



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**

**April 29, 2010**

**Accepted May 27, 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. Brannigan, Sen. McCormick, and Sen. Trahan  
Joining the meeting in progress: Sen. Diamond  
Absent: Sen. Nass

Representatives: Rep. Hill, Rep. McLeod, Rep. Burns and Rep. Bickford  
Absent: Rep. Rotundo and Rep. Pendleton

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

Legislators: Senator Dennis Damon

Executive Branch Officers and Staff Providing Information to the Committee: Greg McNeal, Chief Technology Officer, Office of Information Technology

**INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS**

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

**SUMMARY OF THE MARCH 19, 2010 GOC MEETING**

**Motion:** That the Government Oversight Committee accept the March 19, 2010 Summary as written. (Motion by Rep. McLeod, second by Sen. Trahan, PASSED, unanimous, 8-0)

## NEW BUSINESS

### • Project Direction Recommendation Statement for the Maine Turnpike Authority Review

Director Ashcroft summarized OPEGA's Recommendation for Project Direction for the Maine Turnpike Authority (MTA) review. OPEGA recommended continuing the review with a focus on the following questions:

1. Why hasn't MTA been transferring operating surplus to Maine Department of Transportation (MDOT) as required by statute? Does MTA have an operating surplus as defined by 23 MRSA §1964?
2. What factors most significantly affect MTA's bond rating? How is the bond rating affected by changes in MTA's operations, governance structure, revenue stream, etc?
3. What specific obligations does MTA have to its bondholders as expressed in the Bond Resolution? Are these typical obligations for an entity that issues revenue bonds?
4. Are MTA's policies, procedures and processes for selecting contractors and administering contracts adequate to ensure that MTA receives best value for contracted services?
5. What entities have a role in governing and overseeing MTA? What role is each entity supposed to play and how effectively does each entity carry out that role?

Following Director Ashcroft's summary the GOC's questions and comments included:

GOC: Sen. Trahan asked if proceeds from the bonds MTA issued for MDOT were used for work only on MTA related roads or was it used in other areas of the State.

OPEGA: Director Ashcroft did not know the answer to that specifically. She said there apparently was a time in the past when MTA purchased a stretch of highway from MDOT and the monies from that sale were used for non-transportation purposes. The bond monies were supposed to be spent on bridge projects but she does not know specifically where those bridges were.

GOC: Chair Simpson asked if Director Ashcroft had sent a copy of the draft scope to those affected by the review. She had invited MTA staff and Sen. Damon, Chair of the Transportation Joint Standing Committee, to the meeting to answer the GOC's questions.

GOC: Chair Hill raised a point of order and expressed her concern that this would be a departure from the GOC's usual procedure. She had received a call from Conrad Welzel, Government Relations Manager for MTA, but did not return the call because she was uncomfortable with the situation. Since she has been a member of the GOC, no one has ever contacted her at this stage of an OPEGA review. Chair Hill asked if other members had been contacted and noted all the GOC members indicated they had been.

Chair Hill wanted to go on record that she is uncomfortable with the GOC taking testimony or information, unless the Committee itself raises the questions and controls the situation.

GOC: Sen. Trahan said he does not believe there is anything unethical or wrong with MTA calling members. However, the GOC has to recognize that if that door is opened then members will get lobbied before the final questions are approved by the Committee on every future review. He agreed with Chair Hill on the procedure.

GOC: Chair Simpson said she thought it would be helpful to have those who are involved available at the meeting to answer questions the GOC had regarding the MTA review.

- GOC: Sen. Trahan does not think there is anything wrong generally with GOC members talking with MTA representatives to get answers to questions they have. However, once the GOC allows any entity to shape the questions OPEGA has put forward to be included in a review, then it opens the door for GOC members to get lobbied before the review questions are approved and also for the OPEGA Director and staff to be pushed politically even before the questions are developed. He feels a discomfort with that process and can't support it.
- GOC: Sen. Brannigan asked for clarification of the process.
- OPEGA: Director Ashcroft said she is looking for the GOC to decide whether OPEGA should continue with a detailed review and, if so, to approve the questions OPEGA will focus on. The purpose of getting the GOC approval on this is to assure that OPEGA will focus on areas the GOC believes will be of most value to the Legislature. Obviously, the more information the GOC has to make that decision, the better. However, she cautioned against being in a position of hearing just from the agency and then making a decision based primarily on what the agency had to say. Director Ashcroft said the past GOCs have not typically had an agency weigh in at this point of the review, at a public GOC meeting where decisions about the review questions are being made.
- Director Ashcroft said the GOC and Transportation Committee members are subsets of the legislative body. Like every committee in the institution, those that sit on the policy committees know the area they preside over best, but it does not mean that questions don't exist in the minds of a number of other legislators. She said she views the GOC members in the role of representing the larger body of legislators when determining what OPEGA's resources should be focused on. From that perspective, are these questions ones that you would find valuable to have answered or ones that would further the work of the Legislature in discussing some of the issues.
- GOC: Chair Simpson believes that in the past joint standing committees have been sent letters asking them to weigh in on a topic and did not think having those involved with MTA at the meeting to answer questions would be different.
- GOC: Sen. Trahan said he is not implying that anyone has done anything wrong, but if the GOC has reviews brought before it that have had fraud and wrongdoing, if the questions can be shaped by individuals who are about to be reviewed, they could reshape a review to stay away from certain areas. He said for policy and procedure it would be best done outside of the process that the GOC uses. Sen. Trahan said he is not implying MTA has done anything wrong, it is just that it is a precedent that will open up the process beyond where he is comfortable.
- GOC: Chair Hill asked for clarification from Sen. Trahan of what he meant by "outside of the process".
- GOC: Sen. Trahan said when Director Ashcroft notifies the department or agency to be reviewed, that is the time to have that communication. It is too late, in his opinion, to make changes at a GOC meeting.
- GOC: Rep. Burns said he did not mind getting a call from MTA, and under other circumstances, he would have welcomed that opportunity to have a discussion about MTA, but his understanding about the process is simple. Once OPEGA enters into a review, it becomes a confidential matter that will be carried out by OPEGA staff, it does not include any member of the GOC, until it comes back into the public forum.
- GOC: Chair Hill asked Rep. Burns to clarify what the process is he referred to.
- GOC: Rep. Burns said on his other committees he certainly asks questions of people he wants more information from. It is his understanding that the GOC functions differently. Once a review has been initiated, his involvement is simply at meetings in the public forum where everything is on record. He is

not independently doing any inquiry, fact finding, etc. It then comes back before the GOC at a public forum and is a matter public record. That is how it is shared with other legislators and the citizens.

GOC: Sen. Diamond said he was unclear as to the purpose of today's GOC meeting.

GOC: Chair Simpson said she was also unclear. It was her understanding that the GOC voted on reviews to be added to OPEGA's workplan. OPEGA has done preliminary work to formulate a recommendation for what that review might look like. She assumed at today's GOC meeting the Committee would tell the Director whether or not we thought these were good questions, if they could be more narrowly focused or if there was one that was of a more particular interest to the GOC that they could go forward with. She thought it might be helpful, at least for her because she had never served on the Transportation Committee and has limited knowledge about the questions, to have the Transportation Committee Chair and MTA staff at today's GOC meeting.

GOC: Sen. Trahan said when an issue is brought before the GOC for review, it is often because there are specific concerns about the entity. OPEGA then does initial research to see if there are indications of problems or other areas where it might be useful to answer particular questions. If the GOC lets the entity that is going to be reviewed reshape the questions, you have changed the original intent. He does not have a problem hearing from legislators and experts in those policy areas and would like to hear from Sen. Damon. But he does have a problem with the entity coming forward before the questions are asked and telling the Committee why they should not be asked or suggesting changes to them.

GOC: Chair Simpson said her position was not about MTA influencing the focus of the review, it was about whether the GOC, when reviewing OPEGA's recommendations for the review, had questions.

GOC: Rep. Bickford said the GOC is here today to draft review questions. He noted that it was the first time that the entity being reviewed is at the meeting to answer questions. He thinks if members had questions, those questions should be directed to Director Ashcroft and Sen. Damon.

OPEGA: Director Ashcroft said in the past when the GOC has requested additional information in order to make a decision, OPEGA was directed to do the research and report back to the Committee. At this point in the review process OPEGA is seeking to make sure that further investment of OPEGA's resources will be on track with what would be of value to the Legislature. Director Ashcroft said that is the overall question today. Are the questions OPEGA has proposed the ones the Legislature would most benefit from having objective, fact-based answers to. Maybe there are entirely different questions you think deserve attention.

She said for OPEGA's part, we have tried to word the question in a way that we can foresee how we would answer it with information or a perspective that would be helpful. In this case, you can see most of the questions are worded in a way that is providing information or a different look at how something exists. It is designed to clear up questions for you and others in the Legislature, in some cases through attempting to validate information MTA has been providing to the Legislative.

OPEGA approached this review as if doing a Government Evaluation Act Review. OPEGA started by asking what is their mission and how does it look like they are performing. The reason you don't see any questions related to quality of the things MTA is doing is because OPEGA did not observe a lot of concerns expressed about that. People drive the turnpike, can see what condition it is in, don't have a lot of concerns about the quality although did have complaints about the tolls. Director Ashcroft said for the most part, on the surface, MTA appears to be very well run, in a way that you would expect in a private entity that has profit as a motive. In this case, MTA's motive is a high quality highway and they are driven by what they have to do to maintain that. The message is that OPEGA did not just dive into areas that had been brought up as concerns, we looked at it as more holistically and then selected what we thought would be of value to answer.

- GOC: Chair Hill noted that Director Ashcroft referred to MTA as a private entity and that may not be what the Director meant to say. MTA is not a private entity and that is part of the issue.
- OPEGA: Director Ashcroft said MTA is a quasi governmental agency, but the reality is that MTA does operate differently than other State agencies do, and that was what she was trying to convey.
- GOC: Rep. Bickford said he liked OPEGA's questions for the review and would add to them looking at 109 miles at approximately \$90 million, what is the average cost per mile compared to other states' entities similar to MTA. He would like a comparison of the payroll costs and management expenses involved in operating and maintaining 109 miles of road.
- GOC: Sen. Trahan asked if MTA employees were unionized and fell under the State's bargaining unit.
- OPEGA: Director Ashcroft said it is her understanding they are unionized, but have a separate union from that of the State so their collective bargaining agreements would be different.
- GOC: Sen. Trahan asked if OPEGA would be looking at that in its review.
- OPEGA: Director Ashcroft said OPEGA would not anticipate looking at that specifically unless it came up as a root issue related to something else.
- GOC: Sen. Brannigan referred to the discussion about whether or not GOC members should be speaking with MTA individually and asked if it was written anywhere how the GOC was supposed to act.
- GOC: Rep. Burns said at one of the GOC's first meetings, members went through the process of how OPEGA is to work. It was his understanding that they were going to make inquiries independent of the GOC and then bring information back in a public forum. He said it was also made clear that OPEGA's Reports are confidential until they come into the public forum and are not to be discussed with anyone until that happens. Rep. Burns said he also had it made clear to him that it was not his prerogative to volunteer his services to assist OPEGA in a review.

The GOC decided they would consider each question.

**1. Why hasn't MTA been transferring operating surplus to MDOT as required by statute? Does MTA have an operating surplus as defined by 23 MRSA § 1964?**

- OPEGA: Director Ashcroft said the possible end results of answering the question could be where the Legislature finally clears up whether the State is expecting to receive a surplus and is there even a surplus that MTA could be giving to the State. To get the statute clarified in whatever way is necessary to make clear the legislative intent for the future. That is a possible end result by answering question 1 that could be of value for both the Legislature and MTA.
- GOC: Sen. Trahan said he might see the questions as a bit predetermined because it says "why hasn't MTA been transferring operating surplus to MDOT. You may want to consider changing it to "Does MTA have an operating surplus as defined. That question has to be asked first and then if they do have a surplus, the second part of the question can be asked.
- GOC: Sen. Diamond believes you have to look at more than surplus, or at least the definition of surplus. He thinks in the past, back in the 80's, MTA did maintenance of ramps, exits, etc. so you have to be prepared to see what assistance is given and look at more than just surplus.
- OPEGA: Director Ashcroft commented this was similar to the kinds of support she was describing earlier such as buying a bridge and other joint projects with MDOT.

Director Ashcroft said in addition to what is included in question 1, the GOC may want OPEGA to find out what other types of financial support has MTA been providing.

GOC: Sen. Brannigan cautioned that the State could lose MTA as a quasi and if that is done, it will be very harmful to MDOT and the Transportation Joint Standing Committee. It would be important to look into the independence issue.

OPEGA: Director Ashcroft clarified that what Sen. Brannigan appeared interested in a comparison of the governance structure for Maine's tolling authority to those of similar entities in other states.

GOC: Chair Hill believes the question about surplus needs to be narrowed down. She thinks the issue is around two things. The definition of surplus is extremely broad and takes into account "reasonable operating expenses". She is not sure if the Legislature is ever involved in determining what is reasonable and what is not. She knows from her experience that independent financial audits result in the auditor just opining on whether the books are handled in accordance with accepted accounting standards and principals. That does not mean the choices any entity is making on spending money are necessarily wise ones. How does the Legislature know that MTA is really benefiting Maine if they do not know whether there are good expense decisions being made? Chair Hill believes they need to take a look at expenses and perhaps define them better. She believes the budget that the Transportation Committee gets is very general, not a line item budget, and the Legislature has no definition of what are considered reasonable expenses. This may be a reason why there is never a surplus.

Chair Hill said secondly she finds it disturbing that it does not appear the Legislature was involved in making whatever decisions were made around the bonding for MDOT that established there would be no more transfers of surplus. She is not saying it was poorly intended, but Maine has a statute that says MTA is suppose to turnover the surplus. If a transfer of surplus is truly no longer expected, then the Legislature should have made that decision. That decision should not have been some other arrangement or deal somewhere else with MDOT, which comes under the Executive Branch. The statue should not be saying one thing and other arrangements being made or process being followed without the Legislature's involvement and intent being made clear somehow.

GOC: Sen. Diamond asked if the Transportation Committee and then the Legislature actually approve the MTA budget or are they given the budget and they advise on it.

Chair Simpson asked if Sen. Damon would come forward and answer the GOC's questions.

A: Sen. Damon has served on the Transportation Committee for 8 years and as Senate Chair for 6 years. The Committee has worked on MTA's budget in the role of reviewing of the budget and perhaps advising. In the past, the Transportation Committee has been concerned that making changes to MTA's officially submitted budget would result in ramifications the Transportation Committee may not have anticipated, visa-vie the bonding agencies, etc. To address this, a bipartisan subcommittee of the Transportation Committee was appointed to work with MTA on developing their budget. Initially though, that work occurred almost after the budget had been finalized, so there was not the amount of contribution to the budget from the legislative process as they were comfortable with. The process was further refined and, in this last budgetary cycle, that subcommittee began working with MTA prior to the formulation and the finalization of the budget so there was much more legislative input into that budget. He said that happened after 8 years of his tenure. He thinks the Committee has made a good stride, and from the position of their legislative responsibility that Chair Hill referred to, the Transportation Committee has exercised that better in this past budgetary cycle than in the previous ones. He hopes that involvement continues in the future, but it is not a given as membership on the Committee will change.

GOC: Sen. Diamond asked if Sen. Damon would recommend that the MTA budget be formulated like the General Fund budget, a line budget.

- A: Sen. Damon said as a matter of openness and democracy probably, but as a matter of reason and practicality, he does not see a need for that. He believes that the Transportation Committee continues to have access to MTA's budget before the process is finalized, if the opportunity for that Committee to understand the line-by-line expenses should be sufficient without a line-by-line public hearing like the General Fund. He personally has not found concerns in MTA's budget and the Transportation Committee generally has not, with very few exceptions.
- GOC: Sen. Diamond said, in terms of the budget approval process, the Transportation Committee technically has the power to do more than review and advise, but the ramifications are that the bonding procedure could be negatively impacted. The Transportation Committee does have the ability to approve, but simply advises because of the bonding situation.
- A: Sen. Damon said the potential for negative impact to bonding is a risk that MTA has made the Committee sensitive to. He believes it is very important to maintain a high bond rating. The Transportation Committee has been told by MTA that making substantial changes to a budget introduces a lack of predictability of what is going to happen to MTA's operations and finances and this could have a negative impact on their bond rating. The Transportation Committee now has a little more substantial impact because we have become involved in the front end rather than the back end of MTA's budget process.
- GOC: Sen. Simpson noted that the Transportation Committee's authority to approve does not extend to its Capital Budget. She asked if that is an area that the Committee looks at because, referring back to Chair Hill's concerns, the easiest way to make sure there is no surplus is to put all the money into capital.
- A: Sen. Damon said the Transportation Committee does not review MTA's Capital account with the detail that they review the operating account. The Committee is advised annually what MTA's capital expectations are, whether there are bridges that need to be replaced, a road that needs to be built, or expansions that are underway. The Transportation Committee is advised of all the aspects that come under the Capital account.
- GOC: Sen. Simpson said it is her understanding that the Transportation Committee does not have the legislative authority to vote or change, but you can look at the account.
- A: Sen. Damon said the Committee does look at the account in the context of toll fees. There are periodic revisions to the toll fees that MTA charges to drive on their roadway and those are based on what would be the expected expenses for capital and debt service on related bonds. He said the Legislature and people of Maine do sometimes weigh in on large capital projects and expenditures. He gave the example of a bill introduced about the potential widening of the turnpike additionally from where it was originally widened coming into Maine. The Legislature and people of Maine vote on that.
- GOC: Sen. Trahan's concern was that he had been hearing that MTA and MDOT were sharing money for different purposes and asked if some of that money from MTA goes to roads outside of MTA's jurisdiction. He was also concerned that with more legislative control, the need to balance the budgets could be pushed down to MTA and then down to those using the Turnpike by raising the tolls.
- A: Sen. Damon noted that Director Ashcroft's overview of MTA was very good. He said there was previously an amount of money MTA paid on a regular basis, approximately \$4.7 million, that went to MDOT and it is his presumption that it was being spent on transportation needs throughout the State. Prior to his involvement in the Legislature, there was an arrangement that was made, and a rather substantial amount of money was directed to the State's transportation needs outside of areas that interface with MTA. Now there is the question of when will that obligation be paid off and are they going to get back to revenue sharing.

Sen. Damon said there have also been some transfers of assets. MTA did agree to buy a bridge and has agreed to buy other assets the State has in an effort to help out MDOT. He looks at the relationship with MTA as one helping the other and MTA has been an asset to MDOT in supporting the State's overall transportation system. The formality of it all and the money that has typically been transferred has altered. A question to consider is whether the State is having MTA help subsidize MDOT's needs and thus raising toll rates. He believes that is why there is that independence or quasi municipal aspect in place.

GOC: Sen. Trahan said looking at the history would be helpful in the review. At some point, if the Legislature let that continue, the tolls would get so high people would stop using the Turnpike. There may be a more responsible way to fund the repair of Maine roads than what is currently being done. Sen. Trahan said he does not believe that more control of MTA by the Legislature is necessarily the answer.

GOC: Rep. Bickford wanted to clarify what he meant by cost per mile for the Maine Turnpike. He was not referring to the roads in Maine, but to out of state turnpikes and how they maintained their roads.

GOC: Chair Hill was glad to hear that a subcommittee has been formed within the past year to work more closely with MTA on their budget before it goes out and she is sorry it did not happen sooner. She appreciates MTA as a business, but they exist for the people of Maine and she thinks they have lost that focus. It seems they think they exist for their bond holders because that is what they keep bringing up. She understands the role of the bond holders, but for the committee of jurisdiction to just have MTA tell them about the bonding and what they have to do because of it, is not enough. That is getting it from the mouth of the horse you are examining and there needs to be a greater understanding of what is needed for the bond holders versus what is not and when do the bond holders' expectations kick in. She saw this happen in front of the Utilities Committee regarding the energy corridor and there were very good arguments by the Attorney General as to when the bond holders expectations actually start.

Chair Hill said she was not wanting to decrease MTA spending on maintaining the roads. In fact, she would like to see the road in better condition considering the amount of money the Turnpike is taking in. She is not sure how much of the toll revenue the turnpike is really using to maintain the road and is not sure anyone knows that.

Chair Hill commented on the transfer of an asset to help the State of Maine. She realizes there are limited buyers for a bridge, but she sees it different than giving surplus. There was a transfer of money that constitutes a sale of property. She does not think it substitutes for MTA coming up with additional funds for the State. She hopes that the changes in the relationship between MTA and the Transportation Committee continues because not having that oversight is what has caused the review before the GOC. She said that is not the fault of the Transportation Committee. With the limited time and pressure, there is just so much oversight a committee can do with any of the departments. For her, it is about accountability and she thinks MTA needs to have more openness and transparency in how it operates.

A: Sen. Damon commented that MTA buying the bridge meant that MDOT not only received the money from the purchase, but also was relieved from the annual maintenance, the upkeep and the eventual replacement of it. There is an ongoing benefit to that particular purchase which is bigger than just the money received for the sale. That is the kind of relationship he was referring to when he talked about a symbiotic relationship.

GOC: Chair Hill said she understands that, MTA did buy the bridge which relieved the State of its responsibilities. Nonetheless, although she has not seen the documents for the sale, it sounds like it was a fair transfer.

- A: Sen. Damon said if the GOC had specific questions regarding the sale of the bridge former Commissioner Mr. Melrose was in the room and may be able to answer them.
- GOC: Chair Hill noted that there is confusion over the Transportation Committee's authority with regard to MTA's budget. Her reading of the statute is that the Transportation Committee not only has the authority to review it, but to approve it, which also means to not approve it. She believes from her conversations with some Committee members that they misunderstand that. The statute gives approval authority so perhaps the Transportation Committee members could be made more aware of that fact.
- GOC: Sen. Diamond followed-up on Chair Hill's comments. In the past, the Transportation Committee members knew they had the authority to approve MTA's budget, but were told if they made changes to it, MTA's bond rating would be affected. He thinks they have to get around that because it has always been held over the heads of the Committee and suggested that Sen. Damon may want to talk with the Transportation Committee members.
- A: Sen. Damon appreciated Sen. Diamond's statement and said there may be some members who do not understand that authority. They have been sensitive to the piece about upsetting the apple cart in regard to the bonds. Although they may have wanted to make changes, they didn't because of the potential effect on the bonds.
- GOC: Sen. Diamond said when MTA bought the bridge it was a way to get funds to the MDOT.
- A: Sen. Damon agreed that it was to help MDOT and the State with its budget.
- GOC: Chair Hill said she is not challenging that purchase, she does not have enough information, but said perhaps if surplus monies had been turned over to MDOT, maybe the bridge would not have had to be sold. She thinks that legislators have the right to that information, but more importantly, the people of the State of Maine have the right to that information.
- GOC: Sen. Trahan said if the Legislature needs more money for MDOT, maybe it should be looking at a broader policy rather than through MTA's tolls.
- A: Sen. Damon agreed. MTA does not have other revenues coming in other than what is being generated by the tolls. To the extent that they issue revenue bonds based on those tolls is where these bonding agencies and bonding authority comes in. There has to be money that is set aside for those bonds, and that is figured into the operating budget. Providing more money to the State could perhaps be done through reductions in operations or capital, but that would need to be based on the needs and long term perspectives of replacing or maintaining those assets. If expenses were reduced, presumably the revenue need would be reduced and the toll fees would be lowered. Otherwise, there would be a surplus and the surplus is going to a different entity than the State of Maine. It is not apple to apples, but it is the same aspect the Legislature looks into for gambling, you have a revenue stream and a portion of those revenues are going to go to different areas.

Chair Simpson, on behalf of the GOC, thanked Sen. Damon for attending the meeting and answering members' questions.

Director Ashcroft said the GOC's discussion touched upon Questions 1, 2 and 3 and summarized for the Committee what additions or changes they wanted to those questions.

The possible changes to question 1 are to reverse the order of the questions. There had also been interest in how MTA compared to other tolling authorities in regards to performance and cost per mile, as well as governing structures. She noted that comparison would expand the scope of the review from what OPEGA had recommended.

- GOC: Sen. Trahan was concerned about how the subsidizing or sharing of resources would be taken into account in the comparison if another toll road does not have that same type of relationship. If an entity gave its State \$4.5 million for other roads, would OPEGA have to take that out of the equation to make it a true comparison between the two?
- OPEGA: Director Ashcroft did not believe OPEGA would be at that level of detail. We would be looking for standard financial information reported to whatever entity each tolling authority is responsible to report to. There would be limitation to the analogies that could be drawn, but she does not believe OPEGA would get to the degree of understanding what are they doing for transfers and how are they using their money. We would be looking at the standard categories of their expenses and revenues to do that sort of work.
- GOC: Chair Hill thinks the GOC should be focused on what the present policy is and is it being followed, more than what could the future policy be. The GOC is not creating legislation where she wants to see what 5 other states are doing. She wants to know how they are operating based on what Maine has set up for them right now. We may need to get into more detail, but for now, keep it very general.
- OPEGA: Director Ashcroft asked if the GOC liked question 1 as it was written or do they want other elements added to it. She noted the Committee's interest in knowing more about the detailed expenses and this question may not get to that in a way the Committee is envisioning.
- GOC: Sen. Diamond noted that the GOC also wanted to include what other type of financial support the State is receiving from MTA.
- GOC: Rep. Burns would like to know if there is a statutory requirement, and if there is, then OPEGA would try to determine if there should be surplus. He thinks Question 1 is in the right order.
- GOC: Chair Simpson said that there is a statutory requirement.
- GOC: Rep. Burns' understanding is that it is not very clear presently. The question in his mind is whether or not there had been some agreements with the Legislature and MTA to set that statutory requirement aside.
- GOC: Chair Simpson said if they had set the requirement aside, they should have repealed the law.
- OPEGA: Director Ashcroft said OPEGA is probably going to answer both questions because we will need to understand one in the context of the other. She is not certain that the order of the questions is important as long as the additional pieces the GOC may want to add are included.
- GOC: Sen. Trahan said as long as both questions are answered he does not care but noted that using language like "why hasn't" implies that they have not been doing it and Questions 2 asks if they have an operating surplus.

**2. What factors most significantly affect MTA's bond rating? How is the bond rating affected by changes in MTA's operations, governance structure, revenue stream, etc?**

**3. What specific obligations does MTA have to its bondholders as expressed in the Bond Resolution? Are these typical obligations for an entity that issues revenue bonds?**

Director Ashcroft said Question 2 and 3 were discussed above. She pointed out that OPEGA would desire a consultant familiar with revenue bonds to help on Question 3. The cost would be whatever the fee is for consultation and opinion.

GOC: Sen. Brannigan suggested that if OPEGA was going to consult with an expert, it may want to ask if the process of MTA being reviewed by OPEGA posed a danger or was detrimental to a good bond rating.

OPEGA: Director Ashcroft said that is something OPEGA would seek to understand under Question 2, what is it exactly that impacts a bond rating and to what degree oversight affects it.

GOC: Chair Simpson noted that MTA's bond counsel was at the meeting if any Committee members had questions. She thought he could also give his opinion about how a review might affect MTA's bond rating.

GOC: Rep. McLeod asked if they were talking about revenue bonds and debt bonds combined.

OPEGA: Director Ashcroft said just revenue bonds which are different than debt bonds.

GOC: Sen. Trahan's understanding is that revenue bonds are based on future revenue coming in from a fee. Interest rates for revenue bonds and general debt bonds are different.

OPEGA: Director Ashcroft thinks interest rates for either one would be driven by what was going on in the market at the time.

GOC: Sen. Diamond noted that the term of the bonds would also play a key role.

**4. Are MTA's polices, procedures and processes for selecting contractors and administering contracts adequate to ensure that MTA receives best value for contracted services?**

OPEGA: Director Ashcroft said question 4 intends to get to are contract expenditures being minimized as well as how is MTA assuring contractors are performing to expectations. She thinks contracting is an area with inherent risk just because of the large capital projects MTA gets involved with and the fact they do a lot of contracting to accomplish that work. She would see the same risk in any entity that spends a lot of money on contracted services. That is always a reason to look into this area a bit more deeply.

GOC: Chair Hill thought it was an appropriate question because MTA has at least one sole source contractor that has been with them since the very beginning. Furthermore, within the statute there is some additional protection afforded to contracts for engineering services which appear to be closed for life so no one can see what the bids are. She recognizes that you need to protect businesses against competitors, but there is no competitor here, MTA is always using the same source, the single contractor. To have that also be protected under the confidentiality laws begs the question whether the best price is being received for the people of the State of Maine.

OPEGA: Director Ashcroft said as the question is written it does not really anticipate that OPEGA would look at the confidentiality provision. It is her understanding that those provisions will be coming up soon with the Right to Know Advisory Committee.

GOC: Chair Hill said she is not asking that OPEGA look at them in terms of whether they should exist or not. She said the fact that they do exist, makes it more suspect and hopefully they will be forthcoming with the information. Chair Hill said Director Ashcroft can let MTA know that any confidential information MTA gives them will remain confidential. She noted that the GOC also had subpoena power if OPEGA wanted to get that information.

**5. What entities have a role in governing and overseeing MTA? What role is each entity supposed to play and how effectively does each entity carry out that role?**

OPEGA: Director Ashcroft said this question prompts understanding of who MTA is accountable to and whether there is enough accountability built into their structure. OPEGA discovered that there are a number of entities that could be playing, or are playing, some accountability role with MTA. The idea behind question 5 is to lay out for everyone who the entities are that oversee MTA in some way. What role are they supposed to be playing and how effective is it. Are there other factors that are entering into how they fulfill their role that should be brought to attention and discussed. We thought it would be helpful to describe the different places that MTA as an entity is accountable to besides the Legislature, and explore whether the Legislature can draw comfort from those other accountability mechanisms.

GOC: Chair Simpson said these are all questions that will help address people's concerns and hopefully will bring some resolution.

GOC: Rep. McLeod referred to the information provided regarding "MTA's total expenses also included \$18.8 million in interest paid on its debt" and asked what the amount of the debt was that is being carried on the 109 miles of highway.

OPEGA: Director Ashcroft referred to MTA's 2008 audited financial statement which states that at the end of 2008 MTA had outstanding bonds payable of \$349 million in revenue bonds and \$19.5 million in special obligation bonds.

Director Ashcroft recapped where the GOC was regarding the 5 questions. Sen. Diamond thought it would be great to have an addition to Question 1 regarding what other types of financial support MTA has provided. There was some interest in having a comparison of MTA to other tolling authorities. That is a question that we could add. She also wanted to clarify that OPEGA may look at individual expense transactions as part of answering some of these questions, but these do not presume that we will do a specific analysis of all of MTA's expenses or look at a large sample of them for whether they are reasonable. She would like to know if that is really something the GOC would like to have come out of the review because we would want to set up a special question in order to bring back what the Committee was envisioning.

GOC: Chair Hill said it would be interesting to understand how it is determined how much is going to be the amount in debt.

OPEGA: Director Ashcroft said the bond cap is stated in statute and she thinks MTA would say it is driven by their capital plan. OPEGA has seen the capital plan, but has not analyzed it.

GOC: Chair Hill said the question that comes to her mind is how much bond debt needs to be out at any one time because that is another way of not ending up with surplus. It is also a basis for raising the toll fees. Chair Hill believes MTA has reported on its Website, and also thinks she heard it at a Transportation Committee meeting, that they are already anticipating an increase in tolls. That goes back to the question of how valid and reasonable are their expenses. No matter what your operating expenses are, you can decide you need additional revenues because you are about to have an expansion, etc.

OPEGA: Director Ashcroft thinks the connection with all of that would come out in the answering of the question of whether MTA has a surplus.

GOC: Chair Hill wanted to make sure that the amount of bonding and the debt that is outstanding on it makes sense and OPEGA should end up backing into that.

OPEGA: Director Ashcroft said what she hears being expressed is a question about whether the amount of indebtedness MTA is carrying reasonable. OPEGA would have to go after that in a different way than are the expenses reasonable. She would want to list it as a separate question.

Director Ashcroft offered to draft the additional questions the GOC showed interest in over the lunch break so members could look at them before voting.

GOC: Sen. Trahan said before the Committee broke for lunch he wanted to thank the MTA representatives for attending the meeting and apologized if it appeared as if some GOC members did not want to hear from them. It is not that he did not want to hear from them, but that it is outside of the GOC's normal process.

GOC: Chair Hill asked Director Ashcroft to describe the next steps.

OPEGA: Director Ashcroft said the next steps for the review are that the GOC will vote on the questions they would like to have answered. OPEGA then goes forward and plans the work needed to answer those questions. OPEGA will come back to the GOC with the final results in the form of a report. For everybody's clarity, legislators do not have input to what OPEGA does for planned work to answer the questions, or to what our final findings are. However, she would like to have a conversation with the GOC before issuing the report about possible ways to provide the GOC more input into what the recommendations themselves are.

GOC: Chair Hill confirmed that the Director's reference to "legislators" included the GOC members. Despite being on the GOC, members have no more weight than any other legislators from this point forward.

OPEGA: Director Ashcroft said that was correct. Once the GOC approves the questions, members can feel free to talk with MTA as much as they want. She is not going to take any further direction from any Committee member about how OPEGA should go about doing the work or what should be considered in doing the remaining work.

GOC: Chair Hill said that it is important because it relieves the GOC members of being put under pressure by anyone. Secondly, OPEGA has its staff, and anyone from the listening public, legislators and stakeholders should contact staff with their concerns. She asked Director Ashcroft about when the report is actually released, who receives it and the timing.

OPEGA: Director Ashcroft said typically OPEGA is in conversation with the agency during development of the draft report and might be sharing preliminary drafts with the agency. In accordance with statute, OPEGA gives the agency a final draft of the report with 15 days to review and to provide a formal comment that would be included with the printed report. Therefore, there is a 15 day period during which the agency has the report and is reviewing it. We have typically provided the GOC with an advanced confidential draft of the report which is included in your pre-meeting materials for the meeting when the report will be presented. The report is made public at that GOC meeting.

GOC: Sen. McCormick noted that OPEGA's recommendation says it expects this project would be completed by the end of September. He asked if September was an agreed upon deadline with MTA based on their projected work load, and is that a reasonable date or should it be extended.

OPEGA: Director Ashcroft said it was reasonable for the questions that were initially proposed, but may need to change depending on the revised questions approved by the GOC. She may need to extend the expected report date. September was a timeframe OPEGA set for itself. However, we learned from MTA that it would be a good timeframe for them also as they would be in a position to go to the bond rating agencies knowing what the results were so there would be less uncertainty.

GOC: Rep. Burns asked if, during the 15 days, there is process for remedying any conflicts between the reviewed agency's view of the information and OPEGA's.

OPEGA: Director Ashcroft said OPEGA listens to what the agency has to say. Sometimes they think a little additional context around a statement we made would help make sure readers do not misunderstand. If we agree, we make the change. In terms of their comments of what they think of OPEGA's results or their explanations for what we've found, that is a back and forth process. Sometimes they want to present information or explanations that OPEGA has not had an opportunity to verify. In some cases, we might include that in the report but make it clear it came from the agency. Other times she tells them to put it in their formal comment letter instead. It is not that OPEGA disagrees, but it had not been part of the review. In short, OPEGA tries to iron out any areas of confusion or misunderstanding, but in the end, tries to make it clear who the information is coming from and under what process it was obtained.

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

Director Ashcroft said at the last meeting the GOC discussed follow-up on OPEGA's 2006 report on Statewide Information Technology Planning and Management. As planned, she reviewed OIT's Annual Report that had been submitted to the State and Local Government Committee. In the report, the Chief Information Officer made a couple of recommendations related to areas of concern this past session OPEGA had raised in its report in regard to leadership of the transformation to an enterprise approach.

She thinks it would be helpful for the GOC to hear about the recommendations and to process whether GOC members think there is something they should do to move the ideas forward. It would also give Mr. Thompson a chance to explain why he had recommended them and what there has been for progress on other large areas of concern that OPEGA raised in its Report. These include physical and systems security, disaster recovery and business contingency planning, project management, and how decisions are made about what to invest in for technology. Director Ashcroft thinks Mr. Thompson does speak to all of those issues in the Annual Report, but he indicates that there are still challenges in some of the areas and she thinks it would be important for the GOC to hear about them.

She did talk with Mr. Thompson and he would be happy to come to a meeting. She asked him to think about whether there was anything the GOC could do, given its position and its ability to introduce legislation that might help clear some of the barriers. Because of OIT's resource constraints, there are some issues they have not been able to move forward on.

GOC: Sen. Diamond said it was his understanding that Mr. Thompson was leaving his position at OIT and asked how long he would be available. He would prefer to hear from Mr. Thompson before he left his position at OIT.

OPEGA: Director Ashcroft said there has been no official announcement of that yet, but he had indicated that he would be willing to come at any time. She will check if he is available for either of the next two meetings.

GOC: Chair Hill asked if there was anyone present at this meeting from OIT who could answer the question that had come up in the PSAP Report about the location that is provided to PSAPs when someone calls 9-1-1 from a State Office.

Chair Hill recognized Greg McNeal, Chief Technology Officer, Office of Information Technology.

OIT: Mr. McNeal said Chair Hill was correct that a call coming from State Offices would show as 210 State Street in Augusta on the PSAPs screen. The State has a waiver and is grandfathered into that process. He said IT had put in a budget request a while ago for \$700,000 to put in a new system and manage the 16,000 stations or phones. To put that into place and have someone monitor the system with the constant turnover in State positions is costly. OIT is still looking at that and working with Public Safety because it is a safety issue. The request was not approved.

- GOC: Chair Hill asked whether what Mr. McNeal just described was the premium package and if there was something that would cost less that could at least get the responders to the right building.
- OIT: Mr. McNeal said there are other options that could be explored.
- GOC: Sen. Diamond referred to the emergency buttons under the Chairs' desks in the Committee rooms and asked whether that system was part of this.
- OIT: Mr. McNeal believes Committee rooms in the Cross Building have connections to Capitol Security but we are talking about E-9-1-1 calls from any State Office.
- GOC: Chair Hill asked if Mr. McNeal could get more information on what OIT would need for technology to get emergency responders to the right building.
- OIT: Mr. McNeal said OIT has information on what the technology will do and what the cost would be to implement.
- OPEGA: Director Ashcroft reminded the GOC that even though the right address may not come up on the dispatcher's screen, the dispatcher's protocol calls for them to verify and confirm the address with the caller. She did not want to leave the public with a misunderstanding that the emergency responders would not get to the right building.

The Government Oversight Committee thanked Mr. McNeal for the information he provided.

## **RECESS**

The Government Oversight Committee recessed at 12:08 p.m.

## **RECONVENED**

The Government Oversight Committee reconvened at 12:52 p.m.

### **• Continuation of Project Direction Recommendation Statement for the Maine Turnpike Authority Review**

The revised questions proposed for the MTA review are:

1. Why hasn't MTA been transferring operating surplus to MDOT as required by statute? Does MTA have an operating surplus as defined by 23 MRSA §1964? What other types of financial support has MTA been providing to MDOT, if any? To what degree can MTA provide financial support to MDOT without driving increases in toll rates?
2. What factors most significantly affect MTA's bond rating? How is the bond rating affected by legislative oversight actions, including OPEGA reviews, or by changes in MTA's operations, governance structure, revenue stream, etc?
3. What specific obligations does MTA have to its bondholders as expressed in the Bond Resolution? Are these typical obligations for an entity that issues revenue bonds?
4. Is the amount of bond debt currently held by MTA reasonable, and has the full amount of that debt been necessary to ensure the Authority could effectively carry out its mission?
5. Are MTA's policies, procedures and processes for selecting contractors and administering contracts adequate to ensure that MTA receives best value for contracted services?

6. What entities have a role in governing and overseeing MTA? What role is each entity supposed to play and how effectively does each entity carry out that role? How does MTA's governance structure (including statutory budgetary approval by the Legislature's Transportation Committee and appointments to the Authority's board by both the Legislature and Governor) compare to that of comparable authorities in other states?
7. What is MTA spending its toll revenue on? How does MTA define reasonable expenditures? Are the Authority's expenditures reasonable?
8. How does MTA compare to toll authorities in other states on financial and performance measures such as personnel and management costs and cost per mile?

GOC: Rep. McLeod asked if it would be appropriate to move the questions forward as revised and instruct the Director to seek outside consultation in addressing question 3.

GOC: Chair Simpson asked if there were any further questions.

OPEGA: Director Ashcroft noted that with the additional questions added to the scope, the review may have to be extended with a completion date of sometime in November. Some questions would require more work than others so if the GOC had preferences about any, they could let her know. If all the questions are to be answered, she does not know how the timeframe would work for MTA with their concerns of having the review done by the time they went to the bond rating agencies.

GOC: Sen. Diamond said there have been questions in the past about how the contracts with the Service Centers on the Turnpike are arrived at, the length of the contracts, whether there is an RFP process, etc. because they have a significant revenue source. He wondered whether this would be covered in any of the questions proposed.

OPEGA: Director Ashcroft said that area can be included under question 5. She had not specifically thought of the revenue side of it, but those are contracts they have with an entity.

GOC: Sen. Diamond asked if the West Gardiner Service Center serves both 295 and the Turnpike and what is the contract between the two entities responsible for those roads.

OPEGA: Director Ashcroft said the Center does serve both but she is not sure what the contract is. She thinks it was a joint venture between MDOT and MTA to build it. She does not know what the financial arrangements are with the concessions.

GOC: Chair Hill said as she understands it, the toll revenues are not taxed, but the concessions and leases are taxable items.

Chair Hill noted that she did not see specific wording about whether MTA's expenses are reasonable and asked what questions that would fall under.

OPEGA: Director Ashcroft said it was added under question 7.

**Motion:** That the Government Oversight Committee move the questions for the MTA Review forward as revised and instruct the Director to seek outside consultation in addressing question 3. (Motion by Rep. McLeod, second by Sen. Trahan, PASSED, unanimous, 9-0).

Chair Simpson asked if there was objection to taking an item out of order. Hearing none the GOC moved to **Unfinished Business, Discussion of Potential Review of Maine Community College System.**

- **Discussion of Potential Review of Maine Community College System Request**

Director Ashcroft reminded the GOC that the request for a review of the Maine Community College System (MCCS) had come from a citizen with a number of concerns about MCCS. The GOC requested input from the Education Committee who addressed the GOC's request during its Government Evaluation Act (GEA) review of MCCS. The Education Committee asked MCCS to respond to the issues raised in the GOC's letter as part of their GEA process.

In response, the GOC received two letters from the Education Committee, a majority and minority letter. The majority letter indicated that MCCS had satisfactorily addressed all of the issues raised by the GOC with the Education Committee and consequently they did not see a need for a review of MCCS at this time. The minority response, a letter from Sen. Weston, stated she had additional questions she would like to see OPEGA review. She questioned whether MCCS was achieving the goals and objectives as stated in their GEA report and had concerns about the transferability of credits. At the last GOC meeting, Sen. Nass had wanted to speak with Sen. Weston before taking any action on the request and the GOC had tabled it.

Director Ashcroft said she invited Sen. Weston, the Education Committee Chairs, Sen. Alford and Rep. Sutherland, and the President of MCCS, John Fitzsimmons, to this meeting. She has not heard back from Sen. Weston. Sen. Alford could not attend and Rep. Sutherland, although she could not attend this meeting, did call to discuss the matter with the Director and said she would like the opportunity to speak with the GOC at some future meeting if the Committee did not make a decision on the request today.

- GOC: Chair Simpson said that President Fitzsimmons had contacted her and she asked him to be at today's GOC meeting in case members had questions.
- GOC: Sen. Trahan said he feels more comfortable with the invitation to President Fitzsimmons because there are no specific review questions before the GOC regarding the MCCS that might be influenced.
- GOC: Rep. Bickford referred to the information previously provided regarding MCCS' programs, noting 17% are transferable, or 34 out of 197, and asked why so many are not transferable to the University System.
- GOC: Chair Hill said that there are only 34 out of 197 programs that are similar to those at the University and 31 articulate to being transferable. She would like an explanation of what is transferable, the meaning of articulate, and how it relates to the students.
- GOC: Chair Simpson recognized President Fitzsimmons.
- MCCS: President Fitzsimmons addressed why the MCCS GEA report includes a strategic plan with goals and objectives but no performance data on the progress toward those goals and objectives. He explained that the Education Committee asked for MCCS' planning process and that information was provided. MCCS' detailed actions to achieve that plan goes before its trustees to be reviewed in depth.

President Fitzsimmons said MCCS has contractual agreements with the University System regarding transferability of credits. Students in a 2 year program will transfer as a junior to the University, with the exception of the University of Southern Maine's Business Program because they have a special accreditation. He said the vast majority of what MCCS offers, 83%, are terminal programs and are tied to occupations. He gave the example of the welding program. A welding program is designed for the student to be a welder, it is not designed for the student to go on to the University. The student made the choice of becoming a welder when he enrolled.

President Fitzsimmons said the flip side is MCCC has over 500 students who have baccalaureate degrees and who could not find employment in the economy and came to MCCC for additional education. Those students have already paid for a four year degree. They are not repeating the humanities classes but they are repeating the occupational side of programs.

In regard to the GOC's questions about the availability of information for students on what would transfer, President Fitzsimmons said they provide information on which programs articulate and the University System posts on its website what is offered at MCCC that the University will accept as transferable credits.

GOC: Chair Hill asked if there was a certain grade point average for transferring credits.

MCCC: President Fitzsimmons said a C or better is needed and thinks that is the standard across the nation.

President Fitzsimmons referred the GOC to the information he provided regarding student debt. He said MCCC has tried to hold tuition down. It is \$84 a credit hour which is the lowest cost in Maine. In 7 of the last 12 years, MCCC has frozen tuition recognizing that Maine needs low cost entry to higher education.

President Fitzsimmons addressed the GOC's concerns about students running up debt at the MCCC that hurt them when they wanted to continue at the University System. He referred to a program called PAL which is a Federal Government program and assists those who have income challenges.

GOC: Chair Simpson said the question regarding the debt was more about loans that the students have to pay back that can be maxed out.

MCCC: President Fitzsimmons acknowledged that students could be using up annual available loans at MCCC pursuing the courses for a particular profession. If the student changes the profession he or she wants to pursue, that is not the fault of the Community College. The same is true for a student who attended the University and then decides to transfer to MCCC.

GOC: Sen. Trahan asked what MCCC's travel budget was.

MCCC: President Fitzsimmons said he has not been out of state in 3 years. The approval process goes through each department and then to the President. They have been tough on travel requests unless Federal money is being used to cover the travel.

GOC: Sen. McCormick asked if a student who enrolled at MCCC with the intent of going on to the University System would be guided into courses that all would transfer at the end of the 2 years.

MCCC: President Fitzsimmons said MCCC has a program called Advantage U which is an agreement with the Universities that every course will transfer to the University when a student in that program transfers. The student is also automatically accepted at the University, they do not have to apply, they just sign up for classes the following year like they have been a University student. Advantage U is for students who know they will be transferring.

GOC: Sen. McCormick asked if somebody has not yet focused on a major, can they go online to check if the courses they sign up for in a semester will all be transferable.

MCCC: President Fitzsimmons said it is the receiving college that makes the decision of which credits will be transferable. The University System puts all that information online so MCCC's students can go to the University's website for that information.

- GOC: Sen. Brannigan said he has heard that the M CCS does not charge enough.
- M CCS: President Fitzsimmons said they had a third party do an ability to pay study and the results indicated that if M CCS raised its tuition \$2 a credit hour or \$60 a year it would have a moderate impact, but if tuition was raised \$5 a credit hour or \$150 a year, M CCS would lose 22% of its enrollment.
- GOC: Chair Hill asked how many students are Maine residents.
- M CCS: President Fitzsimmons said they have 16,300 students and 96% are Maine residents.
- GOC: Chair Hill said she served on a study 2 years ago to get low income and low skilled people into the Community College System. Unfortunately, the Report came out and was circulated to the Education and Labor Committees, but Sen. Mitchell and herself never got the opportunity to present the recommendations in that Report. She recalls that one of the issues addressed in that report was that, although the Community College is set up appropriately and is doing a good job in terms of its offerings, there appeared to be a disconnect on the information going to many of the people trying to get into the System. When people first enter higher education they may not always understand the programs and articulations. She asked how well trained or how much education, or continued education, do the student advisors have at M CCS.
- M CCS: President Fitzsimmons said that is still a challenge and one of the last tuition increases went toward staff support. Since they became a Community College, they have added 6,000 students and that put a lot more challenges on the support staff. They have designed programs in their computer systems to help the support staff assist people with questions, but he acknowledges that they are not exactly where they should be.
- OPEGA: Director Ashcroft said the GOC had also expressed concern about student outcomes and how M CCS measured that success rate.
- M CCS: President Fitzsimmons said they are trying to set up new measures of success across the nation for community colleges. The National goal is to reach a 50% success rate, which includes graduation or transfer, within the next 10 years. M CCS is presently at 51% but would like to reach 60 or 65%.
- GOC: Sen. McCormick commented that there are groups like SCORE, retired executives, who seem successful in working with businesses and asked if there was opportunity at the Community College level to have such groups help students.
- M CCS: President Fitzsimmons said colleges are required to follow Federal laws covering students' privacy so volunteers could not have access to the needed student information.
- GOC: Chair Hill asked if M CCS had the technology to track the other 49% of students who are not considered successful, so if they return to College in 3 or 5 years the information will be from the time they had originally started.
- M CCS: President Fitzsimmons said they do have "stop outs" which are students who stop attending, leave to make money and return years later. M CCS is also working with the Department of Education to have information on students from K through a university and the ability to track all students wherever they end up.
- GOC: Chair Hill asked how long student credits that are successfully earned are good toward continuing education at a later time.

MCCS: President Fitzsimmons said there is not a shelf life on earned credits but the way Chair Hill asked the question is important. For example, if a student earns credits in an automotive program, automotives might have switched to electronics from the time the student left the college. In this case, some of the things from the previous courses may not be relevant to current automotives. If the student needs to repeat a course for these reasons, the course taken previously could be included as an elective if they are part of the courses need for a degree. He said credits may also be awarded on life experiences.

GOC: Rep. Burns noted that he did not find Sen. Weston's letter in the information in his notebook regarding this item.

OPEGA: Director Ashcroft apologized for the oversight and said copies will be provided.

Director Ashcroft referred GOC members to the information in their notebooks regarding what action they could take on the request for a review of MCCS.

GOC: Sen. Diamond said after listening to the discussion regarding MCCS and recognizing the workload OPEGA has he would make a motion for no further action.

**Motion:** That the Government Oversight Committee moves that no further action be taken regarding a review of the Maine Community College System. (Motion by Sen. Diamond, second by Sen. Brannigan, PASSED, unanimous, 9-0).

The Government Oversight Committee thanked President Fitzsimmons for attending the meeting.

Director Ashcroft wanted the GOC to be aware that the scope that had now been approved for the MTA review could affect OPEGA's work on the Medical Services in the Correction System review which is also in progress especially since OPEGA is currently down one staff position. She was thinking about the possibility of hiring a consultant to perform, or assist with, that review as well. She would like the GOC's permission to put out an RFP to see if we can get a consultant at a reasonable cost if it looks like that may be necessary.

GOC: Sen. Trahan asked if a motion was required for OPEGA to checkout consultants.

OPEGA: Director Ashcroft said she did not need a motion, but would like to have the Committee's approval.

GOC: Sen. Trahan said that was what the consulting budget was for and supports the Director's request.

OPEGA: Director Ashcroft said she would certainly not establish a contract until she reported back to the GOC on the results of the RFP and the likely cost.

GOC: Chair Hill said she did not want OPEGA tied to time limits. In response to the Director's previous question about priorities for the MTA review, she thinks the bonding question is a high priority because it often times is the response from MTA as to why something has to be hurried or cannot be done. One of the threshold issues she would want answered is how much does the bond obligations limit what else the Legislature is looking at. She would like the Transportation Committee to not feel pressured by MTA on that front.

GOC: Sen. Brannigan asked if the Medical Services in the Correction System included the contracts for those services. He noted they were coming up for renewal or another round of bids.

OPEGA: Director Ashcroft said they were up to be re-bid this year, but the contract with the current vendor was extended for another year.

Director Ashcroft said by the next GOC meeting she can plan the review out and will have a better sense of whether the GOC needs to further prioritize the questions.

GOC: Sen. Trahan said the Medical Services in the Correction System is important. When the issues surrounding that program came forward they were pretty serious and it is high priority to him that it be finished.

OPEGA: Director Ashcroft will report back at the next meeting.

• **OPEGA Proposal to Revamp Government Evaluation Act and Use It as a Basis for Developing OPEGA Work Plans**

Director Ashcroft just wanted to find out if this was a topic the GOC had any interest in exploring and, if so, she would put it on the agenda for more detailed discussion at the next meeting.

The idea is about revising the Government Evaluation Act (GEA) in a way that it could be used as a basis for OPEGA's workplan. The GOC has previously shown interest in changing the process used to determine OPEGA's work plan. The GOC and other legislators have also shown interest in making the GEA more effective. Director Ashcroft proposes looking at what information agencies are required to provide under the GEA and adjusting that data and information to make it more useful for identifying particular programs or activities that might warrant a detailed review. It would mean, for the most part, that the topics OPEGA worked on in any particular 2 year span would be in the realm of the agencies that are up for GEA review in that biennium. The GOC would also keep the flexibility of adding topics.

The Director noted that a change in the GEA would have an effect on the policy committees and OPLA as that Office currently shepherds the GEA process. But she thinks it might provide a chance to also increase the effectiveness and efficiency of the legislative oversight process as well as OPEGA. If the GOC is interested in exploring this idea, we would want to seek input from the Legislative Council because it would affect the Legislature as a whole. If the Council has interest, then perhaps OPLA could work with OPEGA and the GOC to craft something over the Interim that could be presented to the next Legislature.

GOC: Rep. Bickford thinks it is something the GOC could have good discussions around and would like to see it included on an Agenda for a future meeting.

GOC: Sen. Trahan agreed saying there has to be some consistency and structure, but cautioned the GOC, noting OPEGA was down one analyst position and he would not want them taking on more responsibility with less staff. He asked the Director when that position might be filled.

OPEGA: Director Ashcroft said the analyst position was frozen through FY 10 and she hopes to have the position filled before the end of 2010. She would like to have some idea if the GOC was interested in using the GEA as a foundation for the work plan because that would make a difference in OPEGA's work, and might affect the skills she would look for in hiring.

GOC: Chair Hill thinks it would be a good discussion, but she is not sure where she would stand on it. She has some concern about how effective that evaluation process is and would not want to see OPEGA set up so structured that agencies know 5 or 6 years ahead that they will be evaluated. She also doesn't want it to affect the ability to work on topics that need attention more timely.

GOC: Sen. Brannigan would want to hear from Sen. Diamond because the GEA replaced the Sunset Committee which he had been a member of. OPEGA was established from a different direction.

GOC: Sen. Diamond said his brief experience on the GOC has led him to believe they should be more involved as opposed to being more superficial and hitting a lot of different topics. If the GOC was going to have a discussion, he would start at that point because he thinks it clearly has value. It is something

the Committee should consider. Most Legislators are looking for results with greater impact from OPEGA and this requires more in depth reviews of the agencies. It is not that what the GOC or OPEGA is doing is wrong, it is just that there is expectation out there of what this Committee could do, and should do, as opposed to what the Committee has done over the years. The GOC should have a discussion regarding the GEA.

GOC: Sen. Trahan thinks an important piece of that would be to have nonpartisan staff from OPLA and OFPR at the meeting because they do have a role in the GEA reviews and it would be helpful to have their input. He also agreed with Sen. Diamond that it gets the committee of jurisdiction involved with what the GOC does and could strengthen the GOC and OPEGA's role in the Legislature. Sen. Trahan is in support of exploring the idea as long as the other offices are involved.

GOC: Chair Hill asked Director Ashcroft to find out if OPLA and OFPR would be willing to participate in the discussion. She noted they do take their direction from the Legislative Council, however, so they might feel more comfortable participating in an open discussion if they knew the Legislative Council wanted them to participate.

The GOC asked the Director to take the appropriate steps to involve the Legislative Council.

## UNFINISHED BUSINESS

### • Discussion of Actions Taken in Response to OPEGA Report on Emergency Communications in Kennebec County

Director Ashcroft reported that the Utilities and Energy Committee and Criminal Justice Committee worked the GOC's legislation, LD1813. She referred them to Public Law, Chapter 617 in their notebooks that was signed by the Governor on April 7, 2010.

Director Ashcroft said she believed the Utilities and Energy Committee addressed the most critical and important issues and had gotten to all the key concerns that the GOC had in the short term.

GOC: Rep. Bickford said part of the legislation, funding supervisory positions at CMRCC, was not popular with a lot of the 911 and PSAP facilities because of the fact that they had the same issues.

GOC: Sen. Trahan said it is a problem that has to be dealt with in increments.

GOC: Chair Hill was proud of the GOC and Director Ashcroft in how everything was presented to the Criminal Justice and Utilities and Energy Committees and the ongoing discussions and resulting legislation. The Utilities Committee worked hard and recognized there was a problem that needed to be addressed sooner than later and came up with some creative solutions. She was impressed that as busy as the Utilities Committee was and the lateness of the session when they received the bill, they stuck to it and worked out a great solution. It is a start to major improvements throughout the system.

OPEGA: Director Ashcroft reported that Commissioner Jordan had an April 30, 2010 deadline to report back to the GOC and the Criminal Justice Committee on what management actions the Department of Public Safety has taken. The Commissioner could not attend today's meeting but the Director anticipates the Commissioner will be able to attend the next GOC meeting.

Director Jacques is to report back to the GOC regarding the cell phone call cost issue, but her report back date is further out. She will be back to the GOC at the appropriate time.

GOC: Rep. Burns asked about the creation of a subcommittee to work on a statewide PSAP system.

OPEGA: Director Ashcroft said there was another piece of legislation passed in addition to LD 1813. She believes the PUC was given the directive to work on implementing the Kimball Study recommendations, which suggested there should be PSAP established for each county. PUC has been given the directive to work with stakeholders to figure out what that would look like to get those other studies done, what would be the cost, and how might they see implementing what was in the Kimball Study. She does not recall whether it specifically set up a special study committee between the Criminal Justice and Utilities Committees.

GOC: Rep. Burns had concerns that the legislation will take place next year as opposed to now.

GOC: Chair Hill said that at a Utilities Committee meeting it was suggested that they think about the subcommittee possibly being funded through OPEGA, but it started to get very complicated and the initial legislation started to get bogged down. For that reason, she was happy when they split it so they could take care of the immediate problems and then the study could be done later. She does not want the study to go away but could see the possibility of ending up with nothing passed if they tried to combine the OPEGA and Kimball recommendations in the same legislation.

## REPORT FROM OPEGA DIRECTOR

### • Project Status Report

Director Ashcroft wanted to make the GOC aware the AFA Committee had made use of the Special Project information OPEGA gave them regarding contracts. Rep. Flood did approach several commissioners with regard to specific contracts, seeking their input on what they could reduce. Four departments agreed to deappropriations in the amount of \$399,400 and Rep. Flood suggested to AFA that some of that money get used to replace some other cuts including \$50,000 to NAMI, \$100,000 for adolescent substance abuse work within the PNMI's and \$50,000 for the Coalition Against Sexual Assault. Director Ashcroft thanked Rep. Flood for pursuing OPEGA's suggestions and using the information OPEGA provided.

GOC: Sen. Diamond said that showed how the GOC can work with other committees in a productive way and thinks Rep. Flood needs to be especially applauded because he saw a void on their end and took it upon himself to look into the details. He came up with recommendations that the AFA Committee accepted and ways to restore some funds. Sen. Diamond thinks the GOC should recognize Rep. Flood's work.

GOC: Chair Hill asked if Director Ashcroft could draft a letter from all the GOC members thanking Rep. Flood.

## NEXT COMMITTEE MEETING

The Committee set Thursday, May 27, 2010 at 9:30 a.m. for the next GOC meeting.

Chair Hill asked if the Director could invite Patricia Barnhart, Warden, Maine State Prison and Commissioner Magnusson to the next meeting to give an update on OPEGA's Maine State Prison Management Issues Report. Director Ashcroft will also invite Commissioner Jordan and Dick Thompson.

## ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 2:08 p.m. (Motion by Rep. Burns, second Rep. McLeod, unanimous).