



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  
May 27, 2010  
Accepted June 14, 2010

**CALL TO ORDER**

The Chair, Senator Simpson, called the Government Oversight Committee to order at 9:40 a.m. in the Burton Cross Building.

**ATTENDANCE**

Senators:	Sen. Simpson, Sen. Nass, Sen. Brannigan, Sen. Diamond, Sen. McCormick, and Sen. Trahan
Representatives:	Rep. Hill, Rep. Pendleton, and Rep. Burns Absent: Rep. Rotundo, Rep. McLeod, and Rep. Bickford
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Etta Begin, Adm. Secretary, OPEGA
Executive Branch Officers and Staff Providing Information to the Committee:	Richard Thompson, Chief Information Officer, Office of Information Technology Janet Joyeux, Assistant to the Commissioner, Department of Public Safety

**INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS**

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

Chair Simpson asked if there was objection to taking items out of order. Hearing none, the GOC moved to **Unfinished Business, Follow-up on OPEGA Reports.**

## UNFINISHED BUSINESS

- **Follow-up on OPEGA Reports**

- **Follow-up on OPEGA's 2006 Report on Statewide Information Technology Planning and Management**

Director Ashcroft summarized for the GOC the information in their notebook regarding this agenda item.

Chair Simpson recognized Richard Thompson, Chief Information Officer, Office of Information Technology.

Mr. Thompson said OPEGA's 2006 Report on the Review of State-wide Planning and Management of Information Technology helped his Office define what actions they had to take over the last few years and it can still serve as a significant guide.

Mr. Thompson introduced OIT staff who were at the meeting to assist, if needed, with answering questions from the Committee. He introduced Greg McNeal, Chief Technology Officer, Benson Dana, Internal Auditor and Eric Stout, IT Project Manager.

Mr. Thompson referred GOC members to the Office of Information Technology's 2009 Report on Information Technology and summarized its contents. A copy of the Report is attached to this Meeting Summary.

Mr. Thompson responded to questions he had received in advance of the meeting from Director Ashcroft. A copy of Mr. Thompson's Memo to the GOC regarding the OIT Briefing, Follow-up to OPEGA's Review of IT is attached to this Meeting Summary.

Questions and comments by the Government Oversight Committee included:

GOC: Sen. Nass asked Mr. Thompson what makes the IT enterprise approach work, is it the Governor telling the Commissioners that they have to cooperate with OIT? If so, what is in place to make sure that continues, especially with a new administration coming in?

OIT: Mr. Thompson said the enterprise approach started with an executive order by Governor Baldacci that initiated the activity that OIT is doing. Statutorily the Legislature changed the way information technology is planned and managed through the CIO in 2006 and created the system that is being used today. Secondly, the budget process now includes a component that requires involvement by the CIO, particularly the proposed IT spending related to projects and new investment. Mr. Thompson said there may be some that might want to do that differently. Across the country, almost without exception, information technology at least the infrastructure component, has been consolidated because it makes sense to take advantage of that infrastructure.

Mr. Thompson said OIT has tried to go further in how they try to deal with systems and applications. It is complicated and has been slower than they had thought. He originally thought it would take 5 years to get OIT where it needs to be but it will probably be 7 years

GOC: Chair Hill referred to Mr. Thompson's comments on OIT's planning window and asked why OIT was not able to move beyond 3 years to a 5 year plan.

OIT: Mr. Thompson responded that it is a matter of resource. OIT was originally formed with 2 positions dedicated to planning that no longer exist. Planning for longer time horizons requires more time and research to make sure the State is going in the right directions. OIT does not have the resources to do that additional work, and OIT is still being reactive. OIT's 3 year plan is entirely reactive to the 2 year budget cycle.

GOC: Chair Hill asked if outsourcing the planning function had been considered.

- OIT: Mr. Thompson answered he had not specifically considered outsourcing the planning function. However, he noted that there is a considerable amount of IT outsourcing that is being done or may be done to address the gap between what OIT can accomplish with its existing resources and the body of work that needs to be done. Typically, outsourcing is most appropriate for commodity type functions. He gave the example of running an email system which is pretty straight forward and could perhaps be contracted to Google or a similar entity.
- GOC: Chair Hill asked if OIT had a back up system off site, and if they had a contract with an outside agency to come in and set them up in a crisis situation or to maintain the State's data in case the system went down.
- OIT: Mr. Thompson said OIT has multiple locations and does have partnerships with other entities (like the University) to provide OIT with a degree of support. OIT does not have a contract with anyone to specifically come in and set them up, but they do know the entities that would be able to do that. OIT's data is stored off site with a contractor who can make the information available to them in multiple formats where they need it.
- GOC: Sen. Nass referred to Mr. Thompson's suggestion that the CIO should be a cabinet level position. He said there are jobs in the State that require a high degree of technical skill and asked if he considered the CIO's job to be in that category. He had concerns about a new Governor going out in the political realm trying to find those skills. He wondered whether there are positions requiring certain skills that should not be subjected to the political arena.
- OIT: Mr. Thompson said he has changed his position on that since he has become CIO, partially because of the environment OIT is in today. To a degree, the CIO has to be someone the Governor can have confidence in to make the right decision in challenging situations.
- GOC: Sen. McCormick agreed with Sen. Nass and also noted that if the position was not tied to the Governor, it would not be term limited and the CIO may stay in the position longer.
- OIT: Mr. Thompson said that would be an issue.
- GOC: Chair Hill referred to question 3 on the advance questions Mr. Thompson had been asked to respond to -- "describe any significant issues identified by the auditor that management is still working to address". She noted that Mr. Thompson had not commented on any specific issues but did note that OIT provides written responses to audit findings and recommendations which include remediation plans or compensating controls. She asked what the follow through was, whether the auditor oversee them, and what the timeframe was to enact them.
- OIT: Mr. Thompson said it is handled very similar to audits by the State Auditor. Mr. Dana will go back and evaluate what OIT has accomplished, reports back to him on whether they are getting it done or something else needs to be done and then OIT will respond back. Mr. Dana can also go back in and audit an area a second time. Mr. Thompson said one of OIT's weaknesses was its deployment certification and this is one area OIT has been focused on, along with security. Around security, OIT has things they should be doing and more things to be doing, particularly response on security issues like a virus. Mr. Dana will write 1 report on that issue and OIT will put into place.
- GOC: Sen. Nass asked about the activity between Vermont, New Hampshire and Maine and if there were any discussions regarding coordinating OIT's activities at that level.

OIT: Mr. Thompson said the finger print system for Public Safety comes out of New Hampshire, and they are doing things with Vermont for DOT. He said there is lesser advantage to collectively do things around the wide area network in Maine because they touch each other but they do not overlap. It is the areas that they overlap that would be the advantage. The Unemployment Director has told them the Federal Department of Labor is interested in providing funding for collaborative work rather than 50 states doing separate solutions.

GOC: Sen. Brannigan said he was sorry to hear that Mr. Thompson is leaving his position and thanked him for his work for the State over the years.

Sen. Brannigan asked if Mr. Thompson thought there was a layer between the Governor and Commissioner of DAFS that the CIO of OIT should not have to go through.

OIT: Mr. Thompson said that he has been incredibly fortunate while in the position of CIO that the 2 Commissioners of DAFS allowed him to do the job in the way he felt it should be done.

GOC: Chair Hill asked if OIT had a legislative committee of jurisdiction. She noted in his memo he said there would be a best practices report coming out on the System Development Life Cycle and asked if he would share that information with OPEGA. She also asked if he could provide information on what changes will be made in staffing when he leaves on June 30<sup>th</sup>.

OIT: Mr. Thompson said OIT reports to the State and Local Government Committee, that he will make sure that OPEGA receives a copy of the best practices report and will also provide the GOC more detail of the staffing level at OIT.

GOC: Rep. Pendleton thanked Mr. Thompson for his public service and for his help to her in getting some difficult legislation through.

The Government Oversight Committee thanked Mr. Thompson for providing the update on OPEGA's Statewide Information Technology Planning and Management Report and for his service to the State.

#### **- Follow-up on Management Actions From Emergency Communications in Kennebec County Report**

Director Ashcroft informed the GOC that Commissioner Jordan had an April 30<sup>th</sup> deadline for reporting back to them on actions taken in regard to the Emergency Communications in Kennebec County Report. She directed the members to the letter received from Commissioner Jordan in their notebooks that describes the action that has been taken at the Department of Public Safety to address some of the findings in the Report.

Chair Simpson recognized Janet Joyeux, Assistant to the Commissioner, Department of Public Safety who was at the meeting on behalf of the Commissioner to answer questions.

Ms. Joyeux gave an overview of the Commissioner's letter. A copy of Commissioner Jordan's letter is attached to this Meeting Summary. The Committee's questions and comments included the following.

GOC: Sen. Nass said the OPEGA report had talked about blind transfers and Ms. Joyeux had just suggested that there were some receiving agencies that were essentially not cooperating either. He did not remember that being in OPEGA's Report.

DPS: Ms. Joyeux said some receiving agencies do not want the sending agency to spend the time to relay information.

- OPEGA: Director Ashcroft said this situation is briefly mentioned in the Report in the discussion about the inconsistency in protocols being used by the different entities. OPEGA was suggesting that there ought to be a standard way of transferring calls including several critical pieces of information that should be included.
- DPS: Ms. Joyeux said CMRCC is now assuring there is at least voice-to-voice contact between the 911 caller and the receiving agency. On occasion the receiving agency may want CMRCC has to get off the line without transferring the required information but said that is happening less often.
- GOC: Chair Hill asked if someone within the Department was contacting the receiving agency that gives the curt responses.
- DPS: Ms. Joyeux said Director Wells is going to do that and has notified his staff that if that occurs he wants an audio record of the call. After reviewing it, he will contact the director of the receiving agency to discuss protocol.
- GOC: Chair Hill said it is stated in the Commissioner's letter that the supervisors are now listening to 3 hours of the prior day's calls and asked if they were random hours.
- DPS: Ms. Joyeux did not know the answer to that question, but to her it would make more sense if it was random and it definitely should cover different operators.
- GOC: Sen. Nass referred to the statement that there are 3 open positions in Augusta and 1 in Orono and asked how many total positions there were.
- DPS: Ms. Joyeux said Augusta has 20 or 21 positions with 3 vacancies. They were finishing the interviews that day for all 3 openings. Orono has a staff of 9.
- GOC: Sen. Nass asked if it was customer service training that was needed opposed to protocol training.
- DPS: Ms. Joyeux thinks there are two issues. The protocols are designed to ask very specific scripted questions for medical calls so the dispatcher can help that person through the medical emergency. The same is true for the fire and EMS, they are designed to ensure that the dispatcher asks the right questions in the right sequence to elicit the correct information. The calls that are not scripted is where customer service would be needed.
- OPEGA: Director Ashcroft said she had talked with the Commissioner about the customer service issues OPEGA had observed during the review. There is a difference between the protocols but also the role the State is now playing has changed. This requires a culture shift in the way employees and managers think about the work they are doing and the attitude they bring to it. Part of the problem in Kennebec County is that DPS is now dealing with a lot of non-state entities who fear the State is just trying to create its own empire. That is not what is going on, but the State has been in a role at the top of the food chain for so long that to work in partnership with others in a different way, in a customer service role, is different. Director Ashcroft thinks that is what the Commissioner is trying to accomplish in exploring ways to culture through training on customer service and satisfaction.
- GOC: Rep. Burns said it sounds like the Commissioner is trying to find a better way to interact with the people that information is shared with as part of the emergency communication network as opposed to the individual caller who has an emergency. He understands the decreased sensitivity they are dealing with, and as mentioned by Sen. Nass, that happens in every location. Some of the training Ms. Joyeux is talking about would get people to revisit what their primary purpose is and interacting with other agencies.

- DPS: Ms. Joyeux believes it impacts both customer service to the caller and interaction with other agencies. She thinks the interaction with the other agencies has been more impacted by the changes in the environment. CMRCC being chosen as the only PSAP in Kennebec County has created tension between the first responder agencies and that needs to be addressed. The customer service she referred to is more to insure that the person dialing 911 is treated with respect and with the sense of urgency that is needed.
- GOC: Rep. Burns believes they are there to serve the public. He said there is a big difference in whether specific protocol and scripted questions are helpful when the call is from a lady saying her husband is beating down the door as opposed to my child just swallowed poison what do I do.
- DPS: Ms. Joyeux agreed with Rep. Burns and said as OPEGA said in its Report, they are not necessarily advocating a protocol for every situation, but in every situation there are certain bits of information that you need to get, and get them quickly. She thinks that is the point OPEGA was trying to make and in the calls they listened to, those four or five pieces of information were not always the first asked for.
- GOC: Sen. McCormick referred to the incident that happened in Oregon that morning and the news playing the transcript of the call from the 12 year old to 911 noting there was nothing in that exchange that could be scripted. He thinks the training would come under the customer training.
- GOC: Chair Hill said she sees where Director Wells and Commissioner Jordan are going in seeking outside help on the customer service piece. Following up with what Sen. McCormick and Rep. Burns said, she thinks some of the calls have to be handled with some sensitivity, not just always using a set format because people need to feel like they are being helped and not processed.
- Chair Hill asked if the vacant space at CMRCC was set up so another PSAP could just walk in and start up right away.
- DPS: Ms. Joyeux said the space is designed to be a communication center so that if another dispatch operation could co-locate with CMRCC if desired.
- OPEGA: Director Ashcroft said OPEGA raised the vacant space issue as something to be aware of because most of the space that is vacant was envisioned for a purpose that has not emerged. The whole system continues to develop and mature, and there had been a vision for the use of the space that still could be fulfilled.
- GOC: Chair Hill asked if that had been factored in by the Kimball Study when they are looking at how many PSAPs there should be.
- OPEGA: Director Ashcroft said she believes the PUC has been tasked through legislation with looking at how to implement things in that study. Part of what Kimball recommended was to do further studies in each County area to figure out what was needed in that area.
- DPS: Ms. Joyeux said she had a recent conversation with Maria Jacques, Public Service Manager, PUC and it was her understanding the PUC was going to deal with their legislated task over the summer. They need to think about whether a facility has the capacity to take on more call volume and whether there is room to add dispatchers or call takers.
- GOC: Sen. Nass said he had heard that the version of the GOC's bill passed by the Utilities and Energy Committee increased the 911 telephone surcharge. He is not sure if that is true but that increase has been blamed on OPEGA. He anticipates that will come back to haunt the GOC in the future with people thinking that what the GOC did resulted in increased costs.

OPEGA: Director Ashcroft said the surcharge had already been scheduled to increase to an even higher amount because of law already in effect. In fact, there was a conflict in statute about what the new rate increase was going to be that was to go into effect. The Utilities Committee used the bill that the GOC introduced to take the opportunity to clear the conflict up and to also reduce the scheduled increase from 45¢ or 50¢ to only 37¢.

GOC: Sen. Nass noted that Commissioner Jordan's letter was well written, addressed the issues and was very direct.

GOC: Rep. Burns wanted Ms. Joyeux to relay to the dispatchers that things are progressing and improving and the GOC appreciates that.

The GOC thanked Ms. Joyeux for the information provided.

## **SUMMARY OF THE APRIL 29, 2010 GOC MEETING**

**Motion:** That the Government Oversight Committee accept the April 29, 2010 Summary as written. (Motion by Sen. Nass, second by Sen. Trahan, PASSED, unanimous, 8-0).

The Government Oversight Committee moved to **Report From OPEGA Director.**

## **REPORT FROM OPEGA DIRECTOR**

- **Project Status Report**

**Maine Turnpike Authority** – the GOC approved the questions for the MTA review at its April 29<sup>th</sup> meeting. OPEGA has developed its work plan of how those questions will be answered for the GOC. OPEGA had talked about looking for a consultant with expertise in revenue bonds to assist with one of the questions and is pursuing several leads. Information and data has been requested from MTA that has been received in a very timely manner.

**Medical Services in the Correction System** – at the last GOC meeting Director Ashcroft received the Committee's okay to go ahead and explore whether there might be consultants or contractors that could either do the review or assist with the review. OPEGA has been researching those and identified firms that appear to have expertise in doing reviews in the health and medical area within the correctional system. The Director is planning on proceeding with an RFP or an RFQ to see what the cost might be. OPEGA would be well served by having a consultant or contractor who had some medical expertise and would be able to weigh in. The plan is to get an idea of what the pricing might be and, if not too high, to bring that information back to the GOC for consideration.

- **Update to Legislative Council**

Director Ashcroft said the Legislative Council met on May 26<sup>th</sup> and she provided the Council with an update on GOC and OPEGA activities. She briefed the Council on what has been released for reports and other work since the beginning of January.

Director Ashcroft did not discuss the Government Evaluation Act at the Council meeting.

- **Action Items From Last Meeting**

The GOC reviewed and approved the draft letter to Rep. Flood thanking him for his work on the information OPEGA provided the AFA Committee on contracts.

## **RECESS**

The Government Oversight Committee recessed at 11:50 a.m. on the motion of Chair Simpson.

## **RECONVENED**

Chair Simpson reconvened the meeting at 12:43 p.m.

## **NEW BUSINESS**

- **Review of OPEGA/GOC Processes**

Director Ashcroft said that most of the OPEGA and GOC processes were established by the first GOC and have not been changed since. She has observed that the current Committee when making decisions on proposed review topics, OPEGA's work plan, or OPEGA's scope recommendations, sometimes wants additional input through avenues that are not specified or designed into any of the current processes. She thought it would be helpful for the Committee to go through the processes, discuss if any changes were desired or necessary, and if so, get those woven into the processes for the next GOC to work with.

Director Ashcroft noted that she has also included a GOC review of the Process and Procedure for Receiving OPEGA Reports. She would like to discuss whether the GOC would like more involvement or input to the recommendations that go in OPEGA's reports. Currently, OPEGA issues a report with both findings and OPEGA's recommendations for addressing those issues. There have been times over the years where it seemed that perhaps those recommendations would benefit from having the GOC's input to them or where members had been looking for a way to input to them. The current reporting process can be designed differently to allow for that if members desire it. OPEGA would still need to release a report that has its findings and issues based on the work that OPEGA has done, but the recommendations are just OPEGA's best thoughts to offer the GOC on what should be done about the situation. That piece could be designed differently if the Committee thinks it would be more valuable to have a report that comes from OPEGA, but includes recommendations that either come from the GOC or that the Committee has otherwise provided input to.

- **OPEGA Review Selection Process**

Director Ashcroft referred members to the review selection flow chart developed by the first GOC. The process of putting topics "On Deck" was intended to give the agencies plenty of notification that they may get reviewed. The process is designed for the GOC to consider topic suggestions for review from citizens, legislators, legislative committees, agencies and from OPEGA. OPEGA has not provided suggestions for review to this particular GOC but in the past has done risk type assessments and offering thought about review topics.

Director Ashcroft said other than the rapid response criteria established in the procedure, the Committee has never had any set criteria to use as the basis for deciding if a topic will be put on the work plan or not. She thinks that over the years the absence of criteria has caused problems for the GOC in making these decisions. She believes having criteria would be helpful when the GOC is deciding what action to take on a particular topic. As designed, the current process also gives OPEGA the task of collecting any additional information GOC members want before making a decision. OPEGA may gather the additional information from legislators, the agency, or records. She has observed, however, that this Committee, and some previous GOCs, have sometimes wanted to hear directly from the committee of jurisdiction, other legislators who have input to the topic and most recently, some GOC members, have wanted to hear directly from the agency. The GOC may want to discuss, whether to build in a process and procedure for legislators or agencies to input directly to the GOC when deciding what to do with a topic.

- GOC: Sen. Diamond feels there has been something missing in the process. It may be the Committee itself is not involved enough in the issues at the very beginning. The GOC may be more meaningful if there was more involvement by the members, more worth and purpose as opposed to being passive and letting topics come to them. It is not that people can't send their concerns and ideas, but Committee members should have a bigger role. If GOC is going to have a purpose, the Committee needs to elevate to the point that they have a plan about what is to be done and be spending more time talking about what they should be reviewing. He thinks if the Committee keeps going as is, it will not be doing what it could do.
- GOC: Sen. Simpson agreed with Sen. Diamond. At the last meeting she was trying to figure out how to ask more questions or get information to help in more narrowly tailoring the focus before sending OPEGA out to do a review. She was looking for a way to make sure OPEGA was going in the direction the GOC intended and that would be of most value to the Legislature as a whole. She had previously noted delays in reviews because OPEGA had to go back to refine Committee questions and that is time consuming. That may be a place where the GOC could be more helpful, by speaking with the committees of jurisdiction, or agencies and having more discussions themselves.
- OPEGA: Director Ashcroft said both Senators touched on something she had hoped would evolve over time. She sees the GOC as being representative of the larger legislative body and OPEGA has tried, in a number of ways, over the years to reach out to the larger legislative body to find out what Legislators were interested in, and what issues they would like to see OPEGA working on. There has been very little success in getting feedback. She sees that as a role that the GOC members may be more successful at. When discussing the topics that have been brought before them, GOC members could be talking with other legislators to see if they have concerns or questions that would be worthwhile addressing.
- GOC: Sen. Diamond believes the GOC has to put more thought and time into what they think needs to be reviewed and other topics brought forward can dovetail in with their suggestions.
- GOC: Sen. Nass agreed. He thinks another missing link is having a sense of what are they going to start with or what is desired for an outcome. Is the GOC looking for bigger ideas, or more buy in, and where are these topics to come from? There are constituents, committees, legislators work on and caucuses. All of those various groups are engaged in identifying issues and how do you elevate those issues in terms of importance, size or revenue to determine what OPEGA should review. He agrees with the need to get more legislators involved. He has listened to the Director plead with people to give ideas in every form. It is not that legislators are not aware of what OPEGA is doing.
- GOC: Rep. Pendleton said the effort of first trying to form OPEGA and the GOC started with the State and Local Government Committee because every year there were several legislators, on both sides of the aisle, who asked if there could be some kind of a committee or group that would oversee, audit or answer particular questions for legislators because they did not have the time or authority to get into an issue in the needed amount of detail. She gave the example of the State's fleet of vehicles and her effort to explore expenses that could be cut there, but she got just so far and the door was shut. Other legislators had similar experiences. So, the State and Local Government Committee, as a group, decided to put together a bill. At that time, they studied what different states were doing and moved forward with creating OPEGA. OPEGA was not specifically patterned after any other state because at that point the Committee was dealing with different political issues so a lot had to be compromised. The discussions at the beginning of OPEGA's creation involved how information could get to legislators so they could make decisions, and how money could be saved. There was a second prong on seeking efficiencies and other improvements in agencies and make it better for State workers.
- GOC: Sen. Nass thinks one of the issues raised by Sen. Diamond was that the GOC has not taken on big enough jobs and are getting small results because they have not asked big enough questions.

- GOC: Sen. Diamond said when the Audit and Program Review Committee reviewed each department it resulted in asking big questions. He gave the example of a review of DEP where the Audit and Program Review Committee discovered issues with underground gasoline tank leaks. They wrote major legislation in 1984 to prevent future problems by imposing new rules and regulations on underground tanks. He said maybe the GOC does want to take a department, along with doing other things, bring them in and dissect. With every agency being done, the GOC will find major issues.
- GOC: Rep. Burns said over the last few years it has become clear to him that they need to start with a general understanding in the Legislature and the public of what the GOC is about. The Legislature and public have to understand that this is a watchdog group that is non-political and that GOC members should be non-political as they oversee OPEGA -- that nothing is untouchable. He said the GOC cannot do the work of the policy committees, but if those committees are doing all that they can do, they will head off situations that the GOC may otherwise be dealing with. He heard the consensus, not long ago, that OPEGA should have the power and be able to be assertive whenever needed and people should understand that. If OPEGA is looking into a situation, they are doing it in an unbiased manner with no axes to grind. The Legislature needs transparency and OPEGA is to facilitate that in State government. Once the GOC decides on topics and what questions they need to have answered, he is comfortable with OPEGA doing the initial research and returning to the GOC with the information rather than having a lot of people, who have a stake in the game, attend a meeting and tell him what they think he wants to hear. Rep. Burns would rather get the information from the Director and then the GOC can consider where and how to proceed.
- GOC: Sen. Brannigan asked how many GOC members lobbied to be a member of this Committee as they did for a joint standing committee. He says it has something to do with the commitment of the GOC members. Legislators who have been in power, do not like their committee's jurisdiction to be gnawed at from the outside so-called watchdog. They will fight that and eventually will win. He said the Government Evaluation Act was created to replace the Audit and Program Review Committee. Sunset committees around the country don't work very well because when issues are finally identified then they are referred back to the committee of jurisdiction who has been dealing with the issues for years. To get enthusiastic members for the GOC you first have to take those people out of power, everything is political. It is the nature of the beast and he does not know how you can overcome that.
- GOC: Sen. Nass recalled the elimination of the Audit Committee and asked how that Committee dealt with the issues of turf raised by Sen. Brannigan to get something successful done.
- GOC: Sen. Diamond said the reason the Audit Committee was successful was because no policy committee, then or today, had the time to get into the minutia of what an agency is all about and that Committee did. They would do 3 departments in a 2 year period. They did not have problems with the policy committees and would actually invite them to a meeting to discuss what the Audit Committee was finding and doing. The Audit Committee would have 1 report at the end of the session to the full Legislature. There was not only an understanding it was doing its job, there was no threat to the policy committee because that role was not their job, and the Audit Committee was doing something they could not do. The policy committees were kept informed all the way through the process so it was a nice partnership.
- GOC: Rep. Pendleton noted that in the gubernatorial race, all candidates promise that they will look at every program in State government. When OPEGA was in jeopardy a couple of years ago, the public went crazy because they want accountability.
- GOC: Chair Hill thinks they need to be forthright about the attitude toward the GOC and OPEGA. She has been in the Legislature for 4 years and there has been questions about OPEGA's worthiness of even existing, and what the GOC actually does. At the beginning of the 124<sup>th</sup> Legislature she was trying to locate signs for the GOC's room and found there weren't any. She had to work at getting the GOC's name on this Committee room door and that was indicative of the attitude toward the Committee. She

thinks the first thing is elevating people's idea and expectations of the Committee and letting them know that it does have value and OPEGA is a very important program that the people of the State of Maine have a right to have. The second thing is, no matter how they get at the topics, and she thinks Sen. Diamond is on the right track, they do need to recognize that the Committee and OPEGA was set up to be a watchdog and that, to her, means also to help. She gave the example of the Emergency Communications in Kennebec County Report. In the end, the GOC realized that the Department of Public Safety had problems and issues, but it was not all their fault. The GOC worked out solutions, worked with other committees of jurisdiction and they moved forward to come up with legislation that is now in effect and is making change. Chair Hill said Commissioner Jordan had commented to her that in the end she was impressed with what happened and was thankful for it because it helped her Department. Chair Hill thinks that idea has to be put out there so people do not feel so territorial and protective and she thinks that making that change has to start with the GOC members.

GOC: Sen. Nass said that after looking ahead at the issues in front of the GOC and in reviewing the last GOC Meeting Summary he thinks the GEA is something the Committee needs to have a discussion about. Taking that procedure away from the joint standing committees, and giving it to the GOC, with the cooperation of OPLA and OFPR would be a structural change.

GOC: Sen. Diamond mentioned that some GOC members were told they were put on the GOC and asked by the Presiding Officers if they minded. He thinks Leadership can put more thought into assignments to the GOC -- discuss goals of what the Committee is about and ask which members in each body would like to be a member. There could be more communication and a redesign of expectations, and from that make assignments to the Committee.

GOC: Rep. Burns said he feels the same as Sen. Diamond and the GOC and OPEGA is only going to be as effective as the commitment level by the members of the Committee.

GOC: Chair Hill believes it starts at the top so the attitude towards the GOC of leadership at all levels, committees, House and Senate, is important. She does not believe the projects that come before GOC always have to be big. During her service on joint standing committees she has observed issues that have been raised when departments and agencies come before those committees that she thinks should be looked into to get further explanations, but the joint standing committees do not have the time. Individual legislators could bring those topics forward and it could make a huge difference in the oversight of that agency or branch.

OPEGA: Director Ashcroft said it has been her observation that the statute that created OPEGA does not speak a lot about what the role for the Committee is supposed to be. It defines the Committee as a body that oversees OPEGA, gives the Committee certain powers and duties, but it does not spell out a mission, or what the GOC itself is supposed to be trying to do. The first GOC thought it might be good to have a mission statement for the Committee, as well as OPEGA, because they are two separate entities. However, all that was done was take the purpose for OPEGA from the statute and turn it into the mission statement for the GOC. In terms of a step to be taken, perhaps to elevate the Committee and get clarity for people around what the GOC is doing, members might want to rethink the mission statement for the GOC or develop guiding principles. Director Ashcroft said there is not a lot of documentation from the Committee itself that explains what they should be doing. Members and OPEGA could use that information to educate others about what the function of the GOC is.

Director Ashcroft said reviewing agencies as a whole is part of what she thought could be discussed in relation to the GEA, and a piece of the foundation for OPEGA's work plan. She thinks OPEGA has done good reviews and there has been more effort recently to get to more specific questions so OPEGA is getting an additional level of detail to plan work that the office was not getting before. But that is not the same as taking an agency, board or commission and looking at it from the standpoint of why it was created, what it is supposed to be doing, what are all the programs and functions it is performing,

how it is carrying those out, and what kind of money it is spending on those things. That is a different kind of look than what OPEGA has been doing so far on the reviews. Typically the Office has instead been trying to get at a particular issue that somebody already thinks exists or is concerned about.

Chair Hill asked how the Committee wanted to proceed.

GOC: Sen. Nass thought the discussion should move to the GEA. He said he will talk to his Leaders about it and encourage them to get the Legislative Council to talk about the GEA and OPEGA. It would be major restructuring, with not only OPEGA, but OPLA and OFPR, and is worthy of moving forward.

GOC: Chair Hill agreed that it would be difficult to start working on a process until the GOC knew what its mission was. She asked the Director for an idea of where the requests have been coming from.

OPEGA: Director Ashcroft said in this past session the requests have come from the Legislature, either individual legislators, a group of legislators, or a legislative committee. The GOC has processed a lot of topics that have come from citizens but, in terms of actually performing a review, not much has been done with them. More and more requests are coming from legislators.

GOC: Chair Hill asked where requests were coming from 2 or 3 years ago.

OPEGA: Director Ashcroft said initially OPEGA went through all the appropriation programs, did a financial analysis and trending over a 10 year period and picked out areas that might be worth review because of the amount of dollars involved, changes in their funding levels, or the impact they would have to the public. Initially, OPEGA suggested areas where the GOC might want to look in addition to taking ideas from the GOC. Then OPEGA moved to taking ideas more from the Committee and legislators.

GOC: Chair Hill asked if the number of requests from the public changed over the years.

OPEGA: Director Ashcroft said public requests have increased, but that may be a bit skewed since the Maine State Prison review has generated quite a few requests of a similar nature from inmates. She will have to check if the requests are in the same group or are in different areas.

GOC: Rep. Burns asked what the GOC/OPEGA has for a process to make the public aware of its existence. The awareness of OPEGA is not out in the public and it needs to be if they are going to be responsive to the public.

OPEGA: Director Ashcroft said there is a website for the GOC/OPEGA that has the forms for anyone to request a review. She said it is a double edge sword because most of the requests from citizens have to do with a very specific and personal situation they are experiencing. There is not a lot she feels is within OPEGA's function to do for them personally on that situation and it is often difficult to tell whether the situation represents a bigger problem unless multiple requests of a similar nature are received. Making the public have a greater awareness of OPEGA without also being able to explain specifically what kinds of things we are intended to do, only opens the door to get more and more people trying to turn to us as an additional place to go for help. That does not do a lot for moving the GOC and OPEGA toward identifying programs that should be looked at for effectiveness or efficiency.

GOC: Rep. Burns asked if that could be taken care of by education. If people know what you are here for and what the purpose is as opposed to an individual situation they are unhappy with. That responsibility of providing the education is incumbent upon the GOC.

GOC: Sen. Nass referred to the diagram for OPEGA Review Selection Process and suggested under Evaluation Universe to take out "Interest by Public" because it is ineffective.

- GOC: Rep. Pendleton said the GOC has to go back to why they have OPEGA in the first place. OPEGA was supposed to be a tool for the legislators. The legislators are the advocates for the public and OPEGA is the advocate for legislators.
- GOC: Rep. Burns agreed that you have to regulate the faucet because you cannot have every issue coming in, but the appropriate forum for that is to go through your local legislator. It goes back to his previous point, the legislative body has to understand what the GOC and OPEGA are all about and be their filter.
- GOC: Chair Hill noted that she wanted to clarify that the Committee's discussion was not saying that individual requests are not important to the GOC, but because they are so individualized it is inappropriate for an OPEGA review.
- GOC: Sen. Nass believes the next logical step is to look at what all legislators are faced with. They are all on committees that have a GEA function, and there is a general realization that that is not being performed very well. That would be a path the GOC can follow that would make sense to recognize that issue, change it if needed, but focus it in a different place which would be at the GOC. As Sen. Diamond noted earlier, he thinks the joint standing committees would be relieved to not have that responsibility.
- GOC: Chair Hill asked how the Committee could approach it in such a way that the other committees are seeing it as a way to help.

The Committee moved to the Government Evaluation Act.

## **UNFINISHED BUSINESS con't**

### **• Using Government Evaluation Act as a Basis for Developing OPEGA Work Plans**

Director Ashcroft thought it might be useful to think about the possibility of using the GEA as a foundation for OPEGA's work plan in two phases. First, if the GEA statute and process stayed just the way it is, could it still be somehow used as a foundation for the work the GOC assigned the Office to do. The next step beyond that would be to consider how the GEA process could be improved for the Legislature as a whole. She likes Sen. Nass' suggestion about talking to Leadership because she feels it would be inappropriate for it to come from OPEGA. OPLA shepherds the GEA process now and the non-partisan offices take their direction from the Legislative Council. So, if the GOC wants to proceed with changing the statute, then going through Leadership would seem to be the avenue to go.

GOC: Sen. Nass said Sen. Brannigan offered another possibility. He said the joint standing committees are not making use of the GEA because they may feel that they are functioning in an oversight capacity every day with the bills that go through their committees. Therefore, those committees do not spend time on the GEA.

GOC: Chair Hill said the agencies' GEA reports seem to be a self-evaluation that is presented to the committee of jurisdiction who can question and probe the report. What is lacking under the Act is a third party reviewing the agency reports in more detail because the joint standing committees do not have the time to do that, or if the committee does find something of concern, it doesn't have the time to follow-up.

OPEGA: Director Ashcroft said she has not set in on many GEA reviews. The statute does allow policy committees to further review or audit the agency and she can only surmise that it is a matter of resources as to why the committees don't as the Statute does not specify what resources the committee will use to do that. OFPR and OPLA Analysts have the skills to do research and analysis, but they are working on

bills during the session. If committees find themselves in a position of wanting an in depth look at something, neither OFPR or OPLA are structured to spend a lot of time on a project review like OPEGA is.

GOC: Chair Hill said OFPR and OPLA do not routinely become part of the GEA review and asked if they would have to be asked by the policy committee to become involved.

GOC: Sen. Brannigan said the analysts are part of it.

GOC: Sen. Nass suggested making the review of GEA reports by OPEGA voluntary. If a committee does not have the time, they could turn the GEA function over to the GOC.

Director Ashcroft referred the members to the information in their notebooks she had prepared for this agenda item. The information included a schedule of when the GEA reviews for agencies are due which was taken from the OPLA Website. If nothing were to change about the statute and the GOC was trying to use it to develop OPEGA's work plan, it would be helpful to have particular information coming from the agency before starting any of the reviews. If the policy committee is not going to undertake a GEA review, then the agency is not required to do the program evaluation report, and OPEGA would need to ask for specific information. OPEGA could get the information needed from the GEA report that the agency does if it was structured to provide the particular information.

Director Ashcroft referred to the list of agencies up for review in the current and next biennium. Obviously OPEGA does not have the resources right now to take on an in depth review of every agency that would be up for review in any two year period, but if OPEGA asked them all to provide certain information, the Office would be in a position to do a high level risk assessment review. OPEGA could look at the information provided by the agency and tell the policy committee, or the GOC, whether or not they seem to have a good structure for managing their performance and whether there are certain areas that might be considered for a more in-depth review. OPEGA could work with the GOC when information had been received to select which agency got a more detailed review in that biennium.

GOC: Chair Hill asked Sen. Diamond if what the Director described seemed like a responsible approach.

GOC: Sen. Diamond said it is a beginning.

GOC: Sen. Nass said the probability of being tasked to look at the larger agencies was high and noted that OPEGA also had a consulting budget.

OPEGA: Director Ashcroft said if OPEGA was going to do a review and knew what the specific focus would be she could hire consultants. The work would be structured and contained and the costs should not get out of control.

GOC: Sen. Diamond thinks the process should be more structured than having a committee turn the GEA review over to the GOC/OPEGA if it did not have the time to act on or needed more information on it. He thinks the way to approach the joint standing committees is to let them know that they will still be a part of the process and they will be updated on a periodic basis.

GOC: Sen. Brannigan noted that when OPEGA was performing reviews at DHHS, the Health and Human Services Committee did not want the Department distracted by the GOC/OPEGA during the session because of the demands the HHS Committee was putting on DHHS staff.

- GOC: Sen. Diamond said the difference would be that the GOC would not be confined to 1 legislative session so would not be under the same time boundaries and limitations as the joint standing committee. The agencies would never like it, but thinks the policy committees would understand it, and probably appreciate it.
- GOC: Chair Hill asked the Director how she would handle the requests that come in that had greater urgency than GEA reviews.
- OPEGA: Director Ashcroft said public requests would have to be managed differently to somehow make sure there is a broader issue other than the individual request being considered by the GOC. However, it is also important not to discourage someone who is a whistle blower about a real problem in a government program. What the GOC had talked about earlier was funneling those to legislators, and if a legislator or a legislative committee feels that it is an issue, they could bring it forward. The requests she would want to give priority to, other than what was on the work plan, was requests that came from legislative committees, or a group of legislators. The Director would want to have the flexibility to be able to process those requests and have the GOC decide their priority.
- The GOC's discussion regarding what their next step should be included:
- GOC: Sen. Nass thinks members should talk to their Leaders and it would be a mistake not to deal with it this session prior to the new Legislature.
- GOC: Sen. McCormick asked if the Director thought there would be resistance from OFPR and OPLA, or the Legislative Council for bringing the matter forward.
- OPEGA: Director Ashcroft thinks OPLA and OFPR would like to be part of the process if the GOC decides to explore it. She believes OPLA would be willing to talk about the GEA if it is something the Legislative Council is interested in having them do.
- GOC: Chair Hill asked how important it would be to change the statute so the appropriate pieces of information that are needed are targeted to be provided in the GEA report. Improving the process for the Legislature is important, but she would also like the departments and the agencies to see a plus by moving toward a place where the information they provide is important. She asked if the statutory requirements were changed, would that be something welcomed by the agencies.
- OPEGA: Director Ashcroft thinks if the agencies are going to put the energy into the GEA reports, they would like to put it in a format that would let them tell their story better, and make it easier for legislators to actually work with them. She has heard agencies complain that they put so much effort into the reports and the committee spends very little time discussing them.
- GOC: Sen. Nass said he was going to talk with his Leaders about the status of this item with the GOC and ask that they take it to the Council.
- GOC: Rep. Burns asked for a recap of what he is asking from his Leaders.
- GOC: Chair Simpson asked Director Ashcroft to send a memo to them outlining their discussion and how members wanted to proceed with the GEA.

#### **- Process and Procedure for Receiving OPEGA Reports**

Not discussed.

## **NEXT COMMITTEE MEETING**

The Committee set June 14, 2010 at 9:30 a.m. for the next GOC meeting.

Chair Hill asked if the Department of Corrections would be at the next meeting to follow-up on their progress regarding OPEGA's Maine State Prison Management Issues Report. Director Ashcroft said they planned to be at the next meeting. She inquired about any days in June that were not good form them but has not heard back.

## **ADJOURNMENT**

The Government Oversight Committee meeting was adjourned at 2:20 p.m. (Motion by Sen. Nass, second by Rep. Pendleton, unanimous).