



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
October 16, 2009
Accepted November 20, 2009

CALL TO ORDER

The Chair, Senator Simpson, called the Government Oversight Committee to order at 10:00 a.m. in the Burton Cross Building.

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

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

ATTENDANCE

Senators: Sen. Simpson, Sen. Nass, Sen. Brannigan, Sen. Diamond and Sen. McCormick
Absent: Sen. Trahan

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

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA
Jennifer Henderson, Principal Analyst, OPEGA
Wendy Cherubini, Senior Analyst, OPEGA
Scott Farwell, Analyst, OPEGA
Susan Reynolds, Analyst, OPEGA
Etta Begin, Adm. Secretary, OPEGA

Executive Branch Officers and Staff Providing Information to the Committee: Robert Gasper, Public Service Coordinator, Public Utilities Commission
Lucky Hollander, Director, Legislative Relations, Dept. of Health and Human Services

Chair Simpson asked if there was objection to taking an item out of order. Hearing none, she moved to **Presentation of Final Report.**

PRESENTATION OF FINAL REPORT

• Fund for a Healthy Maine Programs

Director Ashcroft introduced and thanked the OPEGA Analysts who worked on the review and acknowledged and thanked the two DHHS agencies that OPEGA worked most closely with - the Maine Center for Disease Control and Prevention and the Office of Substance Abuse.

During the Report presentation, Government Oversight Committee (GOC) members expressed interest in several areas and Director Ashcroft (O) provided additional or clarifying information which is summarized below:

GOC: Sen. Nass asked if the eight health-related purposes listed in the Report were part of the original statute or were added later.

O: Director Ashcroft said the list is as it was originally created by statute.

GOC: Rep. Burns referred to the difference in Fund revenues given in the Purpose section of the Report as compared to the FY 09 FHM allocations provided in Figure 1 and asked where the extra money came from in FY 09.

O: Director Ashcroft said investment income comes into the Fund and those detailed amounts were not provided in the Report because it varies so widely. Also, as specified in statute, any unencumbered balances in the Fund lapse back to the Fund and cannot be spent for anything else without specific legislative approval. She believes one or both of these factors explains the difference in FHM funds being referred to.

GOC: Sen. Nass noted from the Report that 99.7% of the money was being spent to prevent, reduce existing risks or reduce the impact of diagnosed disease and said that is a high percentage number. He said legislators in his area were invited by the Partners for Healthy Communities to lunch at the Town Club in Sanford and he assumed that activity is funded from the tobacco money. He questions whether such an expenditure should be counted as being spent on preventing or reducing impact of disease.

O: Director Ashcroft believes that would be a question for the agency. For most of the programs OPEGA reviewed, the agency looks at the contractors' budgets up front, focusing on the reasonableness of proposed costs in various categories, and then approves the budget. A number of the contracts are also cost settled after the fact which means DHHS' Division of Audit reviews the contract and what costs were incurred to make sure they were appropriate against the original budget and the intent of the contract.

However, as in most situations in which the State decides to contract with another entity, to some degree, the State gives up its need or ability to track the specifics of every expense. The State approves the contractor's budget and then allows the contractor to manage within their budget. DHHS' Division of Audit does have the ability to ask for the supporting documentation for the expenditures on the cost settlement piece and they have in the past found expenses that were not allowed or were ineligible.

GOC: Sen. Nass said that from the beginning a lot of the activities the Fund for Healthy Maine has funded are soft. Although they may be productive, they are soft in relation to other important State programs and the State has a lack of money to fund them all right now.

GOC: Sen. Brannigan reviewed the history of the Fund for a Healthy Maine. He said Maine's work with tobacco money is the envy across the United States because it has been captured for health. Maine received the money because of the amount of Medicaid money it spent for health expenses related to smoking. It is his understanding that people did not want to put the money received back into

Medicaid because it would just supplant other money and be used for other things such as roads or other kinds of expenditures. A group formed called The Friends of the Fund for a Healthy Maine and people were asked to take a pledge that the money would only be used for the original eight stated uses. The Friends of the Fund tried to get a constitutional amendment to that effect, but it failed. They then wanted the budget process set up so that if anything was done in the budget to change or take money from the Fund, that part would automatically be taken out and would have to be voted on separately in the two chambers, apart from the whole budget. That again, was fought.

GOC: Sen. Nass agreed with Director Ashcroft's earlier comment about the confusion that can arise from the legislators' standpoint of having funding for the same service split between multiple budgetary programs. He gave the example of child care services noting that there are State appropriations made for child care in one program and then allocations of FHM, a relatively protected source of money, to child care through another program so you have no sense of the total amount of resources being allocated. In the General Fund Program it appears like the State's resources are being diminished or not increased fast enough, but then in the Fund for a Healthy Maine Program, the State is putting tobacco money into the same resource. You never get a sense of what is actually being spent. The advocates basically used that, saying the State is cutting resources for child care for example, when in fact that was not true if you looked at the total picture.

GOC: Sen. McCormick said he did not view the Report as an attempt to minimize the important things that have been done with the Fund for a Healthy Maine and some of the suggestions in the Report will be very helpful for both the Friends of the Fund and the Legislature.

GOC: Rep. Burns asked if there were issues with who was in place to oversee whether the programs work or are producing results and asked if there was any policy committee or independent source that has the final oversight of the entire Fund. There does not seem to be a mechanism in place to see whether over the ten year period, the programs have been effective.

O: Director Ashcroft said there is monitoring and evaluation work being done regarding the programs, but OPEGA did not see that evaluation work being done by a party completely independent of the agency that was managing the program. It is typical and desirable to have a program monitoring component built into the program work to identify opportunities for continuous improvement. In some cases, the State agency has contracted with an outside party that has expertise in public health evaluation to help perform that program monitoring function. OPEGA did not see any reviews that were of the nature, for example, that OPEGA does where the evaluation of performance is done independently of the agency that is managing the program.

Director Ashcroft said in regard to a legislative committee that would oversee the Fund, OPEGA noted that the programs within the Fund belong to different State Departments – Education, Public Safety, etc. and is similar to the Highway Fund in that it is being used for some specific purposes, but is split among different State agencies.

GOC: Rep. Burns asked if the Muskie School played a role in the evaluation.

O: Director Ashcroft said OPEGA had noted that the Muskie School had a role in evaluating the performance of School Based Health Centers as part of a larger Cooperative Agreement that DHHS has with the Muskie School. Some Fund for a Healthy Maine funds are paying for this Muskie School evaluation.

GOC: Chair Hill referred to the statement in the Report's conclusion that there is complex web of relationships among those involved with activities funded by FHM. She asked if OPEGA probed into those relationships.

- O: Director Ashcroft said there were a couple of places where OPEGA noted that there were relationships between the contractor and the agency. OPEGA did probe into the request for proposal process for a particular contract where it appeared the relationship could potentially have been problematic as regards to decisions on awarding that contract. We concluded that the process had been handled as a typical RFP process and saw no evidence of actual improprieties.
- GOC: Chair Hill said it would seem that anyone that was a partner here, an agency, contractor, or individual, would want to rise to the level of not being able to be thought of, or possibly perceived as, being involved in something that is less than kosher. She asked if Director Ashcroft had a best practice recommendation that she could share.
- O: Director Ashcroft said that is some of the complexity of this area. Agencies are working to maximize the value of the dollars being spent, but contracts are not necessarily being re-bid every four years or there were not a lot of bidders coming from different places. In some cases this is because of the nature of the effort or activity. For example, the agency may be working with an organization that is a nonprofit trying to build an effective Healthy Maine Partnership or building a school based health center. Those things take time to develop. OPEGA noted that in such situations the contractual relationship is not as “arms length” as one might typically imagine when thinking about a contract with a third party. Director Ashcroft said the agency could probably speak much better to the philosophy and the approach. What OPEGA was focused on, regardless of the approach, was whether the agency was working to keep costs reasonable and performance satisfactory and we felt they were for the most part. The agency did give examples of groups who were under performing and so the agency had ended their contracts. The relationships that develop in such scenarios, however, tend to be longer term and closer knit while the agency and contractor are working toward the goals of these activities.
- GOC: Chair Simpson said she has concerns that the statements about these relationships in the Report, and the comments made at the meeting, implied that things are being done that are inappropriate, or could be seen as inappropriate. It implies there is something wrong with giving the same person the contract year after year, when in fact such a partnership is the best way to achieve the program goals. Some people might read what is in the Report and get the wrong impression. The Report did not make it clear that a partnership rather than an arms length relationship may be the best approach, for example for a School Based Health Center.
- O: Director Ashcroft said the language in the Report did state that we had not seen evidence of anything inappropriate going on and that we were only talking about the risks that can arise from such relationships. The Director felt these risks, particularly as regards to perceptions – which have surfaced in the past and can be disruptive, should be acknowledged. Measures to prevent these risks should be built, as much as possible, into agency processes. For example, one way to do this is to involve agreement administrators in DHHS’ Division of Purchases, who are not responsible for the program activities, in the contract process – how the contractor is selected, how the contract is structured and how it is administered. Some of the Offices in DHHS already use this model for all their contracts.

Director Ashcroft also noted that the language in the Report describing the School Based Health Centers’ activity does point out that these centers get their contracts for five years because of exactly what Sen. Simpson expressed. She also noted, however, that there are twenty-eight School Based Health Centers in the State of Maine and the State only has enough resources to fund nineteen. While we may not change which Health Centers we fund every year, there is competition for the State’s money to help support those Centers.

- GOC: Chair Simpson said that perhaps it would have been clearer to someone reading the Report if OPEGA would have pointed out why things are done the way they are rather than saying the relationships can lead to a perception of bias. Another sentence should have been added explaining that the agency uses this approach because of the nature of the Fund for Healthy Maine being supplemental to other funds as opposed to being an independent resource.

GOC: Sen. McCormick thought the wording in the Report regarding the above was fairly neutral in addressing the perception risks.

GOC: Sen. Nass said he thought it was important to recognize the relationship issue because he thinks this is partially what causes people, including a lot of his constituents, to see these programs as “soft” and question their value in times of limited resources.

Director Ashcroft proceeded to describe the four Report Recommendations. The Committee had questions or comments on the following:

GOC: Chair Simpson asked Director Ashcroft for a projected cost of the recommendations.

O: Director Ashcroft said that implementing the recommendations would likely require a team of finance and program people to sit down and think through the best way to adjust the budget structure and track expenditures for these programs. The Director realizes that managers do not always have the time to do such thinking and planning, and this could constitute a major effort. However, OPEGA’s role is to try to help legislators be in a position where they can see, manage, and make the decisions about the finances and the programs in the State. OPEGA’s recommendations will help move you towards that. If the State never puts in the effort to make these kinds of improvements, it is always going to be in a position where people are complaining about the budget process, how they cannot tell what is going on, how complicated it is and how long it takes to get through it. Our recommendations should ultimately assist in streamlining the budget process – at least for these groups of programs.

GOC: Chair Simpson said instead of childcare, School Based Health Centers or tobacco cessation and prevention the State would be spending money on administration and technical support.

O: Director Ashcroft said the resources needed would be State employee time in the Controller’s Office and Service Center, coupled with program people. This would not necessarily impact how many dollars were going to programs.

GOC: Chair Simpson asked if OPEGA had received an agency response to the Report.

O: Director Ashcroft said DHHS and DAFS were offered the opportunity to respond but OPEGA did not receive a response by the deadline for printing the Report.

GOC: Chair Hill asked if Director Ashcroft expected to have a response from the departments at some point.

DHHS: Director Hollander said DHHS will have a response but thought it might be more productive to hear the GOC’s questions first. She said that DHHS worked very closely with OPEGA around the content of the Report so the Department has given its comments on prior drafts in areas DHHS thought the wording was not reflective of the current situation or they thought there should be more clarity in wording. DHHS has had multiple opportunities to review and comment throughout OPEGA’s drafting process. She said DHHS will be speaking at the public hearing.

GOC: Chair Hill asked if DAFS had contacted OPEGA regarding the Report.

O: Director Ashcroft said OPEGA had met with Commissioner Low and Ellen Schneider, Budget Officer, to go over OPEGA’s findings, but has not heard from either since that time though they were also given opportunity to comment on the final draft.

- GOC: Chair Hill suggested that Director Ashcroft contact DAFS and ask if they will have input. She thinks it would be appropriate. Given the amount of the recommendations that have to do with the budget structure, she would like to hear their input. Implementing recommendations would need to involve someone who knows the system, changing codes and aligning them based on direction they get from the parties who really understand the meaning of the different topics. When systems are improved, especially with technology, everyone benefits.
- GOC: Sen. Nass noted that the Fire Marshal receives a small amount of the money from the Fund for inspections of child care facilities. He wondered whether any of the money got allocated to making repairs to facilities that did not pass in order for them to pass inspection.
- A: Bill Hagar, Executive Director, Child Care Services of York County, said the Fund money was originally allocated in order to hire additional inspectors and the responsibility for repairs goes back to the operator.
- GOC: Sen. McCormick said he would downplay the effort that he believes would be required to change some of the codes to have a better budget system for the Fund's Programs. Every two years there is a large number of people involved in the budget for the Fund that spend a lot of time and effort justifying and protecting the Fund and it would be much easier if you were able to show where the money goes.
- GOC: Sen. Nass said he was surprised to hear today that the Fund does not have its own accounting code because he had the impression that the Fund for a Healthy Maine is a Fund like the General Fund and the Highway Fund in the accounting system.
- O: Director Ashcroft said OFPR and the Executive Branch have devised ways to track the Fund allocations and expenditures but it is not based on an established, assigned or consistent code like the other Funds. In the Executive Branch the Fund is referred to as 014A, but it is not a code that has been officially established. OFPR actually uses something different when it gets translated to them, or vice versa.
- GOC: Sen. Nass agrees with Sen. McCormick that he does not see this as a big deal, but suggested hearing from Grant Pennoyer, Director, Office Fiscal and Program Review, as to how big of a deal it would be from his perspective.
- O: Director Ashcroft said OPEGA has discussed its recommendations regarding the Fund and budget with OFPR and she believes they see value in them because they struggle to help legislators understand it on an annual basis. One of the possible complicating factors, is that once you start changing program names or numbers, or realigning them, the historical record, view or comparisons will be off for a while because you are not tracking it in the same way. Director Pennoyer said that happens anyway because they change programs, split programs, etc. and he did not think it would be that big a deal.
- GOC: Chair Simpson thinks it would be a good idea for the Fund to have a separate code so it is more easily tracked in the budget. That is an excellent suggestion.
- GOC: Chair Hill said she was not clear if the State Auditor reviewed the Fund at any time.
- O: Director Ashcroft said OPEGA did not see any evidence of that and doubts that they do, other than high level work on Special Revenue funds for the financial statements audit because they are more focused on the single audit and the federal funds.
- GOC: Chair Hill said there is a lot of reference to the Legislature's possible actions in the recommendations and asked what the next step would be.

O: Director Ashcroft said that would be a discussion for the GOC at the work session on the Report.

GOC: Chair Hill referred to a hand out that had been given to the Committee during the Report presentation and asked who it was from because it did not include that information.

GOC: Chair Hill recognized Dennise Whitley, Director of Advocacy, Maine Heart Association and American Stroke Association who said she had distributed the hand out. She said her organization has been around since the Fund was first started. The American Heart Association receives no funds from the Fund for a Healthy Maine, but they are an advocate because the Fund's work is affecting the Heath Association's mission positively. Ms. Whitley said what the GOC has before them is information gathered from many of the publicly available reports mentioned at today's meeting and the statistics.

GOC: Chair Hill said she would like to know who the Friends are and asked if OPEGA could provide the GOC with a list.

Chair Hill thanked Ms. Whitley on behalf of the GOC.

RECESS

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

RECONVENED

Chair Hill reconvened the meeting at 12:05 p.m.

SUMMARY OF THE SEPTEMBER 3, 2009 MEETING

Chair Hill asked if there were any changes to the Meeting Summary of September 3, 2009. Hearing none, the Summary was accepted as written. Sen. Nass moved to accept the Meeting Summary, second by Rep. Burns, accepted by those members present.

NEW BUSINESS

None.

UNFINISHED BUSINESS

•Follow-up on Action Items From Last Meeting

- Maine Community College System Request for Review

Director Ashcroft reminded members that the above request was before the GOC at its September 3, 2009 meeting and the Committee had asked OPEGA to send a letter to the Education and Cultural Affairs Committee highlighting some of the issues discussed, asking if they had similar issues raised before them and if they did, what action they took. Also to ask if the Committee would like to see an OPEGA review of this topic. A letter was sent but OPEGA has not heard back yet. She suggested the GOC may want to wait until Session begins and the Education Committee has a chance to discuss the topic as a Committee.

GOC: Chair Hill said she was the one who asked for the information and she is certainly willing to wait.

Chair Hill asked if there was any objection to waiting for the information. No members objected.

•Potential Changes to OPEGA Statute Regarding Confidentiality of Work Papers

Director Ashcroft referred GOC members to the information in their notebooks related to OPEGA's Statute regarding confidentiality of work papers. She reviewed for the Committee what had occurred during the 123rd GOC, explaining that consideration of potential changes to OPEGA's Statute is still an item of unfinished business. She noted that the Committee may not want to get into an involved discussion about it today, but she did want to hear from them as to whether it is a topic they would like to continue to carry as unfinished business.

Sen. Nass said he thought the GOC should participate because there is a lot of activity going on regarding the freedom of information. It is good to keep up to date and to make changes to clarify OPEGA's Statute and the GOC should have input.

Committee members expressed that they would like the opportunity to discuss the confidentiality of work papers and Chair Hill asked the Director to include it on the GOC Agenda for the meeting following the meeting for the public comment period on OPEGA's Report on Fund for a Healthy Maine Programs.

REPORT FROM OPEGA DIRECTOR

•Project Status Report

Director Ashcroft reported on the status of projects:

Fund for a Healthy Maine Programs – Final report was presented to the GOC at today's meeting.

Public Safety Answering Points and Dispatch Centers – OPEGA did hire a consultant to act as a project manager to assist in completing the review. The contractor is Matrix Consulting Group and Travis Miller, Senior Vice-President, will serve as the Project Manager. He has a great deal of experience in the areas of Public Safety answering points and dispatch centers. Director Ashcroft said the Entrance Conference with representatives from the Department of Public Safety and others operating the major PSAP and dispatch centers serving Kennebec County communities was held on October 13th. OPEGA is developing its fieldwork plan and moving forward with that.

GOC: Sen. Nass asked if those attending the entrance conference that represented fire, police and EMT personnel were from Kennebec County.

O: Director Ashcroft said each group has a statewide association and she had let the association decide who to send, letting them know that OPEGA would be focusing on Kennebec County for the review. She did believe, however, that they were all from Kennebec County.

GOC: Sen. Nass noted that the PUC hired Robert Kimball and Associates and asked whether they are doing the same kind of thing on a broader scale.

O: Director Ashcroft said Bob Gasper from the PUC was at the Entrance Conference so there was discussion of how the PUC's study was different than OPEGA's. We have reviewed the survey for data collection they sent out and we are working on matching up whether there are pieces of information they are receiving that OPEGA may also want. We are talking with the PUC about getting that information so OPEGA will not ask agencies to resubmit similar information. The PUC only surveyed the PSAP providers and OPEGA's scope also includes the dispatch organizations so we will have to get information from those organizations.

GOC: Rep. Burns asked what the difference was in the scope of the PUC and OPEGA study.

O: Director Ashcroft said the PUC has been asked to recommend the optimum configuration for PSAPs in the State and OPEGA is looking at what is currently in place and how that is working in terms of cost and quality of services. The PUC is looking at only PSAPs and OPEGA is looking at PSAPs and dispatch centers.

GOC: Chair Hill asked if the GOC could be informed of meetings/conferences.

O: Director Ashcroft said although the GOC cannot attend the meetings or conferences scheduled by OPEGA, she will let them know what has been scheduled so they will know if it doesn't interfere with OPEGA's independence in performing the review or would otherwise create a perception that OPEGA's independence was being compromised. OPEGA's procedure is designed so that it can do its work as independently as possible and be outside of any political pressure or interference.

Medical Services in the Prison System – this project is proceeding as OPEGA staff has lulls in the other on-going projects. We have nearly completed the preliminary research work.

GOC: Sen. Nass asked if the appointment of the new Warden will affect the review.

O: Director Ashcroft said she does not believe it will do anything to this particular review.

Director Ashcroft updated the GOC on what the Criminal Justice and Public Safety Committee has done. She said they have not scheduled another interim meeting yet, but the Director has seen an email from Deputy Commissioner Lord to the OPLA Analyst indicating that she was going to be sending a progress report on the action plan.

•Update on Special Project: Assistance to Appropriations and Financial Affairs Committee

OPEGA heard from the OFPR Analyst that the AFA Committee wanted OPEGA to look into the area of professional and administrative service contracts with a focus on identifying some that have significant General Fund spending that the Legislature could consider discontinuing for awhile or explore opportunities to get the service at less cost.

OPEGA has begun its analysis and Director Ashcroft believes there are also some ideas being discussed by the AFA Committee about other ways to use the 1,000 hours of OPEGA assistance.

GOC: Sen. Brannigan said the Health and Human Services Committee has been asked by the AFA Committee to cut DHHS' contracts by 5 to 10% and he asked if Director Ashcroft could share the information she has regarding contracts with the HHS Committee.

O: Director Ashcroft will talk with the OPLA Analyst for the DHHS Committee about what will be helpful to them.

•OPEGA Follow Up On Released Reports

- State-wide Planning and Management of Information Technology

Director Ashcroft said OPEGA did a review on the planning and management of information technology for the State of Maine in 2006. It was at the time that the Office of Information Technology (OIT) was just beginning to establish the enterprise wide approach to managing information technology in the State. There were a lot of action items and things that were going to happen that were critical in helping to make sure that the State was making wise investments in information technology and did not have the types of problems that happened with the implementation of MECMS. The Report included a lot of information on how to safeguard the State against those problems.

Director Ashcroft said one item recommended in the Report was that OPEGA would do periodic reviews of information technology because there were a number of high risk areas that were identified. The GOC at the time did not want to commit OPEGA's resources to that schedule. What has happened since is that OIT now has its own dedicated internal auditor and is doing regularly scheduled audits. The plan then was that OPEGA would stay abreast of what the internal auditor was doing, what he was finding, what actions OIT was taking and, in general, OPEGA would keep an eye on how the enterprise was developing and would make the GOC aware if we saw places that were going unaddressed that were risky for the State.

Director Ashcroft said OPEGA is reviewing the reports that have been put out by OIT's internal auditor and will be talking with Dick Thompson, Chief Information Officer, OIT, about those areas and what still needs to be done. The Director will report back to the GOC about whether there are any issues still remaining from our prior review that we think need addressing by the State.

Director Ashcroft said the State and Local Government Committee was charged with the specific oversight of statewide information technology as a result of OPEGA's review and asked if Sen. Simpson would like to have her apprise that Committee of OPEGA's follow-up. Chair Simpson said a presentation to the State and Local Government Committee would be good. Director Ashcroft will schedule a time for the presentation this coming session.

- Economic Development Programs in Maine

Director Ashcroft said shortly after the release of OPEGA's Economic Development Programs in Maine Report, the Commissioner for the Department of Economic and Community Development (DECD) changed and, consequently, the actions that were agreed to by one Commissioner had to be renegotiated with the new Commissioner. The Business, Research and Economic Development (BRED) Committee oversaw that the actions got implemented. She referred the Committee to the information in their notebooks that was prepared on the Findings and Action Plans from that Report and briefed them on the implementation status.

Finding 1: Existing Programs May Be Ineffective or Inefficient

To date there has not been much in the way of the kind of evaluation OPEGA recommended around specific programs. DECD did contract for a study of a broad group of the State's programs. There were a couple of programs that were pulled out and examined as case studies. What OPEGA specifically recommended has not occurred yet, although there has been lots of talk by a number of committees about doing so, particularly with regard to tax incentives. Implementation of recommendations associated with this Finding is still in progress.

Finding 2: Insufficient Definition of Economic Development

DECD and the BRED Committee developed criteria for what constituted an economic development program and that was ultimately incorporated into statute. Director Ashcroft will email to the GOC the statute that has the definition of what an economic development program is.

Finding 3: Lack of Statewide Coordination and Oversight

DECD did contract with the Maine Development Foundation (MDF) who took the new definition of an economic development program and inventoried all the State programs that met that definition and gathered basic information about each. That information is included on MDF's website and the publication is called Inventory of Maine's Economic Development Programs. Director Ashcroft will email the link to the GOC.

Director Ashcroft said DECD and MDF also did make, according to the OPLA Analyst for the BRED Committee, proposals to the BRED Committee about filling the role of the portfolio coordinator that OPEGA recommended. The BRED Committee selected DECD to fill that role and didn't think there was a need for any additional legislation because in the enacting statute for that Department the purpose and establishment sections indicate the intent already was for DECD to play that role. However, OPEGA's Report noted that

even though the statutory intent seemed to be that DECD have those duties and responsibilities, there were other sections in the statute that imply DECD only has those responsibilities for those programs that are products of the Department. There are Economic Development programs that are spread across all State agencies and it is a little unclear in statute as to DECD's authority and responsibility for all of them. The OPLA Analyst believed that the comprehensive economic development evaluation just completed was DECD's attempt to act in the role that OPEGA had suggested for the portfolio coordinator, and put all the programs together as a group, give an assessment of how they are contributing to the State's strategy and whether some individual programs are better contributors than others. Director Ashcroft told the GOC that she understood that the continuation of the Comprehensive Economic Development Evaluation was in jeopardy for this year. DECD has recently sent a letter to the Taxation, BRED, and AFA Committees saying the funding mechanism that had been established in statute to fund the evaluation was not going to provide sufficient funds for several reasons, including the fact that the statute contained a typo. Any entity that received any General Fund, Economic Development or General Obligation Bond money was supposed to contribute back a percentage to help fund the evaluation. The statute says that percentage is .08% and it was meant to be .8%. Also, the Maine Revenue Service, that has all the tax incentive programs, and FAME, which has some bond programs, said they do not need to contribute because they do not think they fall into General Fund or the Obligation Bond piece. Those dilemmas have not been resolved and as a result, Director Ashcroft understands that even if all the funding appeared today for the evaluation, there is not time to complete it this year.

GOC: Chair Hill said acting as portfolio coordinator is different than being designated portfolio coordinator and asked what steps are being taken, that the Director may know of, to bring that to a solution or conclusion and what committee was handling it.

O: Director Ashcroft said she did not get any details regarding that. She said the BRED Committee was driving the implementation of the recommendations and might be the appropriate place to bring it back to.

GOC: Chair Hill said it might help if a letter was sent to the BRED Committee.

GOC: Sen. Nass said the Taxation Committee met two weeks ago and Rep. Smith, Chair of the BRED Committee, was in attendance. He said work has been done but no one knows quite what to do next. He believes the BRED Committee will be meeting the first week in November and Taxation shortly behind that. Everyone knows there is no coordination and there is indecision about what the next step is to take. Director's Ashcroft's comments are indicative of the fact that we don't have an economic development policy and that is showing up in Committee discussions. Appropriators are driving to eliminating some programs for cost-savings, but nobody knows what do to. This has been going on for almost two years.

Finding 4: Inadequate Mechanisms to Assure Program Controls

Director Ashcroft said everybody realizes that the majority of the money is in the tax incentives and there are questions about how to determine if they are worthwhile. The reason they are on the top of the list for OPEGA is because there is no statutory intent or purpose clearly defined for any of them. Therefore, it is not clear what was hoped to be gained such that one can assess whether that has been achieved.

Director Ashcroft thinks the issues discussed in Finding 4 have been partly addressed in the two pieces of legislation that have been passed which cleaned up and clarified some what businesses are supposed to provide for information when they apply for a program and some of the reporting requirements. She will email information on the legislation to the GOC. What is not clear is whether a process has been established as recommended for funneling all new proposals through some central point to make sure they get examined in the context of all the other programs. The response from the OPLA Analyst for BRED was that there have not been any new proposals because of the budget situation so even if they have defined a process, we have not seen if it works. This is another Finding where perhaps BRED could be reminded that this recommendation may not have been fully implemented yet.

Finding 5: Data Collected Does Not Provide Clear Picture of Results

Director Ashcroft said OPEGA did have some recommendations regarding collection of financial and performance data. Statute does require the submission of some data but it is only from some programs and some recipients and even those recipients were not always complying with reporting requirements. OPEGA has two issues with the data that was being collected around performance or effectiveness. (1) it did not look like DECD had the authority to command that the data be submitted to them; and (2) the data was not always relevant to what it seemed the program was trying to accomplish. Director Ashcroft noted that the recent Comprehensive Economic Development Evaluation was an attempt to get more complete and useful data but the response rate to the survey evaluators sent out was low. She knows DECD was disappointed with this and believes that part of the reason for a low response rate has to do with the culture of businesses not being used to having to provide any information for the benefits they are receiving.

Finding 6: Inadequate Reporting for Accountability

Director Ashcroft said OPEGA had noted some reporting issues related to transparency. Some of the Commissioners' reports to the Legislature, which are required by statute, had been given orally which does not create an adequate long term public record of what was said in the Commissioner's report.

Director Ashcroft does not know whether the recommendations related to this Finding have been implemented. The Commissioner still appears to have responsibility for reporting on efforts that are under the purview of DECD, but she is not sure it is clear outside of the comprehensive evaluation report, what kind of reporting or assessment he is expected to do on all of the other programs as well.

NEXT COMMITTEE MEETING**•Discussion of Committee's Meeting Schedule**

The next Government Oversight Committee meeting was scheduled for Friday, November 20, 2009 at 9:30 a.m.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 1:05 p.m. on the motion of Chair Hill.