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REP. MARILYN E. CANAVAN, CHAIR

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SEN. JONATHAN T.E. COURTNEY
SEN. DANA L. DOW
SEN. JOSEPH C. PERRY
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REP. PEGGY A. PENDLETON
REP. MICHAEL A. VAUGHAN

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY

July 8, 2008

Accepted July 30, 2008

CALL TO ORDER

The Chair, Senator Mitchell, called the Government Oversight Committee to order at 10:15 a.m. in the Burton Cross Building.

ATTENDANCE

Senators: Sen. Mitchell and Sen. Raye
Joining the meeting in progress: Sen. Courtney, Sen. Bartlett and Sen. Perry
Absent: Sen. Dow

Representatives: Rep. Canavan, Rep. Pendleton, Rep. Lansley, Rep. Boland, and Rep. McLeod
Absent: Rep. Vaughan

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA
Jennifer Reichenbach, Sr. Analyst, OPEGA
Wendy Cherubini, Analyst, OPEGA
Etta Begin, Adm. Secretary, OPEGA

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

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

SUMMARY OF MAY 28, 2008 MEETING

The May 28, 2008 Meeting Summary was accepted as written. (Motion by Rep. Lansley, second Sen. Raye, PASSED 10-0).

COMMITTEE VOTE ON OPEGA FINAL REPORT

- **State Administration Staffing**

Director Ashcroft reviewed the GOC procedure regarding OPEGA final reports.

- **Public Comment Period**

Director Ashcroft reported that no written comments had been received.

Chair Mitchell asked if there were public comments on the above Report to be heard at this meeting. No one in attendance made comments on the Report.

- **Committee Work Session**

The Committee's discussion regarding the Report included the following:

- the importance and need that all State departments be required to submit uniform, accurate organizational charts for all positions and functions;
- the possibility of the GOC initiating legislation to ensure that department organizational charts are made mandatory;
- whether the GOC should consider using its subpoena authority in order to get information OPEGA has requested but not received;
- whether the Executive Branch could take the lead in defining what the standards would be for the layers in government and once defined, that all State departments be required to develop standardized organizational charts;
- that more openness and accountability from Departments would be good;
- whether OPEGA has checked with other states to see if a similar study has been performed, and if so, how it was accomplished;
- that apparently there has not been a group or department following up on past attempts to develop org charts and to make sure that the charts created had been standardized;
- the question of who is going to oversee the standardization and what will be the cost;
- whether it would be appropriate to hire a consultant; and
- that the GOC would like input from the Executive Branch and how to proceed with getting that.

- **Committee Vote**

Motion: That the Government Oversight Committee endorse the State Administration Staffing Report and that it be referred to the Appropriations and Financial Affairs Joint Standing Committee to work with the Executive Branch. (Motion by Sen. Bartlett)

Committee discussion followed regarding the Motion and included:

- whether to refer the Report to another Joint Standing Committee at this time - that action may be more appropriate later once the GOC has more information on how OPEGA's recommendations might be implemented as the GOC may decide to put in its own legislation or refer it to a committee;
- the Committee could endorse the Report, request further information come back, and at that time, the Committee will evaluate the next step;
- whether the Executive Department is receptive to the concept that standardized organizational charts are needed; and

- that the GOC make a formal request to Commissioner Wyke asking for their thoughts on the Report's recommendations and what resources will be needed to get the necessary information.

Sen. Bartlett moved to withdraw his Motion. Sen. Mitchell asked if there was any objection to Sen. Bartlett withdrawing his motion. Hearing none, his motion was withdrawn.

Motion: That the Government Oversight Committee endorse the State Administration Staffing Report and that Director Ashcroft meet with Commissioner Wyke to get input and come back with the information needed to help the GOC move forward with the recommendations in the Report. (Motion by Sen. Bartlett, second by Sen. Raye, PASSED, 10-0).

The GOC will send a letter to the Administration requesting a meeting be scheduled with Director Ashcroft and that Commissioner Wyke and Director Ashcroft report back at the next GOC meeting.

PRESENTATION OF FINAL REPORT

• DHHS Contracting for Cost Shared Non-MaineCare Social Services

Director Ashcroft introduced Jennifer Reichenbach who was the lead OPEGA Analyst on the DHHS Contracting for Cost Shared Non-MaineCare Social Services Performance Audit.

Ms. Reichenbach expressed OPEGA's appreciation to the Department of Health and Human Services and the Department of Administration's Service Center for their help.

Following the report presentation, discussion ensued in the following areas:

- what investments will be needed in staffing and systems in order to achieve the savings of \$2.6 million;
- that DHHS' financial transformation may or may not require adding resources, but it certainly is about having the right resources with the right skill sets to move the cultural change forward;
- that DHHS' management team is working together on the implementation plan, and building a strategic plan;
- whether DHHS will have a written plan that the GOC will be able to review;
- DHHS is correct most of the time when challenged on appeal;
- clarification of exactly what type of contracts/providers and number OPEGA had included in this audit and the possibility there could be more money involved if this were looked at across the full range;
- of the 28 cost settlements looked at, only 40% of the contracts were appealed;
- the distinction between cost shared and other agreements;
- improving the collection process will help with all type of agreements;
- what process is going to be in place to track whether savings are being achieved;
- that the \$2.6 million represents dollars that the State could keep (rather than overpaying and then collecting) and use more immediately for other purposes – this is about improved cash management – but these are not necessarily dollars that can be removed from the DHHS budget;
- the GOC would like to know the total number of providers with DHHS agreements to provide human services; and
- whether DHHS could speak to how the transformation is going, what additional resources may be needed or how they reallocate the resources they have to achieve implementation of their plan.

The Committee will hold a public hearing, comment period and vote on the Performance Audit on DHHS Contracting for Cost Shared Non-MaineCare Human Services at its next meeting.

Chair Mitchell asked if there was objection to taking items out of order. Hearing none, the Committee moved to **Unfinished Business, Planned OPEGA Special Projects Resulting From Recent Legislation.**

UNFINISHED BUSINESS

• **Planned OPEGA Special Projects Resulting From Recent Legislation**

Director Ashcroft said at the May 28, 2008 GOC meeting the Committee had a brief discussion regarding the language that was included in the Public Law that OPEGA coordinate and facilitate the sharing of resources with other nonpartisan offices, the State Controller and State Auditor. At the last meeting the Director had described the range of possible efforts as being a) continue to coordinate on individual projects as is currently being done to b) hire an outside party, i.e. NCSL, to take a more comprehensive look at how the Legislature fulfilled its oversight responsibilities and how to use all Legislative resources more effectively and efficiently in doing this. Director Ashcroft is looking to the GOC for what its expectations were of her in fulfilling the language contained in Public Law Chapter 701 and where along the range described those efforts might be.

At the last GOC meeting, members had liked the idea of drawing on the knowledge of other offices as the Committee discusses what will be included on OPEGA's work plan. The Director reported she had met with OPLA Director Patrick Norton and Deputy Director Jon Clark and will be scheduling a meeting with OFPR Director Grant Pennoyer.

Regarding the possibility of hiring NCSL to do a more comprehensive review, Director Ashcroft noted that NCSL has done evaluation work for the Maine Legislature before and is somewhat familiar with the different offices and how the Maine Legislature works. It would also have access to information from other states regarding how they handle their oversight function. The Government Evaluation Act is a good example of a piece that is in place for oversight and legislators feel there should be something useful going on with it but are often at a loss as to how to proceed with a meaningful review. A review by NCSL or some other entity could bring in all those pieces from OPEGA, OPLA, OFPR, the State Auditor, the GEA, etc. It is a kind of overview effort that could be done by OPEGA, but Director Ashcroft suggested NCSL because OPEGA is a piece of the oversight function and would want it to be seen as an objective review. Sen. Mitchell noted that the Legislative Council would have to be involved because of its jurisdiction over the other legislative offices.

The GOC discussion included:

- the Government Evaluation Act is currently just a pro forma review but it takes staff resources – perhaps it would be more effective to have an office like OPEGA working with the joint standing committees looking at department structures and the kinds of programs they offer; and
- the possibility of redirecting resources through OPEGA with a broader mission.

Sen. Raye liked the idea of working and coordinating with OFPR, OPLA and others in terms of coming up with OPEGA's work plan. They deal with issues and know where things have arisen that could be probed, could give good guidance in terms of where the money is, and where to focus on because there are savings to be had. He is less enthusiastic about bringing in NCSL to review and would prefer to see OPEGA focus on what they have been made responsible for and to do it in the most efficient possible way adhering to the letter and spirit of the legislation that was passed.

Sen. Bartlett would like to see with regard to Sec. LLLL-1 1, after a series of meetings with all of the offices, a memorandum of understanding in writing stating how it is going to work. Will there be quarterly meetings to go over where the various folks are. Would like to have something in writing so everyone knows there is a process in place for an ongoing discussion. Item 2 in the legislation is where he believes NCSL might be helpful. As OPEGA is putting together its performance standards to recommend to the GOC, he believes it would be helpful to figure out how to use NCSL to find out what is going on in other states and bring some of their experience to bear on that.

Rep. Canavan said that every non-partisan office has a different focus. Because of what OPEGA does and the different type of work done by OPEGA with so many different agencies, OPEGA could certainly use the services of the other offices. She said NCSL has a lot of information that perhaps we don't know about. If it is not too costly to do, she thinks it would be a good idea for them to take a look at the way the State's systems work together, and NCSL may have some good solutions.

Rep. Boland thinks NCSL, to a certain degree, could present a more global appreciation of what is going on throughout the country and may have key information they could offer. In conferring with other departments she hopes the GOC could identify what they found to be the most important places for OPEGA to go first and hopes that process would not be altered by what is available for resources in other departments. She should ask those departments to respond in writing as to what they could offer on certain projects so there is also a record that the Committee could refer back to.

Sen. Mitchell asked if the Committee would have any objection to a narrow scope role for NCSL and inquiring how much that would cost. It may be a way for the GOC to find a more effective way to do program evaluation not just financial evaluation. She asked if there was any objection to finding out from NCSL what a narrow scope, perhaps folding in the Government Evaluation Act functions into OPEGA, to get an objective view. Would the GOC be comfortable with the Director finding out the cost?

Sen. Raye said he would be comfortable with that and liked Sen. Bartlett's comments regarding having NCSL come in to take a look at what the performance standards that we should be looking at. In that respect it could be very helpful for 2 but not 1 of Sec. LLLL-1.

Rep. Pendleton said NCSL was used in creating OPEGA so they or the Legislature must have information somewhere. If done as suggested, narrow it, she believes some of that information may already be there.

Director Ashcroft asked for clarification of what the Committee means by narrowed version. The GOC said it would be just around Sec. LLLL-1 item 2, the performance standards of the Legislature. A possible middle alternative would be that Director Ashcroft would have discussions with the various offices and after the meetings, the GOC may be in the position of evaluating what they think the Legislature needs for an oversight system and when the GOC has the information from all the offices, they will know where each fit into the system and may begin to make suggestions for changes.

Director Ashcroft is to bring back to the GOC information from the various offices as well as what is available and at what cost from NCSL.

NEW BUSINESS

• Project Direction Recommendation Statements

- Leasing of State Owned Land

Director Ashcroft said the Government Oversight Committee approved a biennial work plan for OPEGA that included a review of real estate and public buildings. On May 28, 2008 the Committee voted to break this into two reviews: 1) leasing office space for State operations, and 2) leasing of State owned lands to non-State entities. OPEGA has now completed limited preliminary research on Leasing of State Owned Lands. The goal of this research was to determine what State agencies own land and lease it to other non-State entities, what types of leases these agencies are engaging in, and how much revenue these leasing activities are producing for the State's various funds.

OPEGA's recommendations are:

Although a review of this topic could potentially produce valuable information to support oversight of leasing of State owned lands, based on the points outlined above OPEGA has concluded this is not a

topic that could offer fiscal opportunities for consideration in next session's budget discussions. As a result, preliminary research was halted without spending additional resources, and OPEGA is seeking direction from the GOC as to whether the audit should be continued at this time.

OPEGA also recommends that any review of this topic, now or at a later date, be focused more broadly on State management of land holdings across agencies. According to the State's 2007 Comprehensive Annual Financial Report, these holdings are valued at about \$462 million. Potential scope questions for this statewide performance audit could be similar to those below.

1. Does the State have a good system for inventorying and managing land?
2. How much land is owned or leased by State agencies? Where is it located and how is it currently being used?
3. Is any State-owned land surplus, and if so, could it be disposed of?
4. Is idle State-owned land being leased to others at reasonable rates?

Motion: That the Government Oversight Committee table Leasing of State Own Lands. (Motion by Rep. Canavan, second by Sen. Bartlett, PASSED, 10-0).

The GOC directed OPEGA to forward the summary of its preliminary research and analysis to the Executive Branch, and the State and Local Government Joint Standing Committee.

- Leased Office Space

Director Ashcroft said OPEGA has now completed limited preliminary research on leasing of office space for State operations. The goal of this research was to determine how much office space is being leased by State agencies, what that space is costing and how leases for office space are developed and managed.

Considering that current annual general fund expenditures for leased office space exceed \$10 million, OPEGA recommends continuing this review with a focus on the following questions:

- Is the State leasing office space at the best possible price given agency needs, State law, policies and standards? If not, why not?
- Is the State using leased office space as efficiently as possible, i.e. is currently leased space fully utilized? If not, why not?

Motion: That the Government Oversight Committee votes to move forward with OPEGA's recommended direction regarding Leased Office Space. (Motion by Sen. Bartlett, second by Rep. Boland, PASSED, 10-0).

UNFINISHED BUSINESS con't

• Audit Request for GOC Consideration - MDOT Operations and Maintenance

Director Ashcroft said the MDOT Operations and Maintenance audit request was tabled at the May 28, 2008 GOC meeting pending receipt of additional information. Following Committing discussion, the following motion was offered:

Motion: That the Government Oversight Committee request that the MDOT Operations and Maintenance audit be put on OPEGA's work plan and that OPEGA will do the preliminary research and report its findings and recommendations to the GOC. (Motion by Sen. Bartlett, second by Rep. Canavan, PASSED, 10-0).

- **Review of OPEGA's Work Plan for 2007-2008**

Director Ashcroft said OPEGA has nine reviews left on its 2007-2008 Work Plan that it has not yet been initiated. OPEGA can do 2 to 3 projects to have ready for the next legislative session. She would like OPEGA to produce work that would be highly relevant to the next session and thinks it lies in two areas:

1. making sure OPEGA is doing something that is of interest to legislators; and
2. it is done in an area where significant funds are spent and the Legislature has to make decisions about appropriating or allocating those funds.

Having talked with a number of legislators, Director Ashcroft said a number of the topics currently on OPEGA's work plan did not come up as being of interest to legislators. She requested that the GOC revisit what OPEGA's project should be for the remainder of the year and perhaps add reviews that are not currently on the work plan. Director Ashcroft took the areas of interest mentioned by legislators, reviewed the current work plan, On Deck topics and past requests the GOC had considered and also did some brief fiscal analysis to identify areas of large General Fund, Highway Fund and Fund for Healthy Maine expenditures. As a result, she offered the following topics for GOC consideration.

Corrections

Criminal Justice: Adult – On Current Work Plan

Possible Areas of Focus

- Resources used within the adult criminal justice system
- Probation and parole – opportunities to reduce costs by changing policies and approaches
- Costs per inmate/staff per inmate
- Overtime costs
- Capacity planning

Legislative Interest Areas

- Effectiveness, coverage and cost of inmate education and training programs
- Status of recommendations from the Corrections USA report
- Consolidation efforts: status and building in of performance measures
- Medical and dental services in jails and prisons (LD 1321)
- Contracted Services

Citizen Interest Areas

- Inmate Benefit Fund
- Community Corrections Services – Funding for Counties

Health and Human Services

Many legislators expressed interest in Health and Human Services generally. More specific areas mentioned were: MaineCare/Medicaid, Fund for Healthy Maine, Welfare programs, Mental Health and Contracted Services. The following topics are offered for consideration as they involve a combination of the topics of interest as well as receiving significant General Fund or Fund for Healthy Maine.

Child Mental Health Services –Currently On Deck

Possible Areas of Focus

- Opportunities to improve effectiveness and efficiency in programs
- Contracted providers meeting service and performance expectations (how monitored)
- Alignment of contractor efforts with State goals and objectives (how monitored)

Legislative Interest Areas

- Contracted services
- Preventing re-hospitalization/recycling of patients
- Administrative burdens on providers (ASO)

Adult Mental Health Services**Possible Areas of Focus**

- Opportunities to improve effectiveness and efficiency in programs
- Contracted providers meeting service and performance expectations (how monitored)
- Alignment of contractor efforts with State goals and objectives (how monitored)

Legislative Interest Areas

- Contracted services
- Preventing re-hospitalization/recycling of patients
- Administrative burdens on providers (ASO)

Bureau of Health – Currently On Deck**Possible Areas of Focus**

- Opportunities to improve effectiveness and efficiency in programs
- Contracted providers meeting service and performance expectations (how monitored)
- Alignment of contractor efforts with State goals and objectives (how monitored)

Legislative Interest Areas

- Contracted Services
- Fund for Healthy Maine

MaineCare/Medicaid**Legislative Interest Areas**

- Effectiveness of efforts to prevent, detect and correct instances of fraud, waste and abuse
- Cost-effectiveness of individual MaineCare programs
- MaineCare expenses related to federally required programs versus State's discretionary programs
- Comparisons between Maine's program and other states

Fund For Healthy Maine**Legislative Interest Areas**

- Effectiveness and cost-efficiency of individual FFHM programs
- System for legislative oversight of FFHM and its programs
- Percent of dollars actually spent on services versus administration
- Understanding what money is being spent on

ASPIRE Program – Currently On Deck**Possible Areas of Focus**

- Internal controls re: goods and services purchased for clients
- Eligibility criteria
- Performance measures
- Overlap with services provided by Bureau of Rehabilitation Services

Legislative Interest Areas

- Prevention and detection of fraud, waste and abuse in welfare programs
- Effectiveness of welfare programs - moving people off the program

Sen. Raye said that if the Health and Human Services Committee members were polled the one thing that has been the most difficult for the Committee to get its arms around is the MaineCare/Medicaid Program. The Committee is constantly probing and asking questions, but get information from people that have a view point from one extreme to the other and the information provided often times is completely in conflict with each other. Would welcome a non-biased review looking at efficiencies and comparisons. The Committee is always struggling to understand the Program and would like unbiased facts from a review in terms of looking at efficiencies, not saying whether it is good or bad to offer the benefits, but to have a review of efficiencies and to truly understand where we are visa-vie other states.

Sen. Mitchell said there is some value judgments in this as well because one way to reduce the cost of MaineCare is to take away some of the benefits that are covered. Maine has chosen to maximize federal dollars by taking advantage of those benefits but the other side is we cannot afford that. Based on what Sen. Raye has outlined, could OPEGA scope, understand the subject matter it would probe, but at the same time, be done in a way that meets the Committee's goals?

Director Ashcroft said it would be necessary to get together with the members of the policy committee and have them express exactly what kinds of questions they would like to see answered and then she would be in a better position to say if it is something that OPEGA could get done in six months.

The Committee asked Director Ashcroft to email or send a memo to the policy committee requesting their input.

Director Ashcroft said Children and Adult Mental Health might also be good choices because we would get a cross of things that are paid for with the MaineCare Program and things paid for outside of MaineCare. That way OPEGA would be looking at a couple of topics of concern to legislators but looking at it in the contexts of a service we were trying provide and an outcome we were trying to achieve.

Sen. Mitchell said she was not going to stop talking about contracted services administrative costs and child mental health services has been on deck since 2003, would not want child mental health review to be folded in if it means giving up a review at the contractors services end.

Sen. Mitchell asked if there was interest from the Committee to further refine what it would like to do with MaineCare, to include at least Children's Mental Health and perhaps Adult, look at the contracted services for these programs.

Rep. Boland asked if Medicare/MaineCare was an area where OPEGA could start an organizational type chart. Everyone has a hard time understanding who does what in the Department of Human Services. It would help legislators see areas of overlap of activities and responsibilities and start defining what the whole structure looks like. Director Ashcroft said that information may be gathered because of the process OPEGA goes through on every review. A lot of times the preliminary research involves getting a real good understanding of the organizational structure and the roles that people play.

Following further discussion, Director Ashcroft summarized the GOC's directives regarding OPEGA's work plan as follows:

The Committee decided that what is remaining on the work plan is probably not what will be the most valuable for OPEGA to focus its resources on for the next six to eight months and would like the information produced by OPEGA reviews to be relevant to legislators' work in the next session. Current items that the Committee has directed OPEGA to keep moving forward on are:

- MDOT Review - OPEGA would do the preliminary research around efficiency and maintenance operations, however this review is tabled until OPEGA gets to a point where it knows what it will have for resources.
- Leased Office Space – OPEGA will continue with fieldwork on this review as discussed and voted on earlier in today's meeting.
- Child Mental Health Services - OPEGA will start with preliminary research and it will be considered a review in progress.
- MaineCare - OPEGA will poll the members of Health and Human Services Committee asking if an OPEGA review in the MaineCare area would be helpful and what specific questions they might have. OPEGA will bring their responses back to the GOC at its next meeting. At that time the Committee will decide whether to add it to OPEGA's work plan.

- **Potential Changes to OPEGA Statute Regarding Confidentiality of Work Papers**

Not discussed.

REPORT FROM OPEGA DIRECTOR

- **Status of Audits in Progress**

Not discussed.

SCHEDULE NEXT COMMITTEE MEETING

To be scheduled.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 12:35 p.m. (Motion by Sen. Perry, unanimous).