, or could potentially impact, the MCSC's ability to effectively and efficiently fulfill its statutorily assigned roles and responsibilities?

The topic is within OPEGA's jurisdiction and is not already being covered by any other study or effort. Both the Department of Education and the Joint Standing Committee on Education and Cultural Affairs have oversight responsibility for the MCSC and could potentially explore these questions. However, both are likely to have limitations on time and resources that would impact their ability to get into any level of detail, particularly in regard to reviewing documents, and there are other factors that could impact the ability of either to maintain an objective perspective.

Director Ashcroft said total expenditures or revenues associated with the topic approaches \$1 million annually. At least 50% of expenditures or revenues are from non-federal funds, at least 25% of expenditures or revenue are from the General Fund and there are complex and/or multiple funding streams.

Decisions made regarding Charter Schools would indirectly affect a significant portion of Maine's citizens and directly impacts more than 5,000 citizens or 100 businesses. The impact to citizens of those decisions would not potentially be severe in terms of health, safety, welfare or finances.

Director Ashcroft noted that the request came from the Chairs of the Education Committee so there is legislative interest.

**Motion:** That the Government Oversight Committee adds the Review of Charter Schools/Baxter School to the Topics for Consideration List. (Motion by Sen. Craven, second by Rep. Boland, passed 10-0)

## SUMMARY OF THE APRIL 2, 2013 GOC MEETING

The Meeting Summary of April 2, 2013 was approved as written. (Motion by Sen. Craven, second by Sen. Burns, passed 10-0)

## NEW BUSINESS

### • Request for OPEGA Review of Concerns Related to Public Records at Maine Center for Disease Control

The GOC received a request from Sen. Craven and several other legislators regarding the potential inappropriate destruction of public records at the Maine Center for Disease Control (CDC) related to scoring and funding decisions for Healthy Maine Partnerships (HMP). Director Ashcroft said, in her discussion with Sen. Craven, it seems there are potentially multiple concerns, including the inappropriate shredding of documents. Director Ashcroft contacted the Attorney General's Office (AG) regarding that and was told the AG is reviewing that piece, but the AG could not give her any details about that review.

The other part of the review request from the legislators is in regard to how funding decisions for the HMP were made. These questions were asked by Sen. Craven and Rep. Rotundo last year, but were never answered to their satisfaction.

Sen. Craven has received phone calls from other CDC employees – present and former - who talked about the severe atmosphere at the agency. Some had witnessed the destruction of the documents, as well as the discrimination against certain workers. These employees want their identity to be kept confidential, but wanted to let her to know what has happened and hoped that the GOC would look at the working conditions at CDC. Sen. Craven said those contacting her indicated the situation at CDC goes back many years.

Chair Cain questioned what the scope of the review would be. Director Ashcroft said the GOC could look at what specifically was the process or criteria used in making the most recent funding decisions for the HMP and whether it was an objective, well thought out process or decision. Director Ashcroft would describe the working condition issues at CDC, as potential mismanagement within senior management. That piece does dovetail with the DHHS Workplace Culture and Environment topic already on the Topics for Consideration List.

Sen. Burns said he hears about a lot of concerns regarding the work place environments in various State agencies and does not know what to do about it, but said it is concerning. Rep. Boland thought if the GOC looked at one State agency, those results could be instructive for the other departments. Rep. Harvell assumed there are Human Relation Departments within State Government and the GOC might be duplicating other work being done in this arena. Director Ashcroft noted that the Maine Human Rights Commission has a case involving work place issues with the CDC's management team and said the work culture environment piece of the review request could wait until a decision is made by the Maine Human Rights Commission.

With respect to the other issues of mismanagement or how contracts are awarded mentioned by Sen. Craven, Sen. Katz asked for information in writing that outlines, with more specificity, the challenges of what is going on in that Department that OPEGA might review. Director Ashcroft will update the Topics for Consideration List to incorporate the several different areas of concern, where they best fit and Sen. Craven will provide the GOC members with concerns that have arisen.

Chair Cain suggested that Sen. Craven and Director Ashcroft get the requested information regarding CDC to the GOC so members will be able to rank this topic at the same time as the other topics.

Rep. Boland asked if other State agencies had the ability to protect the identities of individuals. Director Ashcroft assumes the AG's Office does, but did not know about other Departments. She thought while the AG was conducting an investigation, identities could be confidential, but she was not certain that remained once the investigation ended. She will find out the answer to Rep. Boland's question.

Rep. Davis said he will agree to add the topic to the List, but is cautious because the AG's Office is involved in the issue. Some of the other members of the Committee agreed. Director Ashcroft said the shredding issue is being removed from the review request at this time.

**Motion:** That the Government Oversight Committee adds the Maine Center for Disease Control to the Topics for Consideration List with the understanding they will receive additional information prior to ranking the topic. (Motion by Rep. Harvell, second by Rep. Boland, passed 10-0)

• **Request for OPEGA Assistance in Developing a Framework for Legislative Review of Tax Expenditure Programs**

Director Ashcroft noted other activity going on regarding this topic and referred the Committee to LD 1255 which appears to have a similar goal to the request from Rep. Keschl and other Legislators. The goal is to establish a framework for ongoing legislative evaluation of tax expenditure programs. In her discussion with Rep. Keschl and Rep. Chase about what their goals were regarding the request, they thought OPEGA might be able to help with getting the ground work done in terms of analyzing and categorizing the tax expenditure programs that currently exist so the Legislature can decide whether they all have to be reviewed all the time. Beyond that it is all the questions of who should be doing what on an ongoing evaluation, what those evaluations should include and be looking at, how to make sure that data is available, and who will have the authority to collect the data to be able to evaluate the programs and answer the Legislature's questions. Director Ashcroft noted those concerns are similar to the things OPEGA is currently thinking about for the legislation being drafted for the GOC regarding economic development programs in general. She said it appears that the Pew Research Center has a lot to offer in terms of the research they have been doing in other states around evaluations of this type that have produced meaningful results.

Chair Cain recognized Reps. Chase and Libby, two of the legislators requesting this review.

Rep. Chase said that over past decades the Legislature has added different benefit incentives through tax expenditures and tax breaks. When she was on the Taxation Committee they were asked to review some economic development programs or economic benefits that had come forward from a list prepared by OPEGA. The work to do that was difficult because there was nothing available to see how to approach it. Again this year the topic is being looked at, and although there have been studies done nothing appears to have been moved forward in a way to successfully say that the State has a policy or methodology in place to review economic development programs or to categorize them. The letter is requesting a review of the list of tax expenditure programs, to determine what programs are there, categorize the programs so you can have an idea of how to approach the program regarding sunseting or other mechanisms for ensuring evaluation takes place. Rep. Chase said there is a lot of State dollars involved in economic development programs.

Rep. Libby, who is on the Taxation Committee, said they heard from an employee of the Pew Research Center who has worked with many states regarding economic and community development programs. They have partnered with the National Organization of the Tax Foundation and could be a valuable resource to the Legislature.

Chair Kruger does not think there is a system or method in place to be able to rank new proposals for economic tax breaks and it would be nice to have that information available when voting on legislation.

Sen. Johnson said it appears there are two problems. One is to have a framework of how the Legislature intends to evaluate tax breaks and the other is having information about the impact of the implementation and to know how any given tax break compares to those criteria. The analytical problems exists because none of the State's tax breaks actually specify what they are intended to accomplish in terms of outcomes in a way that can be comparably analyzed as to whether the program made it or not. Many of the tax incentive programs do not include, or require, any metrics by recipients or measurements by others, if appropriate, so the Legislature will have the data to make decisions in the future. He gave the example of giving tax breaks to companies who say they will create jobs. Someone should be gathering statistics of how many jobs were created, and the pay scale so the Legislature can see whether the company is fulfilling its obligation.

Rep. Chase said that was the problem. The Taxation Committee wanted to review programs, but could not get any information from the recipients. Recipients thought it was probably not to their benefit to participate in furnishing information to the Legislature and that may be why a sunset piece is needed as a way to get the requested information.

Chair Cain said she has been frustrated by the lack of information available, and that multi-million dollar programs do not get the same level of evaluation from the Appropriations and Financial Affairs (AFA) Committee as \$500 and \$1,000 requests. She noted that former Commissioner Schneider and Budget Officer Allen did a Report on tax expenditure programs, and came to similar conclusions that the State does not have any criteria for evaluating the provided tax relief without the Legislature saying what is expected of the program. The Chair thinks, although the project would be big, it would be an exciting project for the GOC to take on. From information she has reviewed, sunset provisions alone do not fix anything. It is sunset and evaluation – you have to have both. The GOC's discussion should possibly be who would be best to do those evaluations.

Rep. Boland thought letters should be sent out to those receiving the tax benefits explaining what the State is intending to do and asking for their feedback on how their business is operating under the tax benefits they receive. Director Ashcroft said there has been a number of attempts with the Comprehensive Economic Development Evaluation that DECD tried to do and with ongoing reporting required under statute from businesses that receive economic development. DECD does not get a good response rate from businesses and was also an issue identified in OPEGA's Report. There is no authority, incentive or penalty established in statute for not providing data reporting for those programs. There are two problems. One is being clear with the businesses about what information they need to be gathering that they will provide. That has not been lined out for the individual programs. The other is that without some motivation behind it, there is not a huge effort to be responsive. Rep. Boland said if the businesses knew sunseting was on the way that might be a motivation.

Chair Cain recognized Rep. Knight. He said sunseting is important, but you have to differentiate what is being sunsetted. He thinks it would be important for OPEGA to be involved because of the politics involved, you cannot get the reviews that should be taking place. There are some best practices out there, and the exceptions and deductions for programs are not unique to Maine.

Chair Cain believes the challenge the GOC is going to have is to try to sort out the different elements. The decision of whether or not there should be a rolling sunset and how often, lies in the Taxation Committee's purview because it is a policy question. The question of what the evaluation looks like is something the GOC has more connection to because the GOC does have the ability to do independent and in depth reviews. The challenge the GOC is going to have to think collectively about is what they are measuring for each program and where to get the data. There are information access restrictions that Maine Revenue Services has around individual tax filers. Maine Development Foundation did a study to review some of the tax programs, and although people said publicly they used the program, MDF could not get a list to send letters to.

Director Ashcroft said the review request letter is asking that OPEGA categorize and analyze the existing programs and line out what might be a possible framework that would address the questions of who does the evaluation, what needs to be in an evaluation, etc. She thinks OPEGA could work with the Pew Research Center to put the framework together. It may not be until the time each program first gets sunsetted or evaluated that you get to the point of establishing the purposes and objectives needed to go forward. If you have it in a framework at least you know what you are going after each time, making it more routine. Director Ashcroft sees a way that OPEGA could potentially be helpful and the GOC would have to decide whether OPEGA would be involved in those evaluations once they are set up.

Rep. Chase wanted to clarify that Director Ashcroft was including sorting out and organizing the programs already existing in the work that OPEGA could do. Director Ashcroft said that would be included.

The GOC thanked Reps. Chase, Libby and Knight for attending the meeting and for the information they provided.

Chair Cain said the topic is already on the Consideration List. Director Ashcroft said the Tax Expenditure Programs for Business Incentives/Economic Development is currently lined out as tax expenditure programs for business incentives and economic development. The GOC could expand that by dropping the business incentives/economic development piece and adding today's discussion in its place under the areas of focus. The members of the Committee agreed to Director Ashcroft doing that.

## UNFINISHED BUSINESS con't

- **Continued Review of Potential Topics for Addition to OPEGA's Work Plan**
  - **List of Topics Under Consideration as of 3-8-13**

A copy of the List of Topics is attached to this Meeting Summary.

- **Summary of OPEGA Research on:**

- › DHHS Audit Functions – Information Requested at March 8<sup>th</sup> GOC meeting
- › Maine Economic Improvement Fund
- › Tax Expenditures: BETR and BETE – Update of Information
- › Tree Growth Program
- › Open Space Program

The GOC proceeded to review the current List of Topics Under Consideration to identify whether there were any that the GOC did not think should be ranked by GOC members to be further considered at this time.

Rep. Davis said he has received answers to his questions regarding the **Tree Growth and Open Space Programs** in a Report done by the Maine Forest Service that addressed the questions he had. He said those topics could be taken off the List.

Rep. Boland believes that DAFS has done and continues to be doing a lot of work regarding **Leased Office Space** and thinks that topic does not need to be on the ranking list at this time. Rep. Cotta said BGS is undertaking a program that has the intended goal of eliminating \$2 million out of their leased space and are moving in that direction. He agreed the topic did not need to be ranked. Other members agreed. (Note: Since the Leased Office Space topic is formally on the On Deck List, the GOC will vote at a future meeting whether to officially remove the topic from the On Deck List as well.)

Sen. Craven said the **Public Health Labs** information could be updated with the recent information provided to her. Based on that, she still had concerns regarding this topic. This topic will remain on the List and Director Ashcroft will update the possible areas of focus.

Director Ashcroft noted that the **Division of Financial and Personnel Services** is a topic that has been on the On Deck List for a while and would need a more defined scope. OPEGA has not heard complaints about how well the Service Center is supporting other agencies. Committee members agreed to take this topic off the List. (Note: Since the Division of Financial and Personal Services topic is formally on the On Deck List, the GOC will vote at a future meeting whether to officially remove the topic from the On Deck List as well.)

Director Ashcroft will update the **DHHS Workplace Culture and Environment** to reflect Sen. Craven's earlier comments when discussing the CDC review request.

Unless otherwise mentioned above, the topics on the attached List of Topics Under Consideration remained on the List for the GOC's ranking.

Director Ashcroft noted that for the CDC topic issues she will add a topic for the HMP funding levels decision because it is more specific than just DHHS contracts. The other two issues, regarding public health labs and work place culture, will be included in topics that are already on the List.

Director Ashcroft will send the GOC members a matrix for ranking each topic and if any member has questions they can contact OPEGA.

## NEW BUSINESS

- **Potential Need for Consultant on OIT Review**

OIT was to put together reasonable improvement goals that can be achieved over the next two years and an action plan for meeting those goals. OPEGA is to monitor how they are accomplishing those action items. Part of OPEGA's review is to assess the improvement goals and action plans they have laid out to determine if OIT's plan is adequate, reasonable and something that can be accomplished. OPEGA has now received the improvement goals and action plans from OIT and has decided it would be helpful to have a technical consultant to assist in assessing OIT's plans.

Director Ashcroft said she had previously told the GOC that she would come back to them if OPEGA had decided to hire a consultant to make sure the Committee was comfortable with expending those resources before issuing an RFP.

Rep. Kruger asked if the cost for the consultant would be in OPEGA's current or future budget. Director Ashcroft said that by the time the RFP is done and the consultant hired, most of the cost would likely be in FY 14.

Chair Cain believes there would be a lot of valuable information learned from the work done regarding OIT's plan and goals.

Members of the GOC did not object to the hiring of a consultant to work with OPEGA on the OIT review.

- **Review of OPEGA's Proposed Budget for FY 14-15**

Chair Cain thought it would be important to have more Committee members at the meeting to discuss OPEGA's budget and because it was not urgent that the budget be discussed at this meeting, she proposed moving this discussion to the top of the next GOC meeting agenda. Other members agreed.

## REPORT FROM OPEGA DIRECTOR

- **Status of Projects In Progress**

Director Ashcroft gave an update on the status of projects in progress. OPEGA is planning to release its reports regarding **Maine State Housing: Weatherization and LIHEAP Program** and **Public Utilities Commission** sometime in June, 2013. OPEGA is scheduled to report back to the GOC regarding the **Office of Information Technology: Formal Follow-up Review** every six months and may have that on the GOC's agenda for end of April or first of May. OPEGA is still monitoring the consultant's work for the **Special Project: Technical Assistance on Education Committee Study of School Funding Formula**.

Director Ashcroft worked with the Department of Economic and Community Development regarding the RFP they were going to issue for evaluations of economic development programs. They had revised the original RFP and had asked her to review it and for her input. She thinks DECD is now ready to issue the RFP for both R&D and comprehensive evaluation studies that they are required to do under statute. Chair Cain asked if DECD had resolved their statutory date issue with the Labor, Commerce, Research and Economic Development Committee. Director Ashcroft did not know, but will find out.

Director Ashcroft also attended the Judiciary Committee meeting regarding GALs.

OPEGA has almost completed its review of the Quasi-Independent Agencies' Reports and will put that item on a future GOC meeting agenda.

### **NEXT GOC MEETING DATE**

The next GOC meeting is scheduled for Friday, April 26, 2013 at 9:00 a.m.

### **ADJOURNMENT**

The Government Oversight Committee meeting adjourned at 10:57 a.m.

## Government Oversight Committee

### Topics Under Consideration by GOC for Ranking (as of 4-12-13)

Note that there are two topics currently on the On Deck List that the GOC decided not to rank for further discussion about possible addition to OPEGA's Work Plan at this time. These topics are Leased Office Space and Division of Financial and Personnel Services (Service Centers) and they do not appear on this ranking list. GOC will revisit whether or not to remove these two topics from the On Deck List at a future time.

Section A: Topics Currently On Deck			
	Topic	Possible Areas of Focus	Additional Information
<b>1</b>	Beverage Container Recycling (Bottle Bill)  Responsible Dept: Agriculture MRS	<ul style="list-style-type: none"> <li>• compliance with current law by initiators of deposit</li> <li>• current recycling rates for beverage containers;</li> <li>• current handling fees and bottler requirements of redemption centers;</li> <li>• continued need for current beverage container recycling laws;</li> <li>• opportunities to meet goals of beverage recycling laws via alternative models;</li> <li>• impact of potential changes to beverage container recycling laws on beverage container redemption facilities and initiators of deposit;</li> </ul>	<ul style="list-style-type: none"> <li>• Proposed by a former GOC member in the 124<sup>th</sup> Legislature.</li> <li>• Maine's handling fees may exceed that of most other states with bottle bills.</li> <li>• Expansion of redeemable beverages causes additional work for redemption centers despite attempts to mitigate costs via changes that allow commingling agreements.</li> <li>• There may be bottlers, particularly those from out of state, not in compliance with Maine's law.</li> <li>• Issues with the bottle bill have been raised for many years. During the 125<sup>th</sup> session the Legislature considered two bills – one to repeal the law and one aimed at reducing fraud.</li> <li>• LD 1324 was passed and enacted as PL 2011 Chapter 429. The law changed the legislative oversight for this program to the committee on environmental and natural resources. It also established, as a civil violation, \$100 fine per container returned in excess of 48 containers that are found to be from out-of-state (attempt to reduce fraud).</li> <li>• There are at least four bills related to this topic that have been filed in the 126<sup>th</sup> Legislature. They are:                         <ul style="list-style-type: none"> <li>○ LD 124 An Act to Amend the Bottle Redemption Laws</li> <li>○ LD 291 An Act to Transfer Responsibility for the Returnable Beverage Container Laws from the Department of Agriculture, Conservation and Forestry to the Department of Environmental Protection</li> <li>○ LD 1080 An Act to Improve Efficiency in the Collection of Beverage Containers</li> <li>○ LD 1121 An Act To Promote the Production of Maine Beverages</li> </ul> </li> </ul>

<b>Section A: Topics Currently On Deck</b>			
	<b>Topic</b>	<b>Possible Areas of Focus</b>	<b>Additional Information</b>
<b>2</b>	<p>Long-term Care: Nursing Homes</p> <p>Responsible Dept: DHHS</p>	<ul style="list-style-type: none"> <li>● Reducing costs and improving quality through possible changes to: <ul style="list-style-type: none"> <li>○ current payment rates and structure to incentivize reducing costs;</li> <li>○ inspection system to reduce inefficiencies;</li> <li>○ nursing services and care delivery approaches to better match them to patients' needs and wishes; and</li> <li>○ coordination between hospitals and nursing homes.</li> </ul> </li> <li>● Quality of care in relation to cost</li> </ul>	<ul style="list-style-type: none"> <li>● Proposed by former GOC member in the 124<sup>th</sup> Legislature.</li> <li>● Proposed FY12 Budget for Nursing Facilities (0148) is \$71,869,096 in General Fund, \$271,468,065 in Federal Funds and \$32,403,540 in Other Special Revenue Funds.</li> <li>● Medicaid expenditures are audited as part of the State Single Audit, but that work would not cover the items listed in Possible Areas of Focus.</li> <li>● LD 986, Resolve, To Establish the Commission to Study Long-term Care Facilities has been filed the 126<sup>th</sup> Legislature. Public hearing has not yet been held. The duties of the Commission in the bill are to study: <ul style="list-style-type: none"> <li>○ Funding for long-term care facilities:</li> <li>○ Staffing and regulatory requirements:</li> <li>○ Collaborative agreements with critical access hospitals:</li> <li>○ Differential reimbursement mechanisms:</li> <li>○ Viability of privately owned nursing facilities in rural communities; and</li> <li>○ Impact of nursing home closures on rural populations.</li> </ul> </li> </ul>
<b>3</b>	<p>Pharmaceuticals (Prescription Drugs and Medicaid Drug Rebate)</p> <p>Responsible Dept: DHHS</p>	<ul style="list-style-type: none"> <li>● Effectiveness of measures taken to contain costs</li> <li>● Effectiveness of internal controls in place to prevent fraud and abuse related to controlled substances.</li> </ul>	<ul style="list-style-type: none"> <li>● GOC considered this topic during development of 2007-2008 work plan as other states had found savings in this area.</li> <li>● At that time, DHHS had been making significant efforts to reduce costs in this area including establishing a preferred drug list</li> <li>● In 2009, the GAO reported on fraudulent, improper or abusive actions related to the prescribing and dispensing of controlled substances.</li> <li>● In FY12, the pharmacy claims processing system processed Medicaid and CHIP claims totaling \$243 million.</li> <li>● The State Single Audit performed by the State Auditor includes a compliance audit of the Medicaid program including audit steps related to prescription drugs and drug rebates. Significant findings have been noted in the past. Both the most recently completed State Single Audits for FY11 and FY12 included a finding that controls over the pharmacy claims processing system need improvement.</li> <li>● In February 2012, DHHS began quality assurance audits of 50 paid pharmacy claims each month.</li> </ul>
<b>4</b>	<p>Public Health Labs</p> <p>Responsible Dept: DHHS</p>	<ul style="list-style-type: none"> <li>● Possible outsourcing of some lab work</li> <li>● User fees charged</li> <li>● Testing being conducted by multiple State agencies using different labs.</li> </ul>	<ul style="list-style-type: none"> <li>● GOC considered this topic during development of its 2007-2008 work plan. Other states have found savings in this area.</li> <li>● It appears there are State agencies other than DHHS that also do laboratory work, i.e. Agriculture.</li> </ul>

<b>Section A: Topics Currently On Deck</b>			
	<b>Topic</b>	<b>Possible Areas of Focus</b>	<b>Additional Information</b>
<b>6</b>	<p>Publicly Funded Programs for Children Birth to Five Years</p> <p>Responsible Dept: MDOE DHHS</p>	<ul style="list-style-type: none"> <li>• Strengths and weaknesses, including gaps, overlaps and coordination, in State's current programs for children birth to five years.</li> </ul>	<ul style="list-style-type: none"> <li>• The GOC of the 125th Legislature voted this topic On Deck in September 2012 during its consideration of OPEGA's report on Child Development Services. The intention was that OPEGA and the next GOC would review the reported results of the children's task forces that are currently meeting on this topic and consider whether further review of this topic area to identify overlaps and gaps in services is needed.</li> <li>• The 125<sup>th</sup> Legislature passed LD 568 which had called for creating a stakeholder group to conduct an assessment of this nature including, but not limited to, Child Development Services, public prekindergarten programs and six programs administered by DHHS Bureau of Child and Family Services. That bill was vetoed by the Governor, and consequently, the stakeholder group was not created.</li> <li>• In testimony before the GOC, MDOE described two groups currently doing work on Birth to 5 learning that the Department felt would cover the area of focus given for this topic. Those groups are the State Agency Interdepartmental Early Learning Team (SAEIL) and the Maine Children's Growth Council (MCGC) Sustainability Committee.</li> <li>• OPEGA is currently monitoring the status and focus of these efforts for the GOC and expects to obtain any reports or other results when they are ready. To OPEGA's knowledge, no specific dates have been set for completion of these efforts.</li> </ul>
<b>7</b>	<p>Revenue Collected through the Courts</p> <p>Responsible Dept: JUD</p>	<ul style="list-style-type: none"> <li>• Internal controls over collection, deposit, accounting and safeguarding of revenue</li> <li>• Effectiveness and timeliness of collections efforts, i.e. are all funds due the State being collected timely</li> </ul>	<ul style="list-style-type: none"> <li>• OPEGA suggested this topic and it was placed on the 2007-2008 work plan because it had not been audited for some time and had a potential fiscal impact. OPEGA was not able to get to all planned reviews in that biennium and, therefore, the topic was moved to the On Deck list.</li> <li>• According to the Revenue Forecasting Committee's December 2012 Report, actual FY12 revenues through the Judiciary for fines, forfeitures and penalties were \$25,120,959 and are forecast to be \$24,452,139 in FY13; a 2.7% decrease. The FY12 revenues were also a decrease from FY10 when actual revenues were \$32,787,060. Revenues from fines are primarily from judicial collections.</li> <li>• Previously the Forecasting Committee has noted that major factors affecting this revenue source are the number of violators being prosecuted, the ability of violators to pay fines and the collection effort implemented by the Judicial Branch.</li> </ul>

Section A: Topics Currently On Deck			
	Topic	Possible Areas of Focus	Additional Information
8	<p>Substance Abuse Treatment Programs in Prison System (Correctional Recovery Academy and Intensive Outpatient Program)</p> <p>Responsible Dept: DOC OSA</p>	<ul style="list-style-type: none"> <li>effectiveness and/or cost-effectiveness of programs in rehabilitating participants and reducing recidivism</li> </ul>	<ul style="list-style-type: none"> <li>This topic was added to the On Deck list as the result of a citizen's 2009 request for a review of these programs.</li> <li>The Correctional Recovery Academy (CRA) program is a 9 month residential intensive substance abuse treatment program that has the goal of reducing prisoner's dependency on drugs and alcohol.</li> <li>The Intensive Outpatient Program (IOP) is a 16 week outpatient group therapy program for the treatment of drug and alcohol abuse.</li> <li>In June 2006, the Muskie School of Public Service performed an evaluation of the Correctional Recovery Academy and a companion program. The evaluation resulted in some recommendations, including that DOC and OSA may want to consider conducting an evaluation to assess actual program effectiveness.</li> <li>These programs have been a collaboration of the Department of Corrections (MDOC) and DHHS' Office of Substance Abuse (OSA) and in the past MDOC and OSA contracted for these services directly with Spectrum Health Systems, Inc. The contract that expired on 6/30/2011 was for \$698,820. MDOC funding is a combination of federal (\$121,000) and General Fund (\$469,668) dollars. OSA's portion is from Other Special Revenue funds (\$108,152).</li> <li>As of July 2012, MDOC entered into a contract with Correctional Care Solutions to provide both medical and behavioral health services to the adult and juvenile populations. CCS assessed Spectrum Health Systems program and offered Spectrum a sub-contract to continue providing these programs. MDOC reports the advantage of contracting with one vendor who they are able to demand accountability from and who in turn is able to implement consistent evidence-based practice. The new contract includes provisions requiring the vendor to track outcome data to ensure that programs are efficient and effective with regard to our specific population.</li> <li>OPEGA has requested further information from MDOC on what outcome or other performance measures are being tracked with regard to the two substance abuse treatment programs included in this topic. Also requested information on the current funding sources for these programs. Awaiting agency response.</li> </ul>

Section A: Topics Currently On Deck			
	Topic	Possible Areas of Focus	Additional Information
9	<p>Tax Collection (income, sales, use, fuel, cigarette)</p> <p>Responsible Dept: MRS</p>	<ul style="list-style-type: none"> <li>• Timely collection and deposit of taxes (including efforts to collect overdue taxes)</li> <li>• Effective efforts to assure credits, etc. taken to reduce taxes owed are valid</li> </ul>	<ul style="list-style-type: none"> <li>• Other states have found savings in this area.</li> <li>• The State has had several initiatives over the past ten years aimed at collecting overdue taxes and enhancing compliance with the Use Tax. These included a Tax Amnesty program in 2003, a Use Tax Compliance Program in 2006 and Tax Receivable Reduction initiatives in both 2009 and 2010. These initiatives brought in about \$70.7 million in unpaid taxes while waiving about \$44 million in interest, penalties, etc.</li> <li>• Maine Revenue Services was also assigned two initiatives for FY13 to collect unpaid taxes and increase compliance with Use Tax. The initiatives are budgeted to net about \$6.66 million in unpaid taxes.</li> <li>• According to MRS, it administers over 40 state tax regimes. Statute specifies the particular filing and payment requirements for each. MRS has a Compliance Division that has the objective of collecting all delinquent tax receivables. The Division focuses primarily, however, on individual income, corporate, sales and use and service provider taxes. The Division has contracts with independent collection contractors throughout the United States to assist with that effort.</li> <li>• MRS reports using several approaches to protect against underreporting and uncover non-filing. MRS employs over 50 field auditors who visit places of business across the US. MRS also has desk auditors to review for returns for any corrective assessments that may be necessary. MRS' Tax Compliance Unit is solely focused on discovery of non-filers and uses a computer data warehouse system, similar to that used in at least 20 other states, to uncover unfiled returns and unpaid taxes. MRS did not specify which particular tax types the auditors and computer system are focused on.</li> <li>• MRS has a variety of collection tools and procedures that increase in severity as the collection process progresses. MRS has a small Criminal Investigations Unit to investigate the most egregious offenders and refer cases to the Attorney General's Office for prosecution. MRS did not specify how often the more severe collection tools are utilized.</li> <li>• MRS tracks Tax Receivables and is required each year to recommend receivables deemed uncollectible for charge-off. According to data provided by MRS, total tax receivables as of the end of June 2012 and in March 2012 MRS recommended receivables charge-offs totaling about \$6.7 million. MRS cannot estimate amounts that may be due from non-filers or under reported taxes due. Additional detail MRS provided on taxes receivables and tax collections from various on-going compliance and audit efforts is attached.</li> <li>• Additional research and/or interviews with agency staff will be required for OPEGA to obtain a sufficient understanding of tax types and MRS efforts to assess risk or further scope this topic will require.</li> </ul>

**Section A: Topics Currently On Deck**

<p><b>10</b></p>	<p>Division of Financial and Personnel Services (Service Centers)</p> <p>Responsible Dept: DAFS</p>	<ul style="list-style-type: none"> <li>• Potential for increased process efficiencies within Service Center and client agencies</li> <li>• Definition of roles/responsibilities between Service Center and client agencies</li> <li>• Staffing for financial processes and administration in Service Center and client agencies</li> <li>• Control environment and internal control systems</li> <li>• Change management</li> <li>• Achievement of expected savings from consolidation</li> </ul>	<ul style="list-style-type: none"> <li>• OPEGA suggested this topic during 2007-2008 work plan development because centralization of key administrative functions affected most agencies and potential internal control weaknesses in financial processes were noted in some reviews. At the time there were also complaints from agencies about process inefficiencies and quality of customer service. In addition, Brookings had highlighted financial administration as an area of possible savings.</li> <li>• The topic was placed on OPEGA's 2007-2008 work plan as a second level priority but OPEGA was not able to get to all the reviews on that biennial plan.</li> <li>• Since then, the State Controller's Internal Audit Division has reviewed internal controls in at least one Service Center and provided internal control training to all. The Service Centers are supposed to have internal control plans that are submitted to the Controller's Office. OPEGA is not aware of the current status of those plans or the Controller's Office review of them.</li> <li>• OPEGA obtained current description of DAFS service centers that was included in orientation presentation given to AFA Committee in January 2013. See attached.</li> </ul>
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**Section A: Topics Currently On Deck**

<p><b>11</b></p>	<p>Personal Use of State Assets: recreational vehicles (ATVs, boats, snowmobiles, etc.); airplanes and helicopters; houses and camps</p> <p>Responsible Dept: Various</p>	<ul style="list-style-type: none"> <li>• Policies in place regarding personal use of assets</li> <li>• Compliance with policies and how compliance is monitored</li> <li>• Appropriateness of current or past personal use of significant State assets</li> </ul>	<ul style="list-style-type: none"> <li>• This topic is based on a request directed to OPEGA through a legislator by an individual who requested confidentiality. OPEGA conducted minor research in preparation for putting this topic before the GOC for consideration in 2008. Research included collecting inventories of these assets from Departments that had them as well as policies governing their use.</li> <li>• At that time, six departments had assets of this type with the substantial majority being in Departments of Marine Resources, Inland Fisheries &amp; Wildlife and Conservation. Most departments reported that no personal use was allowed, but did not provide written policies that expressly communicate this. IF&amp;W reported that assets (other than airplanes) were available for limited personal use and provided written policies to that affect.</li> <li>• OPEGA recently requested updated information from the six Departments that had assets of interest in 2008. All Departments responded and provided current information. Of note is that some Departments may have modified their inventory of state assets since 2008 and may no longer have pertinent assets or may have different types of assets than before. OPEGA did not request updated inventories. Furthermore, most Departments provided reference to policies pertinent to state-owned vehicles, but state-owned vehicles were not assets of interest in the original request.</li> <li>• Most of the Departments provided reference to multiple policies or policy statements contained in various documents. Most maintain at least one general policy, often pertaining to "equipment." Other policies or policy statements provided were specific to certain types of assets. One Department did not have any policy relevant to the assets of interest. This department also had a relatively small inventory of these assets in 2008.</li> </ul>
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Section A: Topics Currently On Deck			
			<ul style="list-style-type: none"> <li>• Whether the policies allowed personal use of the assets of interest varied by Department and type of assets. Some policies did allow for personal use of certain assets under certain circumstances with prior approval by designated individuals. This was typically the case for policies on “equipment”. Conservation also has a policy on camps and houses which allows for use of housing in the off season in exchange for “security, surveillance and maintenance.” In other cases, personal use of certain specific assets was clearly prohibited like assets such as ATVs in IF&amp;W and airplanes in Public Safety.</li> <li>• OPEGA observes that additional specificity and coordination between the multiple policies in most of the Departments would improve understanding of which of the assets of interest are particularly governed by which policy.</li> <li>• No Department provided a specific plan in regard to staff education about policies though most mentioned that policies are reviewed during the respective Department’s new employee orientations. Most Departments also mentioned some sort of review mechanism when new policies are developed or when there are concerns / questions that arise.</li> </ul>

Section B: Topics Suggested by Current GOC Members			
12	DHHS Audit Functions	<ul style="list-style-type: none"> <li>• Focus of audit efforts</li> <li>• Resources and Capabilities</li> <li>• Results of audit efforts</li> <li>• Degree to which DHHS Audit functions have sufficient resources and capabilities to be effective in identifying fraud, waste and abuse</li> </ul>	<ul style="list-style-type: none"> <li>• This topic was raised by a GOC member at the 2-22-13 GOC meeting.</li> <li>• OPEGA has previously identified issues with weaknesses in DHHS' Program Integrity Unit's capabilities to use data analytics and exception reporting from the MaineCare claims system to identify potential cases of fraud, waste and abuse. These issues were reported in OPEGA's 2009 report on Durable Medical Equipment and OPEGA is still tracking the related recommendation as acceptable action has not yet been completed.</li> <li>• See separate summary of OPEGA research conducted since the 2-22-13 GOC meeting where this topic was raised.</li> </ul>
13	DHHS Workplace Culture and Environment	<ul style="list-style-type: none"> <li>• Whether workplace culture and environment is conducive to recruiting, retaining and engaging capable, knowledgeable and motivated employees toward best results for DHHS programs and services.</li> </ul>	<ul style="list-style-type: none"> <li>• This topic was raised by a GOC member at the 2-22-13 GOC meeting.</li> </ul>
14	DHHS Contract Management	<ul style="list-style-type: none"> <li>• Functions, structure and approach to contract management</li> </ul>	<ul style="list-style-type: none"> <li>• This topic was raised by a GOC member at the 2-22-13 GOC meeting.</li> </ul>
15	<p>Maine Economic Improvement Fund</p> <p>Responsible Dept: University of Maine System</p>	<ul style="list-style-type: none"> <li>• Degree to which legislative intent for the program is being met</li> <li>• Decision making process for awarding funds</li> <li>• List/description of funded projects</li> <li>• Alignment of funded projects with the targeted technologies/areas defined in statute</li> <li>• Geographic distribution of grant awards</li> <li>• Costs of administering the fund</li> <li>• Outcomes of funded projects</li> </ul>	<ul style="list-style-type: none"> <li>• This topic was raised by a GOC member at the 1-25-13 GOC meeting.</li> <li>• Maine Economic Improvement Fund (MEIF) was established in Statute in 1997 - Title 10 MRSA Ch. 107-C. The fund was budgeted for \$14.7 million (General Fund) in the FY12/13 budget</li> <li>• MEIF is administered by the University of Maine System. Funds must be used in Targeted Areas as defined in 5 MRSA §15301 - biotechnology, aquaculture and marine technology, composite materials technology, environmental technology, advanced technologies for forestry and agriculture, information technology and precision manufacturing technology.</li> <li>• Concerns have been raised in the past about the funds being used almost exclusively by the University of Maine at Orono and the University of Southern Maine. During the 125<sup>th</sup> Legislature, MEIF statute was amended by P.L. 2011, ch. 698 which established minimum percentages of annual MEIF disbursements for the Universities of Maine at Augusta, Farmington, Fort Kent, Machias and Presque Isle to support research and development. The minimum disbursements are 2.5% beginning 7/1/13 and 3% beginning 7/1/15.</li> <li>• The University is also required to include, in its future annual reports on the MEIF due January 1<sup>st</sup> each year, a summary of the R &amp; D projects at the smaller universities that have been funded as a result of MEIF disbursements, as well as any external funding sources that have been leveraged as a result of these awards.</li> </ul>

Section B: Topics Suggested by Current GOC Members			
			<ul style="list-style-type: none"> <li>The law also established a Task Force to review the MEIF and recommend any changes necessary to enhance investment in targeted research and development and product innovation, as well as to provide basic investment necessary to obtain matching funds and competitive grants from private and federal sources. A Report from the Task Force to the Joint Standing Committee on Labor, Commerce, Research and Economic Development was due January 8, 2013.</li> <li>A comprehensive review of the management and administration of the MIEF since its inception has never been completed.</li> <li>See separate summary of OPEGA research conducted since the 2-22-13 GOC meeting.</li> </ul>
16	<p>Tax Expenditure Programs for Business Incentives/Economic Development</p> <p>(Focus on those related to initiatives in the current proposed Biennial Budget for FY14/15)</p>	<ul style="list-style-type: none"> <li>Effectiveness and efficiency</li> <li>Degree to which they are meeting legislative intent/purpose</li> </ul>	<ul style="list-style-type: none"> <li>This topic was raised by a GOC member at the 2-22-13 GOC meeting.</li> <li>There are two programs associated with a budget initiative in the Governor’s proposed budget for FY14/15. These are the Business Equipment Tax Reimbursement (BETR) and the Business Equipment Tax Exemption (BETE).</li> <li>The GOC of the 125<sup>th</sup> Legislature had also expressed interest in these programs as well the Tax Increment Financing program. OPEGA’s conducted initial research on the programs to determine what level of effort would be needed to answer the questions that had been posed. OPEGA determined and reported to the GOC that answering the questions would require significant time and resources due to limitations on readily available data and the GOC decided not to pursue it further.</li> <li>See separate summary of OPEGA research conducted or pulled together since the 2-22-13 GOC meeting.</li> </ul>
17	Tree Growth and Open Space Programs	<ul style="list-style-type: none"> <li>Degree to which legislative intent of these programs is being met.</li> </ul>	<ul style="list-style-type: none"> <li>This topic was raised by a GOC member at the 2-22-13 GOC meeting.</li> <li>See separate summary of OPEGA research conducted on the Tree Growth Program since the 2-22-13 GOC meeting.</li> <li>OPEGA’s research on the Open Space Program is in progress.</li> </ul>