



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
September 3, 2009
Accepted October 16, 2009

CALL TO ORDER

The Chair, Representative Hill, called the Government Oversight Committee to order 9:48 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. Brannigan, Sen. Nass, and Sen. McCormick
Joining the meeting in progress: Sen. Simpson
Absent: Sen. Diamond and Sen. Trahan

Representatives: Rep. Hill, Rep. McLeod, Rep. Burns, and Rep. Bickford
Joining the meeting in progress: Rep. Pendleton
Absent: Rep. Rotundo

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

Executive Branch Officers and Staff Providing Information to the Committee: Herb Downs, Director, Audit-MaineCare and Social Services, DHHS

SUMMARY OF THE JULY 30, 2009 MEETING

Sen. Brannigan noted that IDEXX was misspelled.

Motion: That the Meeting Summary of July 30, 2009 be approved. (Motion by Rep. McLeod, second by Sen. Nass, PASSED by unanimous vote 7-0).

OPEGA FINAL REPORT

- **MaineCare Durable Medical Equipment and Medical Supplies**

The presentation of the MaineCare Durable Medical Equipment and Medical Supplies Report was given at the July 30, 2009 GOC meeting. OPEGA advertised in four weekend newspapers an announcement of the Public Comment Period scheduled for today on the Report.

- **Public Comment Period**

Director Ashcroft reported that no written comments had been received. There were no public comments made at the meeting.

Sen. Nass said at the last GOC meeting he had raised a question about the blood monitoring equipment that he had learned about on the Legislators' tour to IDEXX. DHHS had sent him a follow up email and he wanted to report that the blood monitoring equipment is not for home use. They are for use in doctors' offices and other facilities and, therefore, this is not covered by MaineCare as durable medical equipment.

- **Committee Work Session**

Motion: That the Government Oversight Committee endorse OPEGA's final Report on MaineCare Durable Medical Equipment and Medical Supplies. (Motion by Sen. Nass, second by Sen. Brannigan, PASSED, vote unanimous, 9-0).

Director Ashcroft said the GOC may want to consider whether there is anything specific they would like to do with the Report in terms of communicating to other committees or to the Department. She said OPEGA typically sends a hard copy of the report with a transmittal letter to the committees of jurisdiction. This Report was sent to the Health and Human Services and the Appropriations and Financial Affairs Committees with the offer to present the Report to those committees.

Director Ashcroft reminded the GOC that they had previously discussed passing some amount of responsibility for follow up on the management actions to the committees of jurisdiction. If the GOC is still considering that, this would be the appropriate time to talk about that for this Report.

The GOC's discussion included the following:

GOC: Chair Hill asked what role OPEGA will continue to play, if any.

O: Director Ashcroft said all the action items belong to DHHS and they have committed to taking certain actions by certain dates. OPEGA would follow up with DHHS after those dates to find out whether the action has been taken and ask that they provide evidence that the action had been taken. OPEGA tracks the actions and reports back to the GOC on the status of the action items at various points.

Director Ashcroft said some Report recommendations are staying open 1 to 2 years and the GOC might want to consider how long it wants OPEGA to continue the follow up work. She would like to talk with the GOC at some point about what they would like OPEGA to be doing for follow up work in general. The options range from checking with agencies on the status of action items and asking for evidence of completion to OPEGA going back to do a follow up review to verify whether or not problems identified have been resolved. OPEGA is willing to structure the Report follow up process in accordance with the Committee's preferences.

GOC: Sen. Brannigan said OPEGA should follow up on the topics they expect action on, once that has been completed they should inform the committee of jurisdiction and turn the matter over to that committee with OPEGA's suggestions for any further action that should be taken.

GOC: Sen. Nass said that a great deal of resolution to some of the issues in the DME Report depends on the new Medicaid payment system. He would hope OPEGA could stay on top of this until that system is up and running. He would like OPEGA to report the results of its follow up, including offering opinions, to the GOC.

Sen. Nass said the Units within DHHS that monitor the overpayments or misuse of supplies has shown some measure of success. There is great pressure on DHHS to scale back and he would hope to hear back if the Audit Unit, now fully staffed, gets cut back again.

GOC: Chair Hill asked what would happen if the follow up was turned over to the committee of jurisdiction. Does that committee report back to OPEGA and the GOC as to what actions have been taken, or do OPEGA and the GOC basically give up overseeing the implementation of recommendations and actions.

O: Director Ashcroft said OPEGA has tried several routes, including asking the committee of jurisdiction to let OPEGA know what they had done for follow up so the information can be reported to the GOC. She said that route has had varying success. Director Ashcroft said another option is for OPEGA to follow the actions taken, keep track of the status, and, at some point, report back to the GOC and the Health and Human Services (HHS) Committee. DHHS' new system is the remedy for a number of the recommended management actions and for that reason the new system ought to be reviewed to make sure it does not have the same problems the old one did. It is not clear yet whether DHHS will initiate a full audit of all the internal controls in the system or whether the State Auditor would pick it up, but the GOC should discuss at that time what they thought needed to be done to make the Committee comfortable that the issues OPEGA identified are not continuing.

GOC: Chair Hill said the follow up procedure outlined above seems like a better process rather than just referring it to the committee of jurisdiction and not having a good transition plan in place to follow.

Director Ashcroft said she will continue to report to the GOC on work being done on Recommendation 6 – continuing research that DHHS was doing on some transactions OPEGA had flagged as having a higher potential for risk of abuse or fraud. That work continues with OPEGA meeting with DHHS to make sure that work can be as focused as possible so that resources are utilized most efficiently. The end determination is being left up to DHHS whether they think they see value in proceeding with detailed reviews of anything OPEGA has sent over. At some point, as part of the management action item, DHHS is to come back to the GOC and report on what they have found. She said the GOC needs to decide when they would like DHHS to come back with a progress or final report on Recommendation 6.

GOC: Chair Hill asked what a reasonable amount of time would be.

DHHS: Director Downs said he did meet with OPEGA a couple of weeks ago to discuss some issues to follow up on. DHHS has followed up on most, but there were some issues where they needed further clarification from OPEGA to get a better understanding of exactly what direction to proceed in. That information has just been received so he would like to have 30-45 days before needing to report back. Director Downs would expect to meet with OPEGA sometime in September to make sure everyone is on the same page, so would be ready to report back to the GOC by the end of October or first of November.

GOC: Chair Hill, on behalf of the GOC, thanked Director Downs for the information provided.

Chair Hill asked if there is an OPEGA staff person designated to monitor the follow up work or does it stay with the lead analyst of the report.

O: Director Ashcroft said there has always been a combination of staff rather than one designated individual.

NEW BUSINESS

• Review of Quarterly List of Requests Received

Director Ashcroft reminded the GOC of the process used for requested OPEGA reviews and referred members to the Quarterly Listing of Audit Requests for GOC Consideration that was in their materials. She said OPEGA usually does a small amount of research work on a request and then presents it to the GOC on a quarterly list for consideration as to whether it is a topic to be put on OPEGA's Work Plan, or to be placed "On Deck" for possible future review. In this quarter, there is one topic that has been brought forward for consideration.

Director Ashcroft said OPEGA has received a number of communications from individuals seeking assistance with resolving a particular personal situation or issue. Since OPEGA typically reviews topics or issues that are more systemic in nature or require a broader perspective, these requests are usually not put on the Quarterly List for consideration unless there is information suggesting a problem that is beyond one person's complaint. If it seems there is potential for a systemic issue, OPEGA would put it before the GOC for consideration. Otherwise, OPEGA tries to find a proper place to refer it and will let the requestor know it is not within OPEGA's purview. OPEGA has been getting an increasing number of these more individual-type complaints.

Director Ashcroft said if the Committee would like more specific information on the requests not added to the Quarterly List, she would be happy to share that information with them.

GOC: Chair Hill asked how OPEGA worked their way through those types of requests.

O: Director Ashcroft said typically the requests are referred to Wendy Cherubini, OPEGA's Senior Analyst, who contacts the requestor for any additional information needed to make a decision on how to handle the request. Director Ashcroft said the decision of whether a request will be added to the Quarterly List is typically made between the Senior Analyst and herself. Letters are sent to requestors to let them know what OPEGA will be doing with their request. The requestor is also informed of any GOC actions or decisions on the request.

GOC: Chair Hill asked Director Ashcroft why she thought OPEGA was getting more of those types of requests, is there more awareness of OPEGA now.

O: Director Ashcroft said she believes that to be the case.

GOC: Sen. Nass said he does not have a problem with the process being used, but believes that maybe the Chairs of the GOC ought to receive a list of these assistance requests so that someone has a sense of what problems are being handed off. The information does not have to be in great detail, but could be a one sentence explanation.

GOC: Chair Simpson suggested that the GOC Leads also receive the information.

O: Director Ashcroft said she would prepare such a list that includes the topic and a one liner that tells what OPEGA has done with the request to date. She would email that to the Chairs and Leads. They could decide whether there is a topic there that they would like to have put on the quarterly list.

GOC: Rep. Burns said he thinks it is important that a list is kept and that it goes to the Chairs and Leads and hopes that everyone that contacts OPEGA is redirected someplace. He does not think it is appropriate for somebody to come to a State agency, especially OPEGA, and never get any redirection. Rep. Burns said perhaps the complaints could be referred to the requestor's appropriate representative and/or senator.

- O: Director Ashcroft said OPEGA is contacted by some because they have tried several avenues, either through an agency, their legislator, or some other body they thought might help them and have gotten frustrated that they cannot get their issue resolved. She said sometimes she does not think there is anyone that is going to resolve their issue because of the nature of it, but other times, it is just a matter of trying to find the right person that can assist them.
- GOC: Sen. Nass agreed with Rep. Burns that a reference back to the person's representative or senator, even if they have already been turned away by either of them, would be appropriate.
- GOC: Chair Hill said even though the requestor has contacted their legislators and could not be helped does not always mean they had been turned away. The legislator probably had taken quality time to explain to them why the issue cannot be resolved or why government cannot resolve it for them.

The GOC moved to the request on the Quarterly Listing of Audit Requests - **Maine Community College System**. Director Ashcroft briefed the GOC on the information presented on the Quarterly List regarding this topic. Questions and comments by Committee members included:

- GOC: Rep. Bickford said Chair Simpson and he had recently attended a meeting at the University of Southern Maine. One of the topics discussed was the Community College versus the University System and how a student can go through the Community College System and get an Associate degree but when they go to move into the University System many of the credits cannot be transferred. Students have used up the financial aid and grants in going from high school to a Community College and no longer have financial help available when they move to the University level.
- O: Director Ashcroft said the transferability of credits between the two educational systems was one of the specific issues that was raised in this request.
- GOC: Rep. Bickford said he believes the Education and Cultural Affairs Committee has, for several years, directed that the two entities work closely together to be able to move students from the Community College level to the University level, but they have not succeeded in doing that.
- GOC: Sen. Brannigan said that according to the President of the University, the Community Colleges let a lot of students take more entry level courses and, therefore, get their Associates Degree, but it does not prepare them for pursuing a Baccalaureate degree. If Community Colleges are ignoring the request of the Education Committee, maybe the Education Committee should be informed.
- GOC: Chair Hill said it may be the way it is being presented. She has toured two Community Colleges and was informed they had an arrangement with the University System that students could move up to a four year degree program, but had not given her any specifics. Chair Hill said although she was not specifically told what the arrangement was, she assumed credits for certain courses and grade levels could be transferred.
- GOC: Rep. Burns said the problem may vary from college to college. He meets with the college presidents in his area quite often and he believes there are collaborate efforts to make sure that the students in the two year program are preparing to transfer into the four year program.
- GOC: Sen. Nass said they have been talking about the transferability of credits for the 15 years he has been at the Legislature. He said it is getting more narrowly defined so there is progress being made, but it is slow progress.

Sen. Nass said the topic may also encompass an issue the Fire Commission is dealing with – Fire Standards of Training. If the GOC decides to pursue this topic, it may include the Fire Commission problem and the Southern Maine Community College. He would be willing to make the request part of OPEGA's Work Plan because some of the issues listed have been around for years.

- O: Director Ashcroft noted that the issue now appears much broader. She reminded the GOC that they could move this topic “On Deck” if they were interested in OPEGA reviewing it at some point. If members definitely want it reviewed within the next year, the Committee would add it directly to OPEGA’s Work Plan. The GOC may also decide it needs more information on the topic before making a decision and can direct OPEGA to gather that information.
- GOC: Chair Simpson said the Committee needs to decide whether this is for OPEGA or the Education Committee and, if OPEGA were going to look at it, what would the GOC want them to focus on. From the meeting that Rep. Bickford referred to and a discussion she had with Rep. Rotundo, it seems the issue for State government is to make sure that the funds being used are giving students as much education as possible and the opportunity to advance. There are questions to be asked, including who at the Community College level is letting students know which courses are going to be transferable to the University System and how many credits are transferable. Is the Community College System allowing students to use more of their financial aid for courses that won’t transfer and then students don’t have it available to them for pursuing a Bachelor’s Degree.
- Chair Simpson suggested the GOC send a letter to the Chairs of the Education Committee asking if they have heard these complaints, and what they are doing about them. The GOC could inquire whether they would like to come to the next GOC meeting and perhaps have a discussion with the GOC. People from Community Colleges could also be invited. She said the oversight of making sure the system is set up properly is the purview of the Education Committee, but if they are not able to get the information necessary, she would be happy for the GOC to take the issues on. She wants to make sure that people are not ending up with a large amount of debt for an Associates Degree and then not have the ability to get the Bachelors Degree, and that credits are transferable between Systems.
- O: Director Ashcroft mentioned that another of the requestor’s concerns was that statistics that are being presented to the Legislature might lead one to believe that the Community Colleges are having successful outcomes for students, but the requestor believes the numbers being presented do not tell the whole story or they may not be accurate. OPEGA, or somebody like OPEGA, has more of an opportunity to review the numbers to see where they are coming from than the Education Committee itself might be able to do. Another clear area of concern that came through in the request related to what the data is being used for. There was a perception that the Legislature may use that data in making funding decisions.
- GOC: Chair Simpson said the Legislature gets a lot of information about enrollment levels but not necessarily about who is completing their degrees, what the drop out rates are, and how many people are going on to the next level. The GOC can ask the Education Committee if they have sought that information and whether they feel confident in the numbers they have been receiving. She asked if the GOC felt comfortable with sending a letter to the Education Committee.
- GOC: Chair Hill liked Chair Simpson’s suggestion but would like to include any information OPEGA has already gathered that would allow the Education Committee to narrow in on a few of the problem areas. She asked if the topic should be moved “On Deck”.
- O: Director Ashcroft said if the GOC wants the additional input from the Education Committee before they decide to vote it “On Deck”, then OPEGA can continue to bring the topic back with any additional information or input until the GOC makes a final resolution. The Committee does not have to vote it “On Deck” today.
- GOC: Sen. Nass asked if the Community Colleges are aware of this request.
- O: Director Ashcroft apologized that she had not yet contacted anyone at the Community College to let them know that the topic was being put before the GOC.

- GOC: Chair Simpson suggested sending a letter to the Education and Cultural Affairs Committee and the Community College System to let them know the GOC is considering the topic and would welcome their input.
- GOC: Chair Hill said she would like to know if, and where, the Community College System provides information to students regarding the transferability of credits and any related criteria, i.e. achieving certain grade levels. For example, is this information posted on their websites or in other places where courses and credits are listed.
- O: Director Ashcroft summarized the GOC's direction on this request. She will send a letter to the Chairs of the Education and Cultural Affairs Committee, with either a copy to the Maine Community College System or a letter directly to the Maine Community College System, letting them know that the topic has come up delineating a few of the specific issues the GOC has heard about. The letter will inquire if they have had similar concerns brought to them and whether they have taken any particular action on them or would like to see any particular action taken on them. The letter(s) will request their input back to the GOC by early October.

Director Ashcroft informed the Committee that she had also received a cost saving suggestion related to home care and the rates paid to LPNs versus RNs from a citizen. Director Ashcroft said she had not included it on the Quarterly List because it seemed more appropriate to forward it to the Health and Human Services and Appropriations and Financial Affairs Committees for consideration during the current streamlining initiative. The GOC agreed a letter should be sent to the two Committees. Director Ashcroft will forward the letter to the Analysts for each Committee so they could get it to the Chairs and Leads in a more direct manner.

UNFINISHED BUSINESS

- **Follow-up on Action Items From Last Meeting**

- **Dirigo Health Program**

Director Ashcroft said she continues to try and make contact with Rep. Treat to get her perspectives on whether there is any piece of work OPEGA could do that would be of critical value to the Insurance and Financial Services (IFS) Committee prior to the next session. She said her sense from emails received is that the Committee is expecting a revamp of the program to come back from the Dirigo Board so the scope of the original request forwarded to OPEGA probably would need to be modified. Director Ashcroft will wait to hear back from Rep. Treat.

- **Leased Office Space Review**

Director Ashcroft reminded the Committee that Leased Office Space is in a suspended status and she was supposed to provide the GOC with a potential revised scope for that project. She has not had time to give full thought to that yet, but her sense is that legislators seem most interested in things like why a particular building is being leased, and why the State isn't renovating some of its own buildings instead of leasing. That is not the approach OPEGA previously took, but it may be what is more critical to legislators now.

Director Ashcroft heard the Appropriations and Financial Affairs Committee asking those same kinds of questions and requesting information from the Bureau of General Services about leases. She has been waiting to see if the AFA Committee is going to pursue leasing issues and she will let the GOC know if that is the case.

GOC: Sen. McCormick said there are news articles that keep coming out that trigger calls to him. He said an example is the building that houses the PUC and Ethics Commission. The Ethics Commission has moved out and he wonders if there was enough space, once that happened, for the PUC to stay in the building rather than moving to the newly renovated building in Hallowell that is not owned by the State. The new

building has 36,000 square feet of space and he questioned whether the PUC was utilizing that much now, or whether it is twice the space they currently occupy. His concerns have never been whether or not the State is paying a fair price for leased space compared to what the market demands, but rather whether leased space is being kept to a minimum.

- O: Director Ashcroft noted that legislators' questions she has been hearing now seem to be related to the decision making process that results in moving State agencies and what got looked at as alternatives and options. OPEGA could certainly look at some leases and review the process used in deciding to move to lease space and selecting the lease location.

Director Ashcroft said she will wait to see what the AFA Committee does before doing any more on Leased Office Space.

- **Auditee Notification of Confidentiality Provisions**

Chair Hill wanted to know what OPEGA does to notify Departments being reviewed of the confidentiality provisions in its statute.

Director Ashcroft said OPEGA meets with the agencies and discusses whether OPEGA will need access to data or records that are considered confidential and how OPEGA will protect the confidentiality of that information. If OPEGA does need access, there is a Confidentiality Agreement that is signed between OPEGA and the agency which is based on OPEGA's confidentiality policy and includes any additional procedures the agency requests.

Director Ashcroft said that sometimes these opening meetings also include discussion of confidentiality provisions for OPEGA's work papers and what that means for documents OPEGA shares with the agency. That discussion has not been a routine part of the meeting in the past, but she intends to make it one in the future. However, OPEGA does consistently reference the confidentiality provision for draft reports in the transmittal letter or email that accompanies reports sent to agencies. These reports are also typically marked as confidential right on the document.

GOC: Chair Hill asked if the written confidentiality agreement OPEGA puts together is between OPEGA and the department or agency or is it more narrow than that, like with a specific individual.

- O: Director Ashcroft said it is between the agency and OPEGA and is usually the Commissioner of the responsible Department who signs the agreement.

REPORT FROM OPEGA DIRECTOR

- **Project Status Report**

Director Ashcroft reported on the status of projects:

Fund for Healthy Maine is moving from the fieldwork stage to the Report phase and the plan is to have the report ready for presentation to the GOC in mid-October.

Public Safety Answering Points and Dispatch Centers – OPEGA has issued a Request for Quotation to six consulting firms that had been identified as having the experience we were seeking. Proposals were due back August 26, 2009 and four were received. Three staff people in OPEGA have independently reviewed and scored the RFQs. OPEGA is talking with two of the firms and deciding if they will offer the contract to either.

GOC: Sen. Nass asked if Director Ashcroft was aware of what the PUC was doing regarding their search for a consultant.

- O: Director Ashcroft said the PUC had received quotes back and selected their vendor before OPEGA put its RFQ out. OPEGA contacted them to ask who bid on their project and whether any of those firms were potentials for receiving the RFQ. OPEGA did not send its RFQ to some on the list because those firms appeared to be more about setting up infrastructures of PSAPs rather than evaluating operational aspects. PUC had no Maine firms that bid on their project even though they advertised locally.

Director Ashcroft said OPEGA did not send an RFQ to any Maine firms because there were none identified that had the experience we were looking for.

GOC: Chair Hill asked the Director to talk about the quality of the responses received.

- O: Director Ashcroft said the quality of the responses was very good especially given that OPEGA had a two week turn around time on the proposals. She said it was obvious that the four that bid would have a lot to bring in terms of their knowledge of public emergency communications systems and operations. There was quite a variation in the fees proposed and that has knocked some of the bidders out of consideration. Director Ashcroft said she was also looking to have some flexibility to ask the consultant to bring more of their resources to the project if that was necessary to meet the deadline for this project or if the assigned OPEGA staff had to shift priorities.

GOC: Sen. Nass asked if Director Ashcroft got a sense from the consultants' proposals if they are aware of what the issues are in Maine and whether other states had similar issues.

- O: Director Ashcroft said that is part of what OPEGA is exploring in discussions with the bidders. All of them presented a number of example projects they had done which have similar elements to our situation here. The two firms that we currently are in discussions with both have team members with Maine experience, either having conducted other studies in Maine, or being from Maine and working in the public emergency communications arena. Both appear to have an appreciation for some of the rural and political issues that have gone on around this topic.

GOC: Sen. McCormick had concerns about what the affect on Public Safety's budget for the PSAP centers would be as more communities elect to go elsewhere for their services even as OPEGA's study is going on. He asked if the Director has heard anything about whether their budget was being impacted and how.

- O: Director Ashcroft noted that is one of the specific questions the GOC approved in the scope for the review. OPEGA did learn in its preliminary research that the State-run PSAPs serve 5 or 6 State agencies that are being assessed the bulk of the costs for operating those centers. It seems likely that as other customers leave, the costs allocated to some of those State agencies becomes greater. The Department of Public Safety did say they are aware that movement is going on and they were taking steps to either hold positions or not fill positions so they are trying to match resources to demand and keep costs down.

Director Ashcroft said as soon as a decision is made on whether or not to hire a consultant OPEGA will get the rest of the review planned. She plans to have the final report out by early February which should coincide with when the PUC is expected to get its study to the Utilities and Energy Committee.

Medical Services in the Prison System

Director Ashcroft said the Medical Services in the Prison System is being used as a filler project at this time. The preliminary research phase is nearly complete and a decision will have to be made as to when to move into fieldwork. That decision will depend on the status of OPEGA's Special Project in working with the AFA Committee and OFPR.

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

Director Ashcroft reported that she met with the AFA Committee on August 12, 2009 as AFA had requested. She referred the GOC to the information in their notebooks that she had shared with the AFA Committee at that meeting. AFA had asked her to prioritize areas she had previously suggested might offer opportunities for cost-savings. One of the areas she gave priority was contracted professional and administrative services that are supported by significant funding from the General Fund. She laid out for AFA what questions might be explored if that area was selected. She noted that as one moved down the list of questions, the time it would take to answer them would likely increase and the degree to which savings could be specifically quantified would likely decrease. For example, determining whether a service could be discontinued altogether would be quicker to make a determination on and the expected savings could be more specifically quantified as opposed to trying to determine whether we could get a service at less cost. That would be more time consuming to explore and it would also be harder to quantify what actual savings might be achieved for the FY11 budget.

The other area Director Ashcroft had prioritized for AFA was economic development programs supported by the General Fund and she said she had a similar discussion with them about this area in regards to the questions that could be explored. She said her criteria in selecting those two areas was that there is a lot of General Fund involved, the dollars are large and if changes were made, there could be actual benefit for FY11.

Director Ashcroft said her priority areas for AFA also included organizational structure in terms of management layers and spans of controls. However, she had let AFA know that, while she thought that might be a worthwhile exercise to do for the long term, she did not think that it would get them where they needed to be for savings in FY11. It would be a time consuming project and there would be a lot involved in the decisions that had to be made about whether or not to cut certain management layers or spans of control. She thought it would be a process that would take longer than the time frame the Committee was looking to work in.

Director Ashcroft said she did also suggest a couple of other potential ideas for reducing or recovering costs where it might be possible to get outside consultants to come in and identify possible savings under an arrangement where their compensation would only be a percentage of what they find.

Director Ashcroft understands from Maureen Dawson, Analyst, OFPR, that AFA decided that they would like OPEGA to explore the Professional and Administrative Services contracts. There was not much additional direction provided by AFA as to what they are specifically interested in so OPEGA will be scoping that work out based on the suggestions she had given AFA on questions to explore in that area. That is the only area they have expressed an interest in OPEGA doing some work in so far.

GOC: Sen. Nass asked if the AFA Committee was going to look at economic development programs.

O: Director Ashcroft said some members of the AFA Committee raised that area again as one they might have interest in but not necessarily having OPEGA doing the work.

GOC: Sen. Nass commented on the discussion that had occurred between Commissioner Harvey and the AFA Committee about her unwillingness to identify additional specific cuts. She had apparently suggested that the AFA Committee should suggest which programs to cut. He said he was happy to hear the Commissioner's position because he thinks cutting programs is exactly where the Legislature needs to be.

GOC: Sen. Brannigan said the HHS Committee is not going to meet until they get direction from Leadership and after that time the HHS Committee will decide how to proceed. If AFA wants whole programs cut, which is what he believes they have been talking about, then one of the issues will be who should decide. He said the HHS Committee will be dealing with that in late September and after talking with Leadership and the AFA Committee, he will see what the HHS Committee wants to do.

- GOC: Sen. Nass said his comment was relative to what services OPEGA is going to be able to provide for them. Our method here is a systematic, rational identification of problems and he is not sure that we are functioning in that environment. The question is, can OPEGA be of real help in the context of the problem we have.
- O: Director Ashcroft said OPEGA's role will be different than what we usually do on a review. For example, as regards to contracts, OPEGA will be trying to identify as quickly as possible which contracts might offer opportunities, and point out what should be considered in deciding whether to implement the suggestions. It will not be the typical methodical identification of issues OPEGA usually does, but rather will be trying to get as many reasonable suggestions in front of the AFA Committee for consideration as quickly as possible.
- GOC: Rep. McLeod referred to the list of economic development programs that Director Ashcroft had provided to AFA. He noted that there were a number of programs where the number of recipients was not given. The funding levels for those programs totaled over \$100 million and he asked what happens to those funds if there are no recipients.
- O: Director Ashcroft said the reason some programs don't have recipients listed is that there is no way for anyone to track who really is taking advantage of it. For example, the sales tax exemptions, the businesses get a certificate of exemption and you might be able to count the certificates, but you don't know for sure which businesses used it in terms of getting a sales tax exemption. She thinks that may be why some don't have recipients listed, it was not possible to track. The money is foregone revenues - money the State did not get.
- GOC: Sen. Nass said the Maine Development Foundation (MDF) was involved with economic development and asked Director Ashcroft for information regarding their involvement.
- O: Director Ashcroft thought it would be helpful to summarize what has occurred with economic development programs since OPEGA published its report. She said that when OPEGA did its review the State did not have a standard definition of what an economic development program was so it was difficult to identify which programs the State had that were supposed to be included in the economic development portfolio. OPEGA first recommended that there needed to be a definition established and the Department of Economic and Community Development (DECD) worked with the Business, Research and Economic Development (BRED) Committee to come up with standard criteria for what was to be considered economic development programs. Once the definition was in place, DECD in consultation with BRED, hired the MDF to inventory all of the programs in State government that met that criteria. The Maine Development Foundation produced an inventory of all the programs and published it. The State now has an inventory of programs. A fair number of these programs were getting evaluated as part of the Comprehensive Research and Development Evaluation that DECD had already had underway for a number of years. But a large number also fell outside that realm and were not getting evaluated. The most recent report DECD submitted to the Legislature is a Comprehensive Evaluation of those other programs structured like the R & D evaluation. None of those evaluation efforts have been designed to get to individual programs in a way that allows legislators to consider the benefits of each program. A case study-type review of the Pine Tree Development Zones Program was included in the most recent evaluation. Evaluators offered some suggestions about tweaks that might be made to that Program, but concluded it appeared to be a good program. Director Ashcroft thinks DECD plans that each year one or more programs will get selected as a case study as part of the on-going evaluation and be looked at in more depth.
- GOC: Sen. Nass commented that what Director Ashcroft said does not lend to any kind of quick fix on economic development. Although there is great desire to weed out some programs there is no clear direction on which ones need to go.
- GOC: Chair Hill said she is struggling with how there could have been unfunded, unknown, and un-inventoried programs.

- O: Director Ashcroft noted that some of them are not what you would typically think of as a program. In others, money was being appropriated and spent, but it was not necessarily recognized that they were all focused on economic development goals. There was no inventory of economic development programs when OPEGA started its review and OPEGA thought such an inventory should exist so the State could begin to understand the resources being devoted to economic development.
- GOC: Chair Hill asked where the programs were listed. She does not understand how you can fund a program but not have it show up somewhere in an inventory.
- GOC: Chair Simpson gave the example of tax credits for Maine manufacturing businesses. Companies were paying a property tax, sales tax, etc. on million dollar machines. That made Maine uncompetitive because other states were eliminating the tax. So, Maine followed suit. It did not create a program, it just eliminated the tax so there is no program for it to fall under. It is a new line in the tax code where you are no longer paying the tax and does not show up anywhere except in Maine Revenue Services and the Tax Code. It is a piece meal approach without an overall picture as to what was the goal and how are we going to track the impact of this piece.
- GOC: Chair Hill asked if there is now a mechanism for when those tax decisions are made, is it immediately added to the inventory.
- O: Director Ashcroft said she does not believe that has been addressed yet. In addition to what she has described so far, OPEGA also recommended that there should be one entity in State government that is the coordinator. In OPEGA's research of the original statute for DECD, it sounded like it was envisioned that State agency would serve this role for the entire economic development portfolio, but that is not how it evolved. OPEGA had suggested a couple of alternatives for the BRED Committee's consideration but she does not know the implementation status of that recommendation.
- Director Ashcroft said OPEGA also recommended there be a process in place for new legislation that was introduced, whether through the tax code, budget, or an independent piece of legislation, to get funneled through some central legislative point where it could get recognized as an economic development program. This process would help make sure we were not creating new programs when old programs already existed or needed to be modified. Originally DECD was supposed to be a point through which all of the new proposals funneled and they were supposed to give a report to the Legislature about whether the proposals had good purposes and goals. DECD interpreted that responsibility to only apply to programs that they were proposing as a department and not to programs proposed by the other agencies of State government or legislators. There is a real conundrum going on with regard to DECD's role and their actual authority and responsibility when it comes to programs that are managed by and belong to other agencies of State government. That is part of what is still getting worked out. Director Ashcroft said her contact at DECD leads her to believe they have been working on this and are making some proposals to the Governor, but she is not sure what the final results are.
- GOC: Sen. Nass said that the list of the tax expenditures used to be part of the budget preamble so that they were seen when the budget was being voted on. He said a couple of years ago that was taken out of the preamble. A list of tax expenditures is still generated that the Taxation Committee looks at, but these are not actually in the budget.
- GOC: Sen. Brannigan commented that it is seen as raising taxes if the State discontinues a tax exemption that it has previously put in place.
- O: Director Ashcroft said her message to the AFA Committee was it seemed to be time to think about cutting programs and assessing what that would mean. It appears we can't afford everything even if they were all worthwhile efforts so the question is what can we do without.

GOC: Sen. Nass agrees with that message. He feels that if social service programs are going to get cut out then the Legislature should also be looking at the economic development programs on a bipartisan basis. There are probably programs that don't make sense anymore. There have been huge battles over BETR on a regular basis and he would guess there are things that could be cut. He thinks it would be a worthy exercise and hopes it is continuing.

Sen. Nass said he was disappointed with the \$150,000 Comprehensive Evaluation report on the economic development programs. The results did not point the Legislature in any direction and the consultant basically says they need to study it more.

O: Director Ashcroft commented that in fairness to DECD, who spearheaded the study, it is the first year attempting to do it. Part of the reason they were reluctant to draw conclusions of any kind, whether related to a specific program or a type of program or industry, is that the response rate from their survey of businesses was low. As an auditor, she understands why evaluators would not go out on a limb and draw many conclusions in that situation. She thinks that there were a number of factors that played into the low response rate. First, surveys were being sent out to businesses that have previously not had to provide any information back to the State. DECD itself also identified that they would want to restructure the survey in the future, saying it was too long and that might have been an impediment. DECD was already thinking of how to make the survey process more fruitful in the future. Director Ashcroft thinks that ultimately decisions about whether to cut programs may not come from a direct recommendation in an evaluation report so much as someone taking the information that is in the report and starting to consider these programs in light of the current environment. For example, take manufacturing, do we as a State still want to support that industry as part of our economic development strategy. If we do, then here are the programs that are doing it, are we using those programs most effectively. If it's not part of the strategy anymore, then we ought to be looking to discontinue them.

GOC: Chair Hill wanted to know how a bill passed by the Taxation Committee that fell into the established criteria would get into the inventory instead of having it dangling out there in Revenue Services. Who would take care of that? She is also concerned about making it clear that DECD is supposed to be reviewing all potential bills for economic development programs, not just their own. She asked if legislation was needed to clarify that confusion. How do we get them on notice that is the expectation or give them the jurisdiction to do that.

O: Director Ashcroft said she would like to come back at the next meeting with more information on that for the Committee. She has not checked for awhile with the Analyst that serves the BRED Committee. The BRED Committee was very heavily involved and actually introduced legislation requiring that some of these things go into place. They may also be working on other elements of this that she is not aware of, so she would want to find that out. Secondly, there may be some additional items in OPEGA's recommendations that she is not remembering so she'd like to do some follow up on implementation of the recommendations overall and bring that back to the GOC.

- **Update on Criminal Justice Committee's Review of Department of Corrections' Action Plan for Maine State Prison**

Director Ashcroft said at the last GOC meeting there was interest in staying informed on whether the CJPS Committee was going to continue to meet and to what degree they were going to continue to monitor the Department of Corrections' (DOC) action plan over the interim. She has checked with the OPLA Analyst for CJPS Committee. At this time there has not been a date selected for the next meeting, but the Analyst anticipates they may meet later in September or October and she assumes that the agenda will include an update from the DOC Commissioner regarding the strategic action plan.

Director Ashcroft mentioned that Warden Merrill has taken a new position within DOC and Commissioner Magnusson is at the Prison running the day-to-day operations. The Commissioner had asked Deputy Commissioner Lord to relay to her that one of his top priorities in that role he is currently filling is to follow through on the action plan and the concerns that were identified through OPEGA and the GOC.

GOC: Chair Hill said she attended the last CJPS Committee meeting and the Commissioner's testimony seemed more focused on the reasons they had not done much on the strategic plan yet, i.e. here is what we are busy with, and here are the investigations going on. She was concerned, and had mentioned to Director Ashcroft that she is glad the GOC is continuing to monitor this until we learn that some significant results and changes in culture at the Prison have taken place.

Chair Hill also spoke about the gentleman from the Prison Board of Visitors who spoke at the CJPS meeting. She was not even aware of the Board and was not sure if OPEGA was aware of the Board either because it had not surfaced in the Report.

O: Director Ashcroft said OPEGA was aware of the Board of Visitors but did not know its functions as described in the statute, and had not identified it as a place inmates and staff were going with their concerns. She had talked about the Board at the last GOC meeting and thinks it might be an entity that could assist when we get to the point of wanting to see whether there has been any change in culture at the Prison. All the issues raised by Board representative at the CJPS Committee meeting were also issues raised by OPEGA.

GOC: Chair Hill noted that Rep. Haskell had initiated inviting the member of the Board of Visitors to the CJPS Committee meeting. He had indicated that each Prison should have a Board. Chair Hill wonders whether there is a Board at each facility and how Boards were impacted by the new reorganization and consolidation.

Chair Hill also heard that there are a number of positions on the Prison's Board that have not been filled in years and the GOC may want to follow up on that with the CJPS Committee.

GOC: Rep. Burns, a member of the CJPS Committee, said he was appreciative of the information provided by the representative from the Board of Visitors. He said the facility in his district did not have an active Board and he hopes that is going to be rectified. He did note that the gentleman was frustrated in not knowing where to go with information he gathers. Rep. Burns said that information can certainly be brought before the CJPS Committee as far as he is concerned.

Rep. Burns said he has met with Commissioner Magnusson and thinks they are doing all that they can right now at the Prison with what they have. He is convinced that the promises made to the GOC will be followed through on.

NEXT COMMITTEE MEETING

- **Discussion of Committee's Meeting Schedule**

The next Government Oversight Committee was scheduled for October 16, 2009 at 9:30 a.m.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 12:15 pm. (Motion by Rep. McLeod, second by Sen. Nass, unanimous).