



SEN. EMILY ANN CAIN, SENATE CHAIR  
REP. CHUCK KRUGER, HOUSE CHAIR

## MAINE STATE LEGISLATURE GOVERNMENT OVERSIGHT COMMITTEE

### MEMBERS:

SEN. ROGER KATZ  
SEN. DAVID C. BURNS  
SEN. MARGARET M. CRAVEN  
SEN. CHRISTOPHER K. JOHNSON  
SEN. EDWARD M. YOUNGBLOOD  
REP. PAUL T. DAVIS, SR.  
REP. ANDREA M. BOLAND  
REP. H. DAVID COTTA  
REP. LANCE E. HARVELL  
REP. MATTHEW J. PETERSON

## MEETING SUMMARY September 19, 2013 Accepted December 12, 2013

### CALL TO ORDER

The Chair, Sen. Cain, called the Government Oversight Committee to order at 9:10 a.m. in the Cross Office Building.

### ATTENDANCE

Senators:	Sen. Cain, Sen. Katz, Sen. Burns, Sen. Craven, Sen. Johnson, and Sen. Youngblood
Representatives:	Rep. Kruger, Rep. Davis, and Rep. Cotta Joining the meeting in progress: Rep. Boland and Rep. Harvell Absent: Rep. Peterson
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Kristen McAuley, Senior Analyst, OPEGA Matthew Kruk, Analyst, OPEGA Etta Connors, Adm. Secretary, OPEGA
Others Providing Information To the Committee:	John Gallagher, Director, Maine State Housing Authority Thomas Welch, Chairman, Public Utilities Commission

### INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

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

### SUMMARY OF THE JULY 25, 2013 GOC MEETING

The Meeting Summary of July 25, 2013 was accepted as written.

## **NEW BUSINESS**

- **Report on Maine State Housing Authority: Energy Assistance Programs LIHEAP and WAP**

The Maine State Housing Authority Report was presented to the GOC at their July 25, 2013 meeting and the public comment period on the Report had been scheduled for this meeting.

### **-Public Comment Period**

Chair Cain noted the memo received from Director Gallagher that responded to the GOC's questions asked at the July 25<sup>th</sup> meeting.

Commenting and providing written testimony at this meeting:

Rick McCarthy, Senior Advisor, Maine Community Action Association, Augusta, Maine. (A copy is on file with OPEGA.)

Sen. Youngblood said with less funding it becomes more critical that the proper places are being weatherized and asked what has been done to narrow down that the most critical are receiving help. Mr. McCarthy said that the households that are eligible for weatherization are those eligible for LIHEAP and the CAP agencies have protocols in place to identify where the most energy savings will be for a project.

Sen. Johnson referred to Mr. McCarthy's statement regarding the change in number of hours it is taking prior to the ECOS System and what had taken 6 hours now was taking up to 30 hours. He asked if that was caused by a different processing procedure for people approving request under the ECOS System or because the system itself had technical issues. Mr. McCarthy said ECOS is trying to do more than the old system so it is calling for more information to be inputted. He thinks there are technical issues and the System is not processing information as fast as it should. Maine State Housing Authority (MaineHousing) is trying to work through and address issues.

The Committee thanked Mr. McCarthy for his testimony.

Chair Cain asked if there were others who wished to comment or if OPEGA had received any written comments. There were none so the Public Comment Period was closed.

### **-Committee Work Session**

Sen. Johnson said that after MaineHousing has had the opportunity to upgrade the ECOS System, he would like a report back on the progress, and resulting impact to the CAPs. Other members of the Committee agreed. Director Ashcroft said OPEGA had heard comments from some of the Community Action Agencies about the ECOS System, but because the Maine Housing Board had hired an independent consultant specifically to look at the System, including the functionality, OPEGA chose not to duplicate work that they were doing. The report from that consultant is available to the GOC. OPEGA noted also that it is a relatively new System and is complex. It is quite a bit different than the System used in the past. Taken into account the normal challenges of a new system, OPEGA thought it would be easier to see what the real impacts were as opposed to how much of it was getting use to a new system.

Sen. Johnson asked what a good time frame would be to check back with MaineHousing regarding the ECOS System. Director Ashcroft needed to find out where MaineHousing was with the System updates before she could suggest what would be reasonable.

Sen. Burns was also very concerned with the increase of work hours from 6 to 30 hours and asked if it was because the System was so complicated. Director Ashcroft thinks it is the amount of data that now needs to

be put in about the house itself. In conversations with the Project Officer at the Federal level, OPEGA learned that States are being encouraged to go in that direction. It is fair to say that there is some amount of additional time that is being spent inputting and collecting additional data about the house. How much of the extra time is related to that versus the System running slow, etc. she does not know because has not reviewed the Consultant's report.

Sen. Craven also had concerns about the increased hours and asked if there was a back log for houses waiting for help. Director Ashcroft said there are many more houses that need to be weatherized than MaineHousing ever has money for. The CAP agencies are following the policies that MaineHousing has set.

Chair Cain referred to MaineHousing's Memo dated September 19, 2013 regarding their follow-up on whether there were multiple payments going to the same address. MaineHousing did identify some of these situations and are working to identify additional preventive and detective controls that can be applied to the process to ensure that all benefits are paid appropriately. She thought that might be another area for the GOC to follow-up on. There could also be a written report from MaineHousing to the GOC on what they are doing to make those kinds of improvements, similarly on improvements made to reduce the increased hours for CAP agencies related to ECOS.

Chair Cain asked if someone from MaineHousing could address the GOC's concerns about the increased hours.

Director Gallagher said he had initial discussions with the CAP agencies back in June and July, the indication to MaineHousing was that it was taking double the time, it was no longer 6 hours, it was in the range of 12 to 14 hours. MaineHousing made some adjustments to the way they do things and allowed them 10 hours as the compromise. It has been only in the last couple of weeks that he first heard 30 hours being used. He believes this could be the case in certain situations where the property is complicated to do the analysis, but the additional data gathering is for federal regulatory requirements in order for MaineHousing to receive funds for the Weatherization Program.

Director Gallagher said the audit of the ECOS System referred to by Director Ashcroft was done by Cohn Reznick out of Boston on behalf of MaineHousing's Board of Commissioners. They were concerned about the ECOS System and whether MaineHousing was spending the money appropriately. That Report is on MaineHousing's Website. Cohn Reznick concluded that it was the best product that was available for the time and a lot of the requirements are driven by DOE regulations. It was not that MaineHousing wanted to make it more difficult for the CAP agencies, it was required by DOE. He said MaineHousing wants to work with the CAP agencies to simplify it and his staff is committed to doing that. They are putting together upgrades that would make the system faster and easier. The next update to the program hopefully will do that and MaineHousing should know fairly quickly how well the upgrade is working.

Sen. Johnson noted that Director Gallagher characterized the requirements as extremely complicated, but he did not have any sense of whether the information has value for later use. He thought the GOC should have the information on what the Department of Energy is requesting be reported. Director Gallagher said he would be happy to get that information to the Committee and if they have additional questions after reviewing the information, he would be happy to come back to another meeting to answer those questions.

Chair Cain wanted to clarify that MaineHousing was not choosing the data being collected, that it is from the regulation of the federal side in the program. Director Gallagher said his understanding is that the whole thing is being driven by regulatory issues from the Department of Energy.

Sen. Katz asked if the additional information will help understand how the money is being spent. Director Gallagher said that was the intention.

Sen. Burns asked if the 30 hours previously mentioned covered the travel time to and from the facility, interviewing the residents, analyzing the building and then analyzing the information. Director Gallagher said

he had only heard the 30 hours number a couple of weeks ago, and it would be for the analysis piece only, it does not include the work involved in weatherization.

Chair Cain asked when MaineHousing was planning to do the updates to the ECOS System and Director Gallagher said the updates would be done in early October. Chair Cain thought it would be good for the GOC to have an initial update at its November meeting. She noted that a written update would be good, but in addition, would like to have staff from MaineHousing at the meeting who could answer Committee members' questions regarding the ECOS System.

The Committee thanked Director Gallagher for attending the meeting and answering their questions.

Chair Cain asked Director Ashcroft what other questions she needed answered by the GOC regarding follow-up. Director Ashcroft said since OPEGA does not have any recommendations for legislative action, the GOC needs to consider a schedule for receiving information back about the actions MaineHousing is taking in response to any of the Report recommendations. The GOC had mentioned MaineHousing's response memo regarding LIHEAP and it was stated in the memo that MaineHousing, to the degree they feel it is worth spending resources on, researched the exceptions found by OPEGA in LIHEAP transactions to determine what was going on. They have taken one of OPEGA's recommendations and are going to implement additional controls. The GOC will want to hear back from them on that piece. Director Ashcroft said she is not sure whether November would also be a timeframe in which the GOC would like an overall report back on any of the actions that have been taken with regard to the Report Recommendations. Chair Cain said if MaineHousing is coming to a meeting and they have updates, the Committee should hear them.

#### **-Committee Vote**

**Motion:** That the Government Oversight Committee accepts OPEGA's Maine State Housing Authority Report. (Motion by Sen. Katz, second by Sen. Craven, unanimous vote 11-0. Absent: Rep. Peterson.)

#### **• Presentation of Final Report on Public Utilities Commission**

Director Ashcroft presented OPEGA's Public Utilities Commission Report. She thanked OPEGA staff Wendy Cherubini, Sr. Analyst and Scott Farwell, Analyst for their work on the Report. She also thanked staff at the Public Utilities Commission and Public Advocates Office for their cooperation.

Sen. Katz said he is aware of the smart meter ten-party complaint and asked Director Ashcroft if she had a sense of the kinds of ten-party complaints that come up in other areas and what kind of things tend to result in ten-person petitions. Director Ashcroft said under statute if you file a ten-person complaint it is supposed to be about the utility's rates, acts or practices, which the petitioners believe are unreasonable, insufficient or discriminatory, or about the fact that utility service is inadequate or cannot be obtained. She said it was OPEGA's observation, although not specifically addressed in the Report that health concerns related to smart meters electromagnetic force fields around the high tension wires, seem to be outside what the PUC has traditionally dealt with in terms of its statutory mission to ensure safe, reliable service.

Sen. Craven had concerns about the process of intervening and asked if OPEGA reviewed the process. She had received complaints from citizens who had applied to be an intervener and receiving a Fed Ex box with a large amount of material to review two days before the hearing date. Director Ashcroft said OPEGA did look at the intervener process, and by virtue of becoming an intervener, every party in the case is automatically entitled to receive every document that is filed in the case. All of the documents are available electronically as they are received by the PUC, and for those who do not have electronic access, the PUC does make sure that they get everything in hard copy. Depending on the timing of when all the parties are submitting documents, it is quite possible that some of the material is not received by the PUC until shortly before the proceeding is going to go on.

Sen. Burns agreed with Sen. Craven and said the overall process can be very intimidating and frustrating and that should not be the case for an entity that is charged with the responsibility of overseeing monopolies.

Rep. Boland thinks the aspect that is burdensome for interveners is the capacity for the industry to generate tons of paper in argument and average citizens having to respond responsibly, and being overburdened in trying to read it all. She suggested having a cover sheet for documents filed that explained the point or argument of the document.

Rep Boland also said that it was her understanding that it is actually the responsibility of the PUC, part of their directive, to deal with health and safety issues. It concerns her that in regard to smart meters the PUC came out and said they were not going to address health issues because they did not feel equipped to. Public citizens had to take it to the Law Court of Maine and have the Court say that is not right, that the PUC had not done its job. She said that is a big burden on citizens to have to go through this lengthy process, hire attorneys, convert it to a law case, take it to the Law Court and bear the expense that was involved in all that when it already seemed clear in the PUC's mission that it should be addressing the health issues. So now it does seem that health issues is something the PUC is going to have to figure out how they will deal with it and may be a bigger issue than has historically been with them. Director Ashcroft said under statute the word "health" is not used in the PUC's mission, it is "safety" and she does not think there is a definition given of what safety includes. If, as legislators, the GOC members' expectation is that the PUC will include consideration of certain things, such as health, as part of safety that perhaps is something that should be clarified in statute. Rep. Boland said the Law Court already has clarified it. Director Ashcroft said OPEGA does not have any recommendations in regard to that, but did observe that traditionally safety has meant a certain thing and now there seems to be a larger arena clarified in statute that citizens are concerned about.

Director Ashcroft continued with the Report presentation and moved to the Recommendations.

**1. PUC Should Explore Ways to Assist Consumers Appearing Pro Se in Commission Proceedings**

No questions or comments.

**2. PUC Should Continue to Improve the Usability and Accessibility of Its On-line Case File System**

Sen. Burns asked if there was a number within PUC that somebody can call to get the information necessary to access a particular case. Director Ashcroft said citizens can call the Consumer Assistance Division and they will help a person find the document number.

**3. PUC Should Clarify How Different Types of Information Submitted In a Case Can Be Used in the Commission's Decision-Making**

Sen. Johnson asked why there is an opportunity for comment that will then be ignored. Why do they allow unsworn comments, if it is not going to be utilized. Director Ashcroft said she did not want to leave the impression that comments were ignored. The Commissioners do receive all the comments and do their best to read them all. They considered themselves to be informed by what they get for comments. Legally, however, in terms of making their final decision, there are certain aspects to what they receive by that avenue that cannot be relied upon in their decision-making.

Sen. Katz gave the example of if there was an issue regarding smart meters and 15 people wrote in and said they believe they got cancer as a result of the smart meters in their home. It is not a fact that the Commission could find, but because of all the issues being raised, the Commission may decide they should look into it more. It would prompt further inquiry by the PUC staff or the Commissioners.

Director Ashcroft said if information is received by comment or as unsworn testimony, the Commission or other parties in the case, do not have the opportunity to further question what has been presented as information or to cross examine that person.

Chair Cain said the sworn testimony piece is another factor in the challenges already identified regarding public accessibility. She thinks there is a lot more that can be done to make it accessible to people who do not have the resources to hire an attorney.

**4. PUC Should Take Steps to Address the Need for Time Extensions in Ten-Person Complaints**

No questions or comments.

**5. PUC Should Establish a More Structured Approach for Identifying and Addressing Issues Potentially Affecting Multiple Consumers**

No questions or comments.

**6. PUC Should Take Additional Steps to Minimize Risk of Actual or Perceived Bias in Its Regulatory Activities**

No questions or comments.

Director Ashcroft continued with summarizing the Commission's planned actions in the Agency Response section of the Report.

Sen. Johnson said having only three Commissioners defines the need for criteria for PUC Commissioners such that they minimize whether those appointed would have conflicts of interests, certainly monetary ones. If the Legislature is appointing Commissioners where there are conflicts of interest that affect the PUC in having a majority in order to conduct the business of the Commission, this is a serious problem. Director Ashcroft said in PUC's statute the only criteria that exists is defined in terms of what a Commissioner or staff member cannot be, or do. Appointees are confirmed by the Legislature, so if there was going to be any discussion about meeting the criteria or potential conflicts of interest, that seems to be the only place where it would happen.

Sen. Burns asked if there was any type of public disclosure Commissioners have to make regarding their affiliations. Director Ashcroft said there was and OPEGA found that they have been filing their financial disclosure statements, but that does not include assets. Chair Cain said there are some changes underway that would affect what PUC Commissioners and Executives have to submit.

Sen. Katz noted the complexity of navigating through the system for somebody not represented by counsel and thinks that is a real issue in dealing with the PUC. He also agreed with Chair Cain that Maine's ethics laws were behind the rest of the country, but that may be because Maine has not had any troubles.

Chair Cain observed that anything in any complex area, especially as complex as utilities and policy, people who do that work do build relationships, even if they don't like each other. Those relationships can look like favoritism, but it is a matter of understanding the process. Increasing the ability of the public to navigate, understand and interact with the system and weigh in on the process will decrease the perception problems and there will be less cause for citizens thinking there is a conspiracy theory when it comes to what is actually happening. She has looked at the legislative side of ethic laws and thinks Maine has been fortunate in not having the high profile kind of cases to respond to.

Chair Cain recognized Chairman Welch.

Chairman Welch said it was a good experience for PUC to get an outside view on their degree of transparency, which the PUC takes seriously. The PUC welcomes some of the suggestions and the opportunity to work with others to try and figure out a way to help consumers in the utility area understand what the PUC has for

jurisdiction over what is important to them and then understand ways they can bring those concerns to their attention.

Chairman Welch said the ethics issue is at the top of the list and is a difficult one. The kinds of conflicts the PUC encounters are not the classic financial conflicts and they make sure that nobody on the Commission has any financial interest in any outcomes. If they do, they absolutely cannot participate. The Commission does what it can to be sure they are not making their decisions in a way that is simply favoring friends or interests that they are familiar with. He fully acknowledged the issues and the greater degree of transparency, and ease of access to the process. He thought explicit descriptions of how they go about making their decisions, and articulating clearly in their decisions exactly what the decision is based upon, will contribute towards alleviating the concerns, at least to some extent.

Rep. Boland asked Chairman Welch for his comments regarding sworn and unsworn testimony and referenced expert studies submitted as an example. He said the issue of expert studies is interesting because the Commission is not bound by the hearsay rules and is different from courts in that way. They can take into account general knowledge in the industry and do read a great many treatises, papers and textbooks that do not find their way into the adjudicatory process explicitly. The line the Commission tries to draw is when someone is presenting a fact of relevance to a particular case. That is going to require vetting. Chairman Welch said they do cross-examination by telephone all the time so geographic location is never an issue.

Chairman Welch said he is recused from the smart meter case, but does know what is going on with it. There are a great many studies brought to the Commission's attention and they can take those into account as a general academic literature on the subject without having every author of every article sworn in. For example, if the question is about what the world academic literature is currently saying on the effect of electric and magnetic fields that is something you can read the literature on and doesn't require cross-examining the author. If the question is about the particular field around a particular line, that is a specific fact that the Commission would want sworn testimony and cross-examination on.

Rep. Boland asked if an expert wrote an article, or had done a study, how would that testimony be sworn if they submitted it through the on-line process. Chairman Welch said, in general, the Commission would have to make a distinction between particularized fact to the case. If someone is making a particular claim which has direct relevance, saying if you do "x" then "y" will happen in your particular circumstance, then he thinks before the Commission could rely upon the particular assertion, it would want to cross-examine the witness. Each case has to be looked at a little bit on its facts, but generally speaking if you are talking about academic studies, those are things people can present and if there is some particular challenge to them, the Commission may get into sworn witness cross-examination.

Rep. Boland said written answers to public questions do not automatically become part of the evidence record for the case. The public interveners are burdened with cumbersome and time consuming processes to get the data responses into the case records and asked why the answers were not automatically part of the record. Chairman Welch said there is no distinction between the treatment of the public interveners and others in this regard. Everyone who wants to present evidence to be considered in the case has to identify what that evidence is. It is often the case, not just the public interveners, that people will ask a lot of questions. In a sense it is a matter of convenience for the Commissioners and hearing examiners who have to read all the relevant material, to know which answers to all of the questions asked should he read. He does not think it is an unreasonable burden to put on anybody who has already gone to the trouble of asking the questions to figure out which answers that person thinks are relevant to come into the case. When someone makes that request it is very unusual not to be accepted into the record. Chairman Welch said he does not dispute there is some burden on an intervener, but thinks the PUC needs some requirements to keep their process reasonably manageable and that is where the balance has to be drawn. He thinks the Commission is extremely liberal with respect to what they let in and of who can intervene.

Sen. Burns asked Chairman Welch's perspective on increasing the number of Commissioners. The Chairman said most of the commissions in the relatively smaller states have three commissioners. The circumstances in

which the Commission is left without a quorum because of recusals are extremely rare. He does not know how much additional benefit there would be from five Commissioners. If the only reason you were doing it were to deal with a recusal problem, there may be different ways of doing it, including a temporary appointment. Chairman Welch would be happy to discuss the matter further.

Rep. Boland asked how Chairman Welch would feel about having Commissioners that are more versatile, somebody who represents the average citizen. Chairman Welch said his personal view is that Maine has viewed the Commission job as a technocrat position, not as a representative, political or constituent position. He thinks that makes for a better Commission and the public, in the long run, are better served by people who have the patience and expertise to deal with typically complicated issues. The issues brought before the Commission by the public or ten-person complaints are more along the lines of, for example, electrical surges, and recently, health issues. The majority of the Commission's time is spent on which discounted cash flow analysis should they use for return of equity. It is worth exploring whether the Legislature wants to have a different type of Commission entirely and whether to have diversity of backgrounds or particular kinds of technical expertise. It is the Legislature's decision what kind of Commission they want to have.

The GOC members thanked Chairman Welch for the information he provided and for answering their questions.

OPEGA's Public Utilities Commission Report will be on the next GOC meeting for public comment.

- **Project Direction Recommendation on Maine Economic Improvement Fund**

Director Ashcroft explained that once OPEGA completes its preliminary research phase of a review, they return to the GOC to let them know what has been learned. OPEGA presents the questions for focus it thinks would be worthwhile reviewing further and the Committee decides if it wants to go forward with the review. At this meeting the Director was looking for the Committee's approval, additions or changes to questions OPEGA recommends or deciding that it would not be worth going further. (A copy of the Project Direction is attached.)

If the GOC wants to continue with a review of MEIF, OPEGA recommends a focus on the following questions:

1. What process is used to allocate MEIF to the target areas established in statute and to specific projects within those target areas?
2. What is MEIF being spent on and are the expenses consistent with statutory intent?
3. What metrics does UMS use to measure accomplishments attributable to MEIF? Are these results being accurately tracked and reported? Are there other metrics that might be used to measure success?

Director Ashcroft said OPEGA also has further questions about some of the financial data presented in MEIF's Annual Reports.

Rep. Cotta said when this Review topic was moved forward one of the key questions was compliance with legislative intent and he comes back to that. Measurable results are very important with study money, and application or distribution of funds are equally important. An entity can be shorted for not producing if they did not have the opportunity to have the resources to continue. If you looked at just goals and objectives of legislative intent of the distribution of the MEIF, he would like to see Table 1 in OPEGA's Project Direction statement laid up against legislative intent. It clearly shows that there are only two recipients to a major extent and one of the biggest question and reservation he had about the administration of the fund is are they in line with what the statutory intent was with regard to distribution to the campuses. Director Ashcroft said the GOC discussed at a previous meeting whether legislative intent had spoken to any degree about how there should be geographic distribution among the campuses. From OPEGA's initial work on legislative history, found no indication of intent regarding how funds should be allocated among campuses. Any directive seen so far in legislative intent has been around the target areas of the types of projects that should be funded. OPEGA

did not find that there is any basis in terms of the legislative intent question to ask did the University of Maine System properly give these out to the different campuses. OPEGA knows that has been an issue of concern for people, and legislators have been recently trying to work through legislation to try to get something implemented. OPEGA would be looking at that in the Review. Director Ashcroft said if the GOC wants to ask the question of whether UMS is meeting legislative intent by only allocating MEIF to two campuses in the past, she would have to say “yes” UMS has because there is nothing in the legislative history that OPEGA has seen that suggests it should be done otherwise. She thinks that piece of the question has been answered to a degree by the review of legislative history OPEGA has already done.

Rep. Cotta said he might have misspoken regarding legislative intent. Statutorily it says the Fund will be administered to the entire system and that a competitive nature and request for funding is achievable if you have the resources and a good plan to pursue the research in one of the targeted areas. That would cover the entire University of Maine System. He had questions because the statute actually says the entire system. It never said designated places of activity so he would like to have that looked at to see if his interpretation of the statute is correct. Director Ashcroft said if Rep. Cotta was looking for an interpretation of the statute with regard to that language she would refer the question to the Attorney General’s Office for an opinion. OPEGA does not need to pursue a specific question in the review to know that the funds have routinely gone to only two campuses, and that is the way the University chose to implement the statute. She does not disagree with Rep. Cotta’s perspective, she just does not know what additional value OPEGA could bring by trying to look at it any further.

Sen. Burns’ perspective is that the legislative intent and the statute language is equally important. Just because it has always been done that way is not satisfactory to him. If a request to the AG’s Office requesting an opinion is necessary, either through OPEGA and the GOC, or as an independent legislator, he thinks it needs to be done.

Sen. Burns asked the Committee to hold off on a decision for one more meeting regarding the MEIF Recommendation for Project Direction until he had an opportunity to review the information provided by OPEGA.

Chair Kruger thought MEIF’s legislative intent was for high tech research and development. It would seem off base to suggest, for example, that the dollars spent in forestry be divided up among the campuses when it clearly belongs at Orono. He noted it was not just about making sure the money that is available gets passed out equally to the campuses. Director Ashcroft said in the first question for the Recommended Scope OPEGA would not be making an assumption that the process should continue to mean UMO and USM get a certain amount. It would be working at how those decisions are being made, is there a competitive process for projects and is every campus able to put in bids.

Chair Cain said the statute talks about money to the system to do research through its members institution, its student and faculty staff. She noted that the allocations of the fund have shifted most recently to the small campuses.

Sen. Johnson said he suspected a good portion of the Aquaculture and Marine Sciences actually is funding work at the Darling Center, which is technically not at that campus, but is the work of people at the Darling Center in coordination with those at Orono or elsewhere. These are research projects that are administered out of Orono, but funding work elsewhere. He would like a better understanding of that sort of arrangement.

Sen. Burns said until the 124<sup>th</sup> Legislature when changes were made in the statute, the message had gone out and made clear that no one else need to apply for funds. Each campus may have the ability to do research and development because there are experts at each campus and there may be a different arrangement that could have better results if the money was more equally distributed. He would like to know what the statute indicated and how the funds have been disbursed and why. Director Ashcroft said OPEGA knows why already. There has been a conscious decision made that a certain amount of funding is going to go to each of those campuses. She is struggling to see what it is that OPEGA doesn’t already know about that the

Committee could act on versus what OPEGA will be able to determine by getting into more detail. They can look at the projects, and look at how they decided how many dollars were going where and let the GOC know how they are making those decisions. It has not been a secret how the funding has been distributed as it has clearly been shown in the Annual Reports on the funds over the years.

Sen. Burns wants to know what process they have followed in the past up through to the present and will compare that to what the original intent was. There is nothing that can be done about what has gone on in the past, but going forward for the benefit of Maine and research and development, he wants to make sure they are doing it the best way. Director Ashcroft said that was what she envisioned. OPEGA would be able to describe the University's process and the GOC could take action on the recommendations in any way they saw fit. She said that is a different question to her of whether the statutory intent has been violated or not met.

Rep. Cotta said he was not promoting the study to say compliance, but rather what have they done, and how have they done it. That would become a step toward further interpretation of compliance with statutory requirements. He didn't mean to imply there should be equal distribution because some centers do things better, but pointed out that the purpose of MEIF was for collaborative work between public and private institutions and he would like to know how that program is being managed. That may lead the GOC to a different conclusion of exploiting all opportunities with the public/private marriage. Director Ashcroft said that is in line with what OPEGA was envisioning with the questions.

Sen. Youngblood noted that 6 years ago somebody decided how the MEIF should be distributed and nothing has changed by target area. Sen. Cain said the Legislature does not determine what percentage goes where and probably are not the best body to make that determination, but the Legislature certainly should be reviewing it to make sure it is being measured.

**Motion:** The Government Oversight Committee agreed with OPEGA's Recommended Scope questions, but reserves the right to change or add additional scope questions going forward. (Motion by Rep. Cotta, second by Rep. Davis, passed unanimous vote 11-0.)

Director Ashcroft asked if there was anything else the GOC wanted OPEGA to do other than try to get a copy of the Task Force Report and review that prior to the GOC's reconsideration. Chair Cain requested the similar breakdown by target area from the small campuses initiative. Director Ashcroft clarified that the GOC did not want her to go to the AG's Office to seek an informal opinion regarding the statute's intent. Sen. Burns said he would leave the decision up to the Director regarding when to ask for the AG's opinion. Director Ashcroft said she will hold off requesting an opinion.

## RECESS

The Government Oversight Committee recessed at 12:12 p.m. on the motion of Chair Cain.

## RECONVENED

Chair Kruger reconvened the meeting at 1:00 p.m.

## UNFINISHED BUSINESS

Chair Kruger asked if there was objection to taking an item out of order. Hearing none he moved to **Unfinished Business, Briefing on Status of Blue Ribbon Unemployment Investigation Commission.**

- **Briefing on Status of Blue Ribbon Unemployment Investigation Commission**

Director Ashcroft said the Blue Ribbon Unemployment Investigation Commission met, were reviewing the process, and had noted that there were things about the process itself that made for challenges. From her

discussion with Chairman Wathen the Commission felt they were going to be on track for meeting their timeframe in terms of a report back and recommendations made. If the Committee would like to have Chairman Wathen, or another member of the Commission, attend a GOC meeting to report on the work they have been doing, he would be happy to do that.

Chair Kruger wanted a report regarding the Commission's work and would like Chairman Wathen, or another member of the Commission, attend a GOC meeting. Finding out that the Commission's report is due in December, he noted that their report to the GOC would have to be at the next meeting.

Sen. Katz was inclined to suggest that the Committee wait until the Commission has completed its work because he did not know what would be gained by getting a mid-term report.

Chair Kruger wanted to know whether they are going to look at the March 21<sup>st</sup> Blaine House event or not before their final report is issued. He asked if Director Ashcroft could find that out. Director Ashcroft said the Commission's selection of cases to review was designed to determine if they could see a difference in how things were handled prior to that and after, but she did not know if any of the questions they have been asking focus specifically on that event. The Director will ask the Co-Chair.

Rep. Harvell asked if the request could be done through a letter rather than having a Co-Chair come before the GOC. He did not want the Committee to direct the Commission in a certain direction while they are in the middle of their investigation.

Chair Kruger agreed with that, but said because the GOC deferred their interest in the issue based on the fact that the Commission and Federal Department of Labor were going to be looking into it, wants to make sure before both those reports are final, that they have asked all the questions that the GOC is interested in.

Director Ashcroft said she will check again with Chairman Wathen and at the next GOC meeting will provide more specific information about what work they have done that would speak directly to the question that the GOC had pending about whether the influence at the Blaine House meeting was inappropriate. She sent a follow-up email to her contact at the federal level regarding their review of the unemployment issues, but has not heard anything back from him in several weeks. She will follow-up again.

- **Update on OPEGA Special Project on Tax Expenditure Programs**

The GOC had tasked OPEGA with looking at tax expenditures for the purpose of drafting a potential process for ongoing legislative review of tax expenditure programs. Director Ashcroft said OPEGA's first step was to take all of the expenditure tax programs that are in the Tax Expenditure Report that Maine Revenue Services puts out and catalogue and characterize them so OPEGA could get a better feel of what kinds of programs there were, what kind of legislative review might be warranted for the different programs, etc. OPEGA has completed putting the expenditures into categories to the degree they can based on information in the Tax Expenditure Report, information that was available in a 1997 Report that was presented to the Taxation Committee, and review of some statutes. OPEGA has put the expenditures into buckets and are in the process of doing some analysis of what is in those buckets.

OPEGA's next step, once the analysis is complete, is to think about what the process for ongoing legislative review would look like. They are working with a Pew Center representative so they can draw from their experience and knowledge regarding other states. OPEGA's expectation is to have a draft of a process for both the GOC and the Task Force on Tax Expenditure. At the Task Force's first meeting OPEGA presented a printed spreadsheet that categorized the programs. Since then, OPEGA has finished work on the expanded version of that spreadsheet which included assignment of programs to specific categories or buckets. She referred the Committee to the information provided to them from the expanded workbook. The Task Force's next meeting is scheduled for September 30th.

Director Ashcroft said OPEGA will do whatever it can to support the Task Force and help them filter down what kinds of programs or categories of programs they want to review. For OPEGA's purposes and the tasks the GOC assigned them, OPEGA will be using the analysis to look at which of the programs warrant, or lend themselves to, some kind of an evaluative review, and if they do, what needs to be put in place to do that.

Rep. Cotta said the GOC tried to find out what was being saved, what the objective originally was, and is it being met. He said for example, looking for economic stimulus of a particular area, did that in fact occur. He understands that some things are going to be difficult to measure and Director Ashcroft agreed. The Task Force's charge is to evaluate certain programs and she thinks it is going to be a significant challenge to actually do anything that would be called a good evaluation of the programs based on what OPEGA knows of the kind of data that currently exists and the fact that nobody has really talked about making sure everybody is in agreement of what the purpose is or by what measures they might determine the program was a success. Those conversations have to come first.

Sen. Katz, also a member of the Tax Expenditure Task Force, said as part of getting the last budget passed the Appropriations and Financial (AFA) Committee decided to have a group review tax expenditures to find \$40 million that could be taken from the FY 15 budget. The default is that if the \$40 million reduction cannot be accomplished, the amount of revenue sharing going to towns and cities will be reduced by that amount, so there is pressure to succeed in the effort. The second part of their task is to come up with a way to regularly measure the effectiveness of the programs going forward either through sun setting or periodic review program by program. He thinks the Task Force's work is going to be made easier for several reasons. The Pew Foundation is doing a lot of the work nationally and surveying best practices throughout the country. The second thing that will help in trying to set up a structure for future evaluation is the work that OPEGA is going to be doing on the same subject. Sen. Katz said the Task Force has 5 more meetings and has to issue its report by December 4, 2013.

Chair Cain said having the short term pressure of a biennial budget implication is forcing conversations that over the past 8 or 9 years have often seemed too great, complex or difficult to have and some of the programs were created 40 years ago. Maine's tax code should reflect its current economic needs and priorities.

- **GOC Consideration of Open Recommendations From OPEGA Prior Report On:**
  - **Children's Mental Health**

Director Ashcroft said nothing had been done to date with specific open recommendations from OPEGA's Report on Children's Mental Health. Before OPEGA stopped working on follow-up, she was seeking the GOC's thoughts one more time to see if there was anything they wanted to do. Sen. Craven had done some outreach to folks in the mental health community and the Committee had discussions at its last meeting about concerns they have about the children's mental health arena in general and questions about the role of the GOC.

Director Ashcroft said one of the recommendations dealt with the Children's Mental Health Oversight Committee. The Committee had become inactive and the GOC asked the Director to gather information regarding the potential of reactivating or changing its mission to try to get to the current concerns. Director Ashcroft contacted the Department of Health and Human Services (DHHS) and referred members to DHHS' response to the specific questions that the Committee had asked. She has asked a couple of follow-up questions based on DHHS' response, but has not yet heard back and it may not be something DHHS has readily available.

The GOC asked for the current status of the Oversight Committee. Director Ashcroft believes, based on the response received, that the Oversight Committee is not active and that DHHS sees it as the Legislature's responsibility to convene the Committee. The statute gives the task of appointing Committee members to the presiding officers. She thinks it is in the GOC's arena to decide whether they want to propose doing anything with it or not.

Director Ashcroft said the second question was how many and where juvenile mental health beds are in the State, is there typically a waiting list for them and how long is the list? DHHS provided information about the three types of beds they have. She has asked for clarification that the numbers provided are all youth beds, not youth and adult beds, but has not yet received an answer. They have 43 beds in crisis units and 97 beds in hospitals. For residential treatment they have 396 licensed beds and 365 of those are currently being staffed and therefore considered active beds. DHHS wanted it noted that approval to go into a residential bed is a 60 day time period. Once there is approval, there is a 60 day period in which the youth can be admitted to a program so some families seek that approval first, but then make a choice to try to receive treatment in the community or home setting first. Some youths that are in psychiatric hospital or crisis setting may continue to need an inpatient crisis level of care and additional stabilization before they can go to a residential treatment facility.

The third question was how many children are sent out of State annually for services while they wait for a juvenile bed. DHHS responded that no children are sent out of State for residential treatment merely because they are waiting for an in-state residential bed. There are some youths sent out of state to residential programs because the in-state providers don't feel that they can safely treat the youth because of a high acuity that requires specialization that does not exist in Maine.

DHHS said no youths have been placed out-of-state due to their residential wait list specifically. There are some high needs youth with developmental disability who have been placed out-of-state and the families are happy with the care and have not wanted to transfer to a program back in Maine.

Director Ashcroft said she has asked follow-up questions and when answers are received, she can forward them to the GOC.

Sen. Burns noted the major reason there is a wait list is because there are other ramifications and issues, not because there aren't available beds, and asked why there is a gap if there is a wait list and there are available beds. Director Ashcroft said the only information she received from DHHS on a wait list seemed like it was related to the residential treatment program beds and she has asked DHHS specifically if there is a wait list for the crisis and hospital beds. She is waiting for a response.

Sen. Craven, Chair of the Health and Human Services HHS Committee, thinks geography definitely has a bearing, but there are also gaps in services for age groups. It is very hard to coordinate the services that are needed in the exact locations needed. She said the HHS Committee often hears of children being kept in the emergency room for 1 and 2 weeks at a time, and has seen families wait for months for respite or a safe situation where a family can go to bed at night. There is a shortage of beds for stabilizing youngsters and adolescents.

Chair Cain is concerned about the Oversight Committee not meeting and not having appointments. She asked Director Ashcroft to find out the last time it had appointees. Director Ashcroft thought it had been at least since 2009. Chair Cain said if the GOC thought the Oversight Committee should be reconvened and have appointees, they could send an official letter to the appropriate parties that this is an area that needs to be given attention. She said it appears the Department staffs that Committee and they are prepared to do that.

Sen. Craven said when the last Oversight Committee was dissolved it was non-functional and that some people thought they were not productive. Establishing a new Committee may help.

Director Ashcroft said a recommendation in OPEGA's Report was that if the Oversight Committee was going to be reconvened somebody should review the charge and duties. At the public comment period on this Report, there were individuals that suggested they could see a real value and potential roll for the Oversight Committee. She will get the GOC those public comments. Director Ashcroft said changes to the Oversight Committee required legislation and she didn't know if that was something the GOC wants to

take on. Sen. Craven said it would be useful to look at the makeup of the Oversight Committee because a lot of the dysfunction was among the members.

Director Ashcroft said no action has been taken on it and asked if the GOC wanted to initiate action, either in terms of asking OPEGA to draft amendments to the statute that might be needed, or send it again to the HHS Committee asking them to think about what a good role might be for the Oversight Committee should it be reconvened. Sen. Craven said the HHS Committee was having a public hearing about it on October 29<sup>th</sup> and would like to have an opinion from the GOC to be able to present and invited Director Ashcroft to attend that meeting to talk about OPEGA's Report recommendations.

Director Ashcroft said she was looking for the GOC's opinion regarding whether they wanted to initiate any of the recommendations in OPEGA's Report or should OPEGA close out its formal follow-up. There were four Recommendations. DHHS has taken care of one of them, and the three remaining are all recommendations for legislative action. The GOC, at that time, had forwarded the Report to the HHS Committee asking them to consider whether there was any action that should be taken in regard to the Recommendations. A response was not received.

Recommendations 1, 2 and 3 of OPEGA's Report remain open.

Chair Cain was not comfortable closing Recommendation 3 – Continued Need for Children's Mental Health Oversight Committee Should be Determined. The HHS Committee should be asked whether the Oversight Committee should be reinstated or not. Sen. Burns thinks the responsibilities of the Oversight Committee look vague and it is responsible to report to four different legislative committees instead of one. When you have several places to report to nobody has to take responsibility and it is easy for work to be lost. He would like to know if there is a need or value to have the Oversight Committee and thinks the HHS Committee should make that determination. Sen. Craven said that will be added to the HHS Committee's Agenda.

Sen. Johnson agreed and added that the HHS Committee should also consider if there is a need to better identify the scope and if the membership should change.

Director Ashcroft said for Recommendation 2 – Outpatient Provider Network Needs Ongoing Monitoring - somebody should have the responsibility of watching what was happening to the provider network. If the Oversight Committee is reconstituted should that be assigned to them. Sen. Cain asked if the HHS Committee could discuss that and let the GOC know. Sen. Craven agreed to do that.

Rep. Boland asked if a decision had been made regarding Recommendation 1 – More Detailed Review of Contract with APS Would be Prudent. The GOC asked that Sen. Craven include this Recommendation in the HHS Committee's discussion of OPEGA's Report.

## **REPORT FROM OPEGA DIRECTOR**

- **Status of Projects In Progress**

Director Ashcroft said OPEGA is still working on the Review of the Healthy Maine Partnership Contract and Funding and is planning to have a report for the Committee at its November meeting. The Office of Information Technology Review has been delayed while OPEGA was trying to get Reports out to the GOC. Work has begun on the Tax Expenditure Programs topic. OPEGA is still providing technical assistance for the Education Committee on the Contracted Study of Education Funding and the consultants are in line to meet their deadlines. OPEGA has also started preliminary research on the State Lottery Review.

## **NEXT GOC MEETING DATE**

The next GOC meeting date was not scheduled at the meeting. The Chairs will narrow it to a couple of dates and Etta will poll the members regarding their availability.

## **ADJOURNMENT**

The Government Oversight Committee meeting was adjourned at 2:10 p.m.

## **OPEGA Recommendation for Project Direction Maine Economic Improvement Fund**

### **Background**

The Government Oversight Committee (GOC) first considered a review of the Maine Economic Improvement Fund (MEIF) at its February 22, 2013 meeting and moved the topic to OPEGA's work plan at its April 26, 2013 meeting.

OPEGA's preliminary research for this review has focused on gaining a general understanding of the legislative intent for MEIF, how MEIF is administered and used by the University of Maine System, and what legislative questions or concerns exist about MEIF. To date, our work has included reviewing:

- legislative history of MEIF (10 MRSA Chapter 107-C);
- MEIF Annual Reports produced by the University of Maine System for 2007 – 2012; and
- minutes of GOC meetings where MEIF was discussed.

We have also interviewed select staff at University of Maine System (UMS), University of Maine at Orono (UMO) and University of Southern Maine (USM) to learn how MEIF is administered and data for the Annual Reports are gathered.

We have requested, but not yet had an opportunity to:

- conduct a more in-depth interview with certain staff at UMO; and
- review the report that was expected from the recent Task Force required by PL 2011 Chapter 698.

The Task Force's review was specified to include an assessment of the extent to which past distributions have leveraged external funds and enhanced Maine's economic or commercial capacity, an assessment of the competitive criteria used, and recommendations for any changes necessary to enhance investment in targeted areas and provide basic investment necessary to obtain matching funds and competitive grants.

### **Summary of Preliminary Research and Analysis**

Information from some of OPEGA's preliminary research was provided to the GOC during its consideration of whether to add this project to our Work Plan. See the attached MEIF Summary dated March 8, 2013.

In that Summary, OPEGA noted that MEIF Annual Reports do not include reporting on annual measurable goals and objectives as required by statute. Additionally, we have observed:

- apparent differences in how university campuses allocate MEIF to particular target areas and specific projects;
- apparent differences in how university campuses account for MEIF expenditures; and
- Annual Reports do not specify what target areas the smaller campuses are directing MEIF to.

We also have further questions about some of the financial data presented in the Annual Reports.

Table 1 shows total actual MEIF expenditures for UMO and USM by target area and year as taken from the MEIF Annual Reports produced by UMS. Table 2 shows cumulative expenditure totals for the six year period by target area and percent of total expenditures in each target area. The figures in these tables do not include MEIF expenditures for Small Campus Initiatives since the Annual Reports do not break down small campus expenditures by target area.

Target Area	2007	2008	2009	2010	2011	2012
Aquaculture and Marine Sciences	\$2,111,639	\$2,563,845	\$2,465,552	\$2,020,492	\$1,601,435	\$1,929,331
Biotechnology	\$2,504,271	\$2,837,923	\$2,959,141	\$2,172,228	\$2,818,617	\$2,505,364
Composites and Advanced Materials Technologies	\$792,134	\$1,036,433	\$1,349,359	\$1,746,889	\$2,149,228	\$2,413,679
Environmental Technologies	\$1,390,698	\$1,554,413	\$1,460,598	\$1,261,382	\$1,229,832	\$1,221,854
Information Technologies	\$3,015,078	\$2,954,767	\$2,645,750	\$2,517,029	\$2,273,873	\$2,288,783
Advanced Technologies for Forestry and Agriculture	\$2,633,015	\$2,395,228	\$2,486,024	\$2,434,075	\$2,301,709	\$2,392,268
Precision Manufacturing	\$1,582,260	\$1,495,907	\$1,897,805	\$1,971,098	\$1,935,287	\$1,929,564
<b>Total</b>	<b>\$14,029,095</b>	<b>\$14,838,516</b>	<b>\$15,264,229</b>	<b>\$14,123,193</b>	<b>\$14,309,981</b>	<b>\$14,680,843</b>

Target Area	Total Expenditures	% of Total Expenditures
Aquaculture and Marine Sciences	\$12,692,294	14.5%
Biotechnology	\$15,797,544	18.1%
Composites and Advanced Materials Technologies	\$9,487,722	10.9%
Environmental Technologies	\$8,118,777	9.3%
Information Technologies	\$15,695,280	18.0%
Advanced Technologies for Forestry and Agriculture	\$14,642,319	16.8%
Precision Manufacturing	\$10,811,921	12.4%
<b>Total</b>	<b>\$87,245,857</b>	<b>100.0%</b>

**Recommended Scope Questions:**

If the GOC desires to continue with a review of MEIF, OPEGA recommends a focus on the following questions:

1. What process is used to allocate MEIF to the target areas established in statute and to specific projects within those target areas?
2. What is MEIF being spent on and are the expenses consistent with statutory intent?
3. What metrics does UMS use to measure accomplishments attributable to MEIF? Are these results being accurately tracked and reported? Are there other metrics that might be used to measure success?

**Maine Economic Improvement Fund**  
**OPEGA Summary for the Government Oversight Committee**  
**March 8, 2013**

**Legislative History**

The Legislature created the Maine Economic Improvement Fund in 1997 (LD 1854 - An Act to Establish the Maine Economic Investment Fund enacted as PL 1997 Chapter 556) to provide funding for applied research and development by the University of Maine System (UMS), its member institutions and employees and students in five target areas:

- Aquaculture and Marine Science & Technology
- Biotechnology
- Composite Materials Technology
- Environmental Sciences & Technology
- Information Sciences & Technology

The MEIF's purpose is to act with private businesses, the federal government and public and private research institutions to invest in applied research and development in the target areas within UMS and support the development of private enterprise based on that research and development. The bill anticipates UMS receiving matching funds from public and private sources to augment MEIF.

UMS' Board of Trustees is responsible for administering the MEIF and is required to submit an annual report to the Governor and Legislature by January 1. Initially the statute required that the report address:

- operations and accomplishments of the fund during the fiscal year; and
- provide a statement of fund assets and liabilities at the end of the most recent fiscal year.

UMS was expected (as per OFPR Fiscal Note) to use existing resources to absorb additional costs associated with administering the MEIF, as would the Maine Science & Technology Foundation and State Departments staffing or serving on the MEIF Task Force which was created at the same time.

The Maine Economic Improvement Task Force was charged with reviewing and summarizing current policies and programs in Maine that support research and development, summarizing what other states do and developing a plan with a report due January 1, 1998. Initially the Task Force had 8 members; 2 from UMS, 1 from Maine Technical College System, 1 from Maine Science & Technology Foundation, 2 from the Department of Economic and Community Development, Department of Marine Resources or State Planning Office appointed by the Governor, 1 appointed by the President of the Senate and 1 by the Speaker of the House. The bill as amended added a ninth member from Maine Maritime Academy.

1997 Public Comment and Legislative Debate

Proponents of the MEIF bill in 1997 cited the following in support of the fund:

- Maine being 50<sup>th</sup> in R&D investments;
- the loss of young people from state or "brain drain";
- the fund would stimulate science and technology driven jobs and economic growth;
- this investment of public dollars would leverage many more private dollars coming into the state,
- a national study stating that publically financed research plays a big role in breakthrough industrial innovations and advancements;
- the fund would increase Maine's appeal to business and industry; and

- research in the five target areas can benefit many Maine industries.

Opponents were concerned about reductions to the State’s Rainy Day and Retirement Allowance Fund and wanted to see the private sector fund research and development possibly through some type of tax credit instead. There was also concern expressed about the limited time spent in committee working the bill. The bill was submitted after deadline, coming before the BRED Committee in May.

Materials in the Committee’s written record from Law and Legislative Research Library include a report titled *University of Maine System Research Creates Jobs*. This report describes initiatives already on-going at University of Maine Orono (UMO) and University of Southern Maine (USM) in the five target areas. The report does not mention initiatives by other UMS member institutions or Maine Maritime Academy. Specific initiatives described included:

- Wood Composite Engineering - University of Maine efforts coordinated with Eastern Maine Technical College
- Marine Science & Aquaculture – University of Maine’s new School of Marine Science
- Environmental Technologies – University of Maine research
- Biotechnology – University of Maine basic research in poultry science since mid-80’s and USM strengthening its molecular biology teaching and research capacity through joint effort with biomedical and biotechnology communities in the Portland area
- Information Technology – University of Maine National Center for Geographic Information & Analysis

#### 1999 Amendments to MEIF

In 1999 MEIF’s target areas were modified (PL 1999 Chapter 401) when the Legislature created the Maine Technology Institute (5 MRSA chapter 407) as part of the budget bill. MEIF’s target areas were deleted in the statute and replaced with the following “targeted technologies” as identified in 5 MRSA chapter 407:

- biotechnology
- aquaculture and marine technology
- composite materials technology
- environmental technology
- advanced technologies for forestry and agriculture
- information technology; and
- precision manufacturing technology

The Legislature also amended MEIF’s statute regarding what must be included in the annual report submitted to the Governor and Legislature by the University of Maine System’s Board of Trustees eliminating “accomplishments” and adding a section on goals and objectives. The revised report was required to include:

- the operations of the fund during the fiscal year;
- the assets and liabilities of the fund at the end of its most recent fiscal year; and
- the annual measurable goals and objectives of the fund, as established by the board, and an assessment of the achievement of those goals and objectives. The goals and objectives must include, but may not be limited to, education, research and development.

## 2012 Amendments

In 2012, the Legislature amended the MEIF Statute setting minimum percentages (2.5% beginning July 1, 2013, 3% beginning July 1, 2015) for annual disbursements from the fund to the smaller universities within the University of Maine System – Augusta, Farmington, Fort Kent, Machias and Presque Isle. (LD 1885 - An Act to Amend the Laws Pertaining to the Maine Economic Investment Fund enacted as PL 2011 Chapter 698.) MEIF annual report requirements were also amended to include a summary of the research and development projects funded with the minimum percentage distributions made to the smaller universities and any external funding sources leveraged with those awards.

In addition, the bill established a new six member Task Force charged with reviewing the MEIF. The review will include an assessment of the extent to which past distributions have leveraged external funds and enhanced Maine's economic or commercial capacity, an assessment of the competitive criteria used and recommend any changes necessary to enhance investment in targeted areas and provide basic investment necessary to obtain matching funds and competitive grants. It was due by January 8, 2013, but the Legislative Council did not appoint Task Force members until December. UMS staff estimates completing the report in March 2013.

## 2012 Public Comment and Legislative Debate

Debate on LD 1885 focused on how much of the MEIF to reserve, and whether or not to phase in over time, the set aside for the smaller universities.

At the public hearing before the LCRED Committee no one spoke against the bill. Proponents noted:

- MEIF represents an annual investment by the Legislature in applied research through the University of Maine System of \$14.7 million
- The fund must be spent in 7 targeted areas and the University uses it to leverage federal and private funds that play an important economic development role in Maine.
- Between 1997 and 2008 the University of Maine System granted all MEIF funds to UMO and USM, yet there are 7 campuses in the U Maine System.
- In FY2009 the University created the Small Campus Initiative making \$100,000 available to the smaller campuses on a competitive basis.
- An additional \$100,000 was made available in 2009 for projects at U Maine Machias and U Maine Fort Kent.
- The Legislature rather than the leadership of the University of Maine System should be responsible for dictating whether or not MEIF funds are available to small campuses.
- MEIF funds can help the smaller campuses become more attractive to students and faculty.
- Locating applied research near businesses and entrepreneurs in rural areas make it more likely technology transfer, and job creation, will occur.
- More dollars at the smaller campuses will encourage collaboration among U Maine System campuses.
- This will help support marine science and aquaculture research and help Maine's coastal economy.
- MEIF funds used to leverage other grants have an average return of 4:1.

U Maine System supported the bill with a phased in approach. UMS representatives also stated that the program works best when given maximum flexibility and that UMS would prefer to be allowed to make award decisions based on its own competitive processes.

Legislative debate included the issues noted above. Proponents believed the original intent was for MEIF to go to U Maine System's seven campuses, not just two, and cited fairness as an issue. Proponents also mentioned instances of research important to Maine's economy being conducted at the small campuses.

Some legislators were not in favor of setting money aside immediately because of the impact of reducing funding on projects needing time to wrap up or transition. A desire not to micromanage the universities was expressed as was a preference for concentrating efforts where there is capacity, ongoing research work and infrastructure in place. Another point made was that the 3% set aside more than doubles what the smaller campuses are currently getting.

### **MEIF Annual Reports for 2004-2009 and 2011**

OPEGA reviewed the annual MEIF reports available for 2004 – 2009 and the report for 2011. Those reports consistently include the amount of money from private and federal grants and contracts leveraged by MEIF at UMaine and USM; the number of full-time equivalent positions supported through MEIF and leveraged funds; and an accounting of the sources and uses of funds, including a summary of total dollars spent in each targeted area by university. Some annual reports also described the patents applied for and awarded.

Annual reports for 2004 – 2009 include narratives highlighting activities at UMaine and USM by targeted area. Those narratives include descriptions of projects, faculty and students involved, any partnerships and/or other private or federal funding sources of support, and actual or anticipated results. Since 2009, reports have also included awards made under the Small Campus Initiative that makes \$100,000 available on a competitive basis to the five other UMS universities.

According to UMS, they found people did not read the glossy magazine style report any more than the type of "bare bones" reports produced from 1998-2004. It was also was time intensive and costly to produce. In 2011, as part of cost savings initiatives, they went back to producing a much shorter annual report that met the statutory requirements. The report included a very brief summary of leveraged funds, positions supported, and updated appropriation and utilization of funds data. Narratives describing the activities and projects being funded were not included. (2011 Annual Report is attached.)

OPEGA observed that none of the annual reports included a discussion of the annual measurable goals and objectives of the fund, as established by the board, and an assessment of the achievement of those goals and objectives. Statute (10 MRSA §948.1.F(3)) has called for inclusion of that information in the annual report since PL 1999 Chapter 401 became effective.