

Government Oversight Committee

Topics for Consideration for OPEGA's Work Plan June 2013

The attached document lists those topics that remain following the GOC's votes on 4-26-13 that added topics to OPEGA's work plan for 2013-2014. For each general topic area, OPEGA has provided the responsible agency, possible different areas the review could focus on (although there may also be others), and additional information gathered by OPEGA to date that may be relevant to GOC decision-making about the topic. The information associated with all topics was last updated as of 4-17-13. Most of the information is included in the "Additional Information" column of the Topic List but for several topics there are more extensive summaries of OPEGA's research that are attached.

The topics are arranged in categories as follows:

Section A (pages 2-7) – Topics currently on the GOC's On Deck list that the GOC has decided it wants to consider further.

Section B (pages 8) – New topics suggested by current GOC members or from recent legislator requests.

Government Oversight Committee

Topics Under Consideration by GOC (as of 6-14-13)

Note that there are two topics currently on the On Deck List that the GOC decided not to include in its ranking exercise in April 2013. These topics are Leased Office Space and Division of Financial and Personnel Services (Service Centers). GOC was not interested in considering them further for OPEGA's 2013-2014 Work Plan and intended to revisit whether or not to remove these two topics from the On Deck List.

Section A: Topics Currently On Deck			
	Topic	Possible Areas of Focus	Additional Information
1	Beverage Container Recycling (Bottle Bill) Responsible Dept: Agriculture MRS	<ul style="list-style-type: none"> • compliance with current law by initiators of deposit • current recycling rates for beverage containers; • current handling fees and bottler requirements of redemption centers; • continued need for current beverage container recycling laws; • opportunities to meet goals of beverage recycling laws via alternative models; • impact of potential changes to beverage container recycling laws on beverage container redemption facilities and initiators of deposit; 	<ul style="list-style-type: none"> • Proposed by a former GOC member in the 124th Legislature. • Maine's handling fees may exceed that of most other states with bottle bills. • Expansion of redeemable beverages causes additional work for redemption centers despite attempts to mitigate costs via changes that allow commingling agreements. • There may be bottlers, particularly those from out of state, not in compliance with Maine's law. • Issues with the bottle bill have been raised for many years. During the 125th session the Legislature considered two bills – one to repeal the law and one aimed at reducing fraud. • 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). • There are at least four bills related to this topic that have been filed in the 126th Legislature. They are: <ul style="list-style-type: none"> ○ LD 124 An Act to Amend the Bottle Redemption Laws ○ 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 ○ LD 1080 An Act to Improve Efficiency in the Collection of Beverage Containers ○ LD 1121 An Act To Promote the Production of Maine Beverages

Section A: Topics Currently On Deck

	Topic	Possible Areas of Focus	Additional Information
2	<p>Leased Office Space</p> <p>Responsible Dept: DAFS</p>	<p>Costs and use of office space leased by the State</p>	<ul style="list-style-type: none"> ● OPEGA was in fieldwork phase on this review when GOC suspended it in October 2008. The review was looking at whether the State is leasing space at the best possible price, and if the space is fully utilized. ● At the time of suspension, OPEGA had nearly completed the portion of the review covering general leased space processes and practices. OPEGA had also begun some analysis of whether the State was getting the best lease prices. Due to the passage of time, that analysis would need to be redone and updated. OPEGA had not yet begun work on how well leased space is utilized. ● OPEGA planned to submit a proposed revised scope to GOC for consideration in 2009, however AFA was asking questions of BGS regarding leases and a decision was made to wait and see what AFA was going to do with this topic. To OPEGA's knowledge there were no specific directions or actions taken by AFA at that time. ● In FY10 State agencies spent over \$26 million on leased office space with more than \$11 million coming from the General Fund. ● In 2011, new management in BGS was undertaking some efforts related to leased office space. BGS met with OPEGA to understand what work had been done on the leased office space review and what suggestions OPEGA might have for areas of improvement. OPEGA has not yet gathered further information on what recent efforts the Administration has undertaken on leased office space.
3	<p>Division of Financial and Personnel Services (Service Centers)</p> <p>Responsible Dept: DAFS</p>	<ul style="list-style-type: none"> ● Potential for increased process efficiencies within Service Center and client agencies ● Definition of roles/responsibilities between Service Center and client agencies ● Staffing for financial processes and administration in Service Center and client agencies ● Control environment and internal control systems ● Change management ● Achievement of expected savings from consolidation 	<ul style="list-style-type: none"> ● 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. ● 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. ● 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. ● OPEGA obtained current description of DAFS service centers that was included in orientation presentation given to AFA Committee in January 2013. See attached.

Section A: Topics Currently On Deck

	Topic	Possible Areas of Focus	Additional Information
4	<p>Long-term Care: Nursing Homes</p> <p>Responsible Dept: DHHS</p>	<ul style="list-style-type: none"> Reducing costs and improving quality through possible changes to: <ul style="list-style-type: none"> current payment rates and structure to incentivize reducing costs; inspection system to reduce inefficiencies; nursing services and care delivery approaches to better match them to patients' needs and wishes; and coordination between hospitals and nursing homes. Quality of care in relation to cost 	<ul style="list-style-type: none"> Proposed by former GOC member in the 124th Legislature. 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. 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. LD 986, Resolve, To Establish the Commission to Study Long-term Care Facilities has been filed in the 126th 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"> Funding for long-term care facilities; Staffing and regulatory requirements; Collaborative agreements with critical access hospitals; Differential reimbursement mechanisms; Viability of privately owned nursing facilities in rural communities; and Impact of nursing home closures on rural populations.
5	<p>Pharmaceuticals (Prescription Drugs and Medicaid Drug Rebate)</p> <p>Responsible Dept: DHHS</p>	<ul style="list-style-type: none"> Effectiveness of measures taken to contain costs Effectiveness of internal controls in place to prevent fraud and abuse related to controlled substances. 	<ul style="list-style-type: none"> GOC considered this topic during development of 2007-2008 work plan as other states had found savings in this area. At that time, DHHS had been making significant efforts to reduce costs in this area including establishing a preferred drug list In 2009, the GAO reported on fraudulent, improper or abusive actions related to the prescribing and dispensing of controlled substances. In FY12, the pharmacy claims processing system processed Medicaid and CHIP claims totaling \$243 million. 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 of the most recently completed State Single Audits for FY11 and FY12 included a finding that controls over the pharmacy claims processing system need improvement. In February 2012, DHHS began quality assurance audits of 50 paid pharmacy claims each month.
6	<p>Public Health Labs</p> <p>Responsible Dept: DHHS/CDC</p>	<ul style="list-style-type: none"> Possible outsourcing of some lab work User fees charged Testing being conducted by multiple State agencies using different labs. Awarding of contracts Use of federal grant funds Management practices, including hiring and communication 	<ul style="list-style-type: none"> GOC considered this topic during development of its 2007-2008 work plan. Other states have found savings in this area. It appears there are State agencies other than DHHS that also do laboratory work, i.e. Agriculture. A current GOC member has recently been made aware of potential concerns related to management of CDC's Health and Environmental Testing Laboratory. These concerns include awarding of contracts without bidding, use of federal grant funds for purposes other than intended, poor hiring and communications practices and general mismanagement.

Section A: Topics Currently On Deck

	Topic	Possible Areas of Focus	Additional Information
7	<p>Publicly Funded Programs for Children Birth to Five Years</p> <p>Responsible Dept: MDOE DHHS</p>	<ul style="list-style-type: none"> • Strengths and weaknesses, including gaps, overlaps and coordination, in State's current programs for children birth to five years. 	<ul style="list-style-type: none"> • 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. • The 125th 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. • 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. • 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. • The Work Plan for SAEIL is now available on the State's website at http://www.maine.gov/earlylearning/saiel/saiel-workplan-revised-timeline-31113.pdf. The Work Plan has deadlines on several tasks set at end of June 2013, end of Dec 2013 and end of June 2014. It appears that one of SAEIL's tasks is to review the results of the MCGC Sustainability Committee. The deadline associated with that task is end of June 2013.
8	<p>Revenue Collected through the Courts</p> <p>Responsible Dept: JUD</p>	<ul style="list-style-type: none"> • Internal controls over collection, deposit, accounting and safeguarding of revenue • Effectiveness and timeliness of collections efforts, i.e. are all funds due the State being collected timely • Factors impacting the revenue stream, particularly those related to the decline in revenues from fines, forfeitures and penalties 	<ul style="list-style-type: none"> • 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. • 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. • 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.

Section A: Topics Currently On Deck

	Topic	Possible Areas of Focus	Additional Information
9	<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"> effectiveness and/or cost-effectiveness of programs in rehabilitating participants and reducing recidivism 	<ul style="list-style-type: none"> This topic was added to the On Deck list as the result of a citizen's 2009 request for a review of these programs. 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. The Intensive Outpatient Program (IOP) is a 16 week outpatient group therapy program for the treatment of drug and alcohol abuse. 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. 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). 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 an advantage in 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. OPEGA 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. MDOC reports that they will be tracking recidivism rates as a performance measure for these programs but that it is too soon to look at that measure as relates to the performance of programs under the current contractor. MDOC also reports that a challenge in determining recidivism rates is getting data from the jail system that would allow identification of individuals released from the State correctional system that end up back in the jail system because of crimes related to substance abuse. According to MDOC, there are three funding sources related to these programs. A federal block grant provides some matching funds and there are some funds from the Office of Substance Abuse for the juvenile component of the program. The remaining funds are associated with the larger CCS medical contract, which may not delineate the costs of each program/service. That contract is mostly funded with General Fund.

Section A: Topics Currently On Deck

	Topic	Possible Areas of Focus	Additional Information
10	<p>Tax Collection (income, sales, use, fuel, cigarette)</p> <p>Responsible Dept: MRS</p>	<ul style="list-style-type: none"> • Timely collection and deposit of taxes (including efforts to collect overdue taxes) • Effective efforts to assure credits, etc. taken to reduce taxes owed are valid 	<ul style="list-style-type: none"> • Other states have found savings in this area. • 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. • 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. • 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. • 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. • 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. • 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. • 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.

Section A: Topics Currently On Deck

<p>11</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"> • Policies in place regarding personal use of assets • Compliance with policies and how compliance is monitored • Appropriateness of current or past personal use of significant State assets 	<ul style="list-style-type: none"> • 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. • At that time, six departments had assets of this type with the substantial majority being in Departments of Marine Resources, Inland Fisheries & Wildlife and Conservation. Most departments reported that no personal use was allowed, but did not provide written policies that expressly communicate this. IF&W reported that assets (other than airplanes) were available for limited personal use and provided written policies to that affect. • 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. • 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. • 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&W and airplanes in Public Safety. • 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. • 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.
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Section B: Topics Suggested by Current GOC Members or from Recent Legislator Requests

12	DHHS Contract Management	<ul style="list-style-type: none"> • Functions, structure and approach to contract management 	<ul style="list-style-type: none"> • This topic was raised by a GOC member at the 2-22-13 GOC meeting. This member was concerned that the contract management structure DHHS had established may not have sufficient controls to mitigate risk of procurement fraud and abuse in establishing and administering contracts.
13	Maine Charter School Commission	<ul style="list-style-type: none"> • Processes, practices and standards the MCSC has used in soliciting, reviewing and making approval decisions on public charter school applications • MCSC's role in providing advice and assistants to applicants • Factors that impact MCSC's ability to effectively and efficiently fulfill its statutorily assigned roles and responsibilities 	<ul style="list-style-type: none"> • The topic is the result of a formal request for an OPEGA review from the Chairs of the Education Committee. The GOC first considered this request on 4-2-13 and decided at its 4-12-13 meeting to include it on the list of topics for further consideration. • Additional information from OPEGA research related to this topic is included in the attached summary. Also attached is the checklist for considering potential topics that the GOC requested OPEGA prepare and which was reviewed by the Committee at its 4-12-13 meeting.

Ranking of Topics Being Considered for OPEGA's 2013-2014 Work Plan

0=not interested, 1=a little interested, 2=somewhat interested, 3=very interested, 4=extremely interested

Topic		1	2	3	4	5	6	7	8	9	10	11	12	Average Rank	Max Rank	Min Rank
10	DHHS Contract Management	3	2	2	3	3	3	4	3	3	4	3		3.0	4	2
3	Pharmaceuticals (Prescription Drugs and Medicaid Drug Rebate)	3	3	1	2	2	3	4	3	2	4	4		2.8	4	1
2	Long-term Care: Nursing Homes	3	4	1	2	3	3	3	3	2	2	4		2.7	4	1
8	Tax Collection (income, sales, use, fuel, cigarette)	3	2	1	3	2	4	4	4	2	1	3		2.6	4	1
7	Substance Abuse Treatment Programs in Prison System	3	3	2	2	2	3	4	3	2	1	3		2.5	4	1
4	Public Health Labs	3	4	2	1	2	1	2	3	2	4	3		2.5	4	1
5	Publicly Funded Programs for Children Birth to Five Years	3	3	3	1	2	3	3	3	2	1	2		2.4	3	1
11	Maine Charter School Commission	2	2	3	2	1	0	1	4	4	3	2		2.2	4	0
6	Revenue Collected through the Courts	2	1	1	2	3	2	3	2	1	0	4		1.9	4	0
1	Beverage Container Recycling (Bottle Bill)	1	2	0	1	2	3	1	3	0	2	2		1.5	3	0
9	Personal Use of State Assets: Recreational Vehicles, Airplanes, Helicopters, Houses and Camps	1	1	1	3	1	4	3	0	1	0	2		1.5	4	0