

Government Oversight Committee
(Joint Legislative Committee on Program Evaluation
and Government Accountability)

**Meeting Summary
June 27, 2005**

CALL TO ORDER

The Co-chair, Sen. Gagnon, called the meeting to order at approximately 9:30 a.m. in the Labor Committee Room.

ATTENDANCE

Senators: Sen. Gagnon, Sen. Dow, Sen. Perry
Absent: Sen. Courtney, Sen. Mitchell, Sen. Raye

Representatives: Rep. O'Brien, Rep. Trahan, Rep. Collins, Rep. Crosthwaite
Absent: (Representatives Dugay and Canavan joined meeting in progress)

Legislative Officers and Staff: Beth Ashcroft, Director, OPEGA
Diana Stiles Friou, Principal Analyst, OPEGA
Lorna Pelkey, Administrative Secretary, OPEGA

SUMMARY OF May 23rd MEETING

The Committee did not request any changes to the May 23rd meeting summary.

REPORT FROM OPEGA DIRECTOR

Schedule and Status of On-going Evaluations

Director Ashcroft reviewed a chart of OPEGA's important schedule dates related to the following activities:

- Guardian Ad Litem Review;
- RFP for the Information Systems Review;
- Hiring of additional OPEGA positions; and
- Development of OPEGA's Annual Work Plan.

She told Committee members that the GAL review is on schedule and that the IS RFP announcement is scheduled to be sent out to 12 vendors Tuesday, June 28th. As requested by Rep. Collins, the Committee was provided with the list of vendors the RFP would be sent to.

OPEGA Positions

Ms. Ashcroft informed the Committee that she has received about 110 applications for the Senior Analyst and the Analyst positions. She and Ms. Friou plan to review the application packages this week and set up interviews soon.

Risk Assessment

Director Ashcroft advised the Committee that she has been working on a risk assessment of the evaluation universe in order to provide the Committee with additional topics for consideration before developing OPEGA's annual work plan. She anticipates reviewing the results of this risk assessment at the next Government Oversight Committee meeting.

Website

The Director also stated that the OPEGA website is coming along nicely even though it is in its infancy. Hopefully in the near future, staff will be trained to maintain the website.

Training and Conferences

Ms. Ashcroft mentioned that she and Ms. Friou had recently attended two days of fraud training. Ms. Friou had also attended the regional Intergovernmental Audit Forum. Topics at that conference included the Funding and Audit of Transportation Programs and Preparing & Delivering Testimony. The Forum also provided Ms. Friou an opportunity to network with peers in other New England states and representatives from the regional federal Office of the Inspector General.

Access to Confidential Records

Director Ashcroft said she recently sent a letter to the Attorney General requesting a formal opinion on OPEGA's access to confidential child protective records at DHHS. She also reported that she had asked the Attorney General to do additional research on OPEGA's access to similar records held by the courts. A discussion ensued regarding the importance of OPEGA tracking what confidential records were being reviewed and by whom so that any alleged breaches of confidentiality that may arise in the future could be properly addressed. Ms. Ashcroft stated that an office procedure would be developed related to this important issue and submitted to the Committee for review.

Estimate of Project Resources

The Director informed the Committee that she estimates OPEGA can perform 10-15 reviews each year with its own resources. This estimate is based on a full staff and an average of 500-750 hours per review. She also mentioned that OPEGA's consulting services budget should allow for the hiring of an additional 700 to 1,040 hours of project work. Ms. Ashcroft reminded the Committee that this would be a learning year as to whether the assumptions she based these estimates on are valid.

Status of Topics Being Considered for Evaluation

Director Ashcroft then reviewed the status of topics raised by the Committee for consideration so far noting which topics were in the following categories: Currently Under Evaluation; On-Deck; Scoped; Tabled; and Withdrawn from Consideration.

The Director mentioned that she and Ms. Friou had noticed that many of the topics being considered, and many of the concerns raised by the Committee at prior meetings, were related to Child Protective Services. Consequently, she had taken the liberty of preparing a diagram of the CPS process illustrating where the current topics under consideration fit. The Director presented this diagram to the Committee pointing out that some of the Committee's questions and concerns would best be addressed through a review of CPS as a whole rather than some of the fringe topics that had been identified. She also suggested that any review of CPS would best be done in Phases with the diagram illustrating the three phases she thought made sense. Phase I would be a review of the CPS Intake process, i.e. how a child does or does not get brought into DHHS custody. Phase II would be a review of Case Management activities that go on once the child is in custody up until a goal for that child (reunification or adoption) has been determined. Phase III would be a review of the Reunification and Adoption processes.

The Committee agreed that the division of a CPS review into phases would be best. It was decided that each Phase would be treated as a separate review. Rep. Trahan noted that the Bureau of Child and Family Services, which is responsible for CPS, had ranked high as an area of interest on the legislative surveys. Ms. Ashcroft also mentioned that her initial review of State expenditures indicated there was a fair amount of money being spent on CPS activities.

Review and Voting on Evaluation Topics

The Director proceeded to briefly review the scope statements OPEGA had developed on the following topics:

- Results of the Federal OIG Audit of Title IV-E Adoption Assistance Payments;
- U of Maine Administration;
- Spurwink; and
- Payments to Medicaid Providers

A brief discussion ensued related to the above topics.

The Committee took a short break to review the scoped topics. The Committee reconvened at 11:30 a.m. and began voting on what to do with the topics currently under consideration.

Motion: That the Results of the Federal OIG Audit of Title IV-E Adoption Assistance Payments topic be moved to the on-deck list. (Motion by Rep. Trahan, second by Rep. O'Brien – motion PASSED – vote; unanimous.)

The Payments to Medicaid Providers topic was discussed with regard to the two different scope options presented by OPEGA. Option I being a limited review, estimated at 100 hours, to verify the validity, accuracy and completeness of information being provided to the legislature on the on-going MECMS situation. Option II being a broader review, estimated at 500 hours, designed to determine whether actions being taken by the administration were

sufficient to resolve the situation in a timely manner. Director Ashcroft answered questions from the Committee.

The Director suggested to the Committee that a review of this topic would be more valuable if it were performed sooner rather than later. She noted that if the Committee decided to direct OPEGA to go forward with it soon it would potentially mean setting aside other projects OPEGA was currently working on. In addition, she pointed out that a review by OPEGA at this time would to some degree take the administration's attention and resources away from problem resolution in order to respond to OPEGA's review. Given these factors, OPEGA recommended that the Committee follow its selection process for Rapid Response reviews when making a decision on this topic. After the discussion:

Motion: That OPEGA be directed to begin work on the Payments to Medicaid Providers topic – Scope Option II as a Rapid Response review. (Motion by Rep. Crosthwaite, second by Rep. Trahan - motion FAILED – Vote: 1 in favor, 8 opposed. Those in favor: Rep. Crosthwaite. Those opposed: remainder of Committee members present.)

Motion: That OPEGA be directed to begin work on the Payments to Medicaid Providers topic – Scope Option I as a Rapid Response review. (Motion by Rep. Trahan, second by Rep. O'Brien – motion ruled as FAILED at the meeting by Co-chair Sen. Gagnon - Vote: 7 in favor, 2 opposed. Those in favor: Sen. Dow; Rep. Dugay; Rep. Trahan; Rep. Canavan; Rep. Collins; Rep. O'Brien; Rep. Crosthwaite. Those opposed: Sen. Perry; Sen. Gagnon)

Subsequent to the meeting, Senator Courtney telephoned the Office within the timeframe established in section 9.E of the Committee Rules to register his vote on the above motion. Senator Courtney voted “in favor” making the vote 8 in favor, 2 opposed.

The Director notified the Committee members by email of the final result of the vote. Following this notification (which occurred after the time period for absentee voting had expired), Sen. Mitchell spoke with the Director and emailed the Committee members to register her complaint about the voting procedure on Rapid Response reviews particularly in regard to members who are absent from the meeting. Her complaint regarding the vote on this motion has been so noted.

Motion: That the Payments to Medicaid Providers topic – Scope Option I be moved to the On-Deck list. (Motion by Rep. Trahan, second by Sen. Dow – motion PASSED – Vote: unanimous.)

Motion: That the Spurwink topic as scoped by OPEGA be moved to the On-Deck list. (Motion by Rep. Trahan, second by Rep. Collins – motion PASSED - Vote: unanimous.)

Motion: That the University of Maine Administration topic as scoped by OPEGA be tabled until Sen. Raye, who proposed the topic, could be present. (Motion by Rep. Collins, second by Rep. O'Brien – motion PASSED - Vote: unanimous.)

Motion: That the Economic Development Programs topic as scoped by OPEGA be moved from the Tabled category to the On-Deck list. (Motion by Rep. Trahan, second by Rep. Collins – motion PASSED – Vote: unanimous.)

Motion: That the Child Protective Services Phase I topic as described and illustrated by OPEGA be moved to the On-Deck list. (Motion by Rep. Trahan, second by Rep. Dugay – motion PASSED – Vote: unanimous.)

Motion: That the Child Protective Services Phase II topic as described and illustrated by OPEGA be moved to the On-Deck list. (Motion by Rep. Trahan, second by Rep. Dugay – motion PASSED – Vote: 8 in favor, one opposed. Those in favor: Sen. Dow; Sen. Perry; Sen. Gagnon; Rep. Dugay; Rep. Trahan; Rep. Canavan; Rep. Collins; Rep. Crosthwaite. Those opposed: Rep. O’Brien.)

Motion: That the Child Protective Services Phase III topic as described and illustrated by OPEGA be moved to the On-Deck list. (Motion by Rep. Trahan, second by Rep. Dugay – motion PASSED – Vote: 8 in favor, one opposed. Those in favor: Sen. Dow; Sen. Perry; Sen. Gagnon; Rep. Dugay; Rep. Trahan; Rep. Canavan; Rep. Collins; Rep. Crosthwaite. Those opposed: Rep. O’Brien.)

The consensus of the Committee is to leave the Food Stamps topic and the Mainecare/Medicaid topic in the tabled area for now.

Director Ashcroft proceeded to review the summary of legislative interest surveys as received from the Joint Standing Committee on Labor and the Joint Standing Committee on Transportation. A discussion ensued related to Highway Dept. fund monies that had been appropriated by the Transportation Committee to OPEGA, the motivations behind that appropriation, possible restrictions on OPEGA’s use of highway fund money and the perception of whether this interfered with OPEGA’s or the GOC’s independence.

Motion: That the topics suggested by the Joint Standing Committee on Transportation be scoped by OPEGA in a limited manner. (Motion by Rep. Trahan, second by Rep. Collins – motion PASSED – Vote: unanimous.)

Motion: That the topics suggested by the Joint Standing Committee on Labor be scoped by OPEGA in a limited manner. (Motion by Rep. Trahan, second by Rep. O’Brien – motion PASSED – Vote: unanimous.)

Sen. Gagnon then introduced a potential additional review topic for the Committee’s consideration. This topic relates to the Department of Inland Fisheries & Wildlife’s enforcement activities surrounding the new laws that had gone into effect on ATV use. The new law allows ATV use by landowner permission only rather than requiring the landowner to post the property. Consequently, the new law allows landowners to give permission to some ATV riders and not others and allows landowners to continuously change who they are granting permission to. It also puts IF&W in the position of having to know what the landowner’s policy is. Given that corporations with large tracts of land are now closing that land to ATV use, Sen. Gagnon questions whether increased tax payer resources/fees are now being inappropriately used to enforce what is essentially a company policy. Rep. Trahan stated he feels this is a state-wide law and a policy decision and does not need to be visited by OPEGA. There are other consequences arising from the new law as well and he feels they are better addressed by the JS Committee of jurisdiction.

Motion: That OPEGA be directed to scope the topic of resources/fees being used to enforce ATV infractions on private, corporate lands. (Motion by Sen. Perry, second by Rep. Canavan – motion FAILED – Vote: 3 in favor, 6 opposed. Those in favor: Sen. Gagnon, Sen. Perry, and Rep. Canavan.)

Other Agenda Items

Sen. Gagnon, the Committee co-chair, suggested the remainder of the agenda items be postponed until the next meeting. The Committee concurred.

Next Meeting

The next meeting will be held on Monday, July 18, 2005 at 9:30 a.m.

Adjournment

The meeting was adjourned at 1:00 p.m.