SEN. ROGER J. KATZ, SENATE CHAIR
REP. ANNE-MARIE MASTRACCIO, HOUSE CHAIR

MEMBERS:

SEN. NATHAN L. LIBBY
SEN. PAUL T. DAVIS, SR.
SEN. BILL DIAMOND
SEN. GEOFFREY M. GRATWICK
SEN. THOMAS B. SAVIELLO
REP. JEFFREY K. PIERCE
REP. JENNIFER L. DECHANT
REP. MATTHEW A. HARRINGTON
REP. DEANE RYKERSON
REP. PAULA G. SUTTON

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY

March 10, 2017

CALL TO ORDER

The Chair, Rep. Mastraccio, called the Government Oversight Committee to order at 9:03 a.m. in the Burton Cross Building.

ATTENDANCE

Senators:	Sen. Gratwick and Sen. Saviello Joining the meeting in progress: Sen. Libby Absent: Sen. Katz, Sen. Davis and Sen. Diamond
Representatives:	Rep. Mastraccio, Rep. Pierce, Rep. DeChant, Rep. Harrington, Rep. Rykerson and Rep. Sutton
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Scott Farwell, Senior Analyst, OPEGA Jennifer Henderson, Senior Analyst, OPEGA Joel Lee, Analyst, OPEGA Ariel Ricci, Analyst, OPEGA Etta Connors, Adm. Secretary, OPEGA

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

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

Director Ashcroft introduced Ariel Ricci, OPEGA Analyst. Ms. Ricci joined OPEGA on February 27, 2017. The Committee welcomed her.

SUMMARY OF THE FEBRUARY 17, 2017 GOC MEETING

The Summary of the February 17, 2017 meeting was accepted as written.

82 State House Station, Room 107 Cross Building
Augusta, Maine 04333-0082
TELEPHONE 207-287-1901 FAX: 207-287-1906

NEW BUSINESS

- **Presentation of OPEGA's New Markets Capital Investment Report**

Director Ashcroft thanked OPEGA staff Ms. Henderson and Mr. Lee who primarily worked on the review, the Finance Authority of Maine, staff at the Maine Revenue Services, the folks who represented the business community and the representatives of the particular businesses and projects that have been recipients of the funding under the Program. (The Report is posted on OPEGA's website at http://legislature.maine.gov/opega/opega-reports/9149 or a copy can be obtained by contacting the Office.)

Rep. Mastraccio said members of the Taxation and Labor, Commerce, Research and Economic Development (LCRED) Committees were invited to the meeting. She welcomed Sen. Dow, Rep. Cooper, Rep. Grant and Rep. Stanley from the Taxation Committee and Rep. Austin, and Sen. Bellows from the LCRED Committee.

Director Ashcroft presented OPEGA's New Markets Capital Investment Report. The GOC's comments and questions included:

Sen. Libby referenced the $250 million talked about on page 13 noting it does not represent the amount of tax revenue that may be going out the door in the form of reimbursements. The $250 million is the amount of investment that could be eligible for a tax credit. Director Ashcroft said that was correct and with the $250 million available for allocation, the most the State would pay in tax credits is $97.5 million and that would be stepped out, depending on the timing of the projects, over a seven year period for each of those projects.

Rep. Rykerson asked if the same entities participating in the State program were created for the federal New Markets Program. Director Ashcroft said many of these deals have both federal and State program allocation involved in them and the CDEs that are participating in Maine's Program have to be active and in good standing with the federal program. The equity investors have the same criteria for being an equity investor under both programs. The way Maine's Program is set up and the way a QALICB is defined, there could be eligible businesses in Maine's Program that would not be eligible under the federal program.

Sen. Gratwick asked if the Maine pattern is similar to federal patterns. He questioned whether the investor would find the same kinds of opportunities, rules and regulations in Utah, Michigan and Maine or, if they are different, why and how is Maine unique. Director Ashcroft said OPEGA identified fourteen other States that currently offer a state level New Markets Program. She referred to a table in the Report that lists those states, what they offer for credits and what the credit schedule is for each one. The amount of credit and credit schedule in Maine may differ from the federal program and from other states. She said Maine offers the same level of credits as the federal program, but on a different schedule. Director Ashcroft said beyond that, she did not know what specific differences there might be in various states' programs that differ from the federal program or Maine, but she assumes that there are likely some uniquenesses. However, those that are offering a state level New Markets Program have likely done what Maine has done and modeled it on the federal program. There are lots of similarities, but said there is a section in the Report that describes where Maine is different from the federal program.

Sen. Gratwick asked whether Maine's particular differences from the national program were a conscious effort to make it better for Maine than the federal rules were going to allow. Director Ashcroft thought the answer for some of the differences is yes, but for some it is because the Legislature decided, for example, they wanted to change the definition of a QALICB. So some of the changes that have occurred in the rules, or the statute, have been decided through the legislative process and are different than the original design decisions made for the Program.

Rep. Rykerson referred to the refundable aspect of the Program and asked if the Director would be delving into that later. Director Ashcroft said she would be and that Maine is the only State that is offering a refundable credit. The federal government's credit is not refundable either, but the equity investors who have been investing in Maine so far, are not likely to have Maine tax liability. Therefore, offering a refundable credit makes the potential investment opportunity more valuable for them. It does raise the question of whether the credit really needs to be refundable and how are other states doing with their credits that are not refundable. She said there is some difference in the impact to the State and where that fiscal impact is landing because the refund is a payment right out of the General Fund, as opposed to an off-set against revenue that the State might otherwise take in.

Rep. Sutton referred to the distressed areas qualifier and asked how Cumberland County fit into the criteria. Director Ashcroft said at the federal level it is based on census track not on County. OPEGA used the County map because it did not find a suitable census tract map to use. She said there are census tracks within Cumberland County that meet the federal low income criteria.

Rep. Mastraccio asked Director Ashcroft to talk a little more about the transferability of the tax credit. She said $59.5 million was taken as compensation for transferring the credits and thought that was a lot of tax credit. Director Ashcroft said the transferability is for the tax credit itself so any of the three investors who have gotten tax credits so far could potentially sell them to other entities and thereby transfer the credit. She said there is a process for them to notify FAME and then for FAME to notify MRS so everybody is on the same page as to who is actually eligible to claim the credit. That is the transferability piece. What Rep. Mastraccio mentioned, however, might also be about the allocation. Director Ashcroft gave the example of a CDE that had received $50 million in allowable State tax credit authority, or allocation authority. That $50 million can be used for any different kinds of investments. When the CDE goes to make any particular investment, the CDE might keep a portion of the investment in exchange for allowing the particular business to benefit from the use of its allocation for this investment as opposed to other investments. She said everybody is going to cover their costs and then determine what additional margin they might need to take in for themselves.

Sen. Libby asked about the fee the CDE is taking. Director Ashcroft said the CDE is the one that is setting up the deal so it is a fee for their work in bringing the whole complicated picture together. As she mentioned, one of the CDEs was also taking advantage of the opportunity to make other investments by retaining a portion of the QEI that comes in for that. She said they are all slightly different.

Rep. DeChant asked if the CDE who is taking and using it for additional leverage is completely within the allowances of how the Program is structured? Director Ashcroft said yes and each CDE has different target investments they are after and ways they model their investment portfolios. She said nobody is doing anything wrong, they are all within the purview of what is allowable under the Program. Overall OPEGA noted that the $16 million or so the CDEs had gotten from the investment is about 8% of the total QEI which is well below the 15% they are allowed to keep under the Program. Director Ashcroft noted that the CDEs are doing a lot of work in monitoring the businesses so one would expect that they would be recouping those costs.

Rep. Rykerson said the 15% is the maximum and that it could be used for reinvestment or revolving loan. He asked if there were any limitations for what it could be used for. Ms. Henderson expanded on why that one CDE, as described to OPEGA, has the different model and what makes them a little different. She said most of the CDEs are looking to make an investment in the business and have it stay there for the whole seven years. They are not really doing more with the invested funds over the seven years other than monitoring to make sure the business is using it as intended and that things are going according to plan. This other CDE has what they described to OPEGA as a completely different model and their plan is not for the investment to necessarily stay in the business for seven years at all. They are looking to make an investment and may have the investments paid back to them before the seven years. This CDE is often more actively involved and may be a participating or silent member of the board. This CDE has already had one investment paid back to them that they have made in Maine in just a couple of years. The CDE then needs to reinvest those funds to keep the tax credits certified. They say they take the 15% upfront as a cushion because sometimes the second or third investment may not exactly match the amount of the first investment so they need to have a little bit of flexibility to make sure they can keep on rolling the invested funds into new businesses as they get paid back.

Rep. Rykerson said what Ms. Henderson described makes sense for that particular model, but for a more typical model wanted to know if there were any parameters for what they can use it for. Director Ashcroft said not that OPEGA was aware of, or that was lined out in statute or rules that they have seen.

Sen. Libby asked if OPEGA could explain why this one particular CDE decided to use this model. He did not understand the benefit to the CDE, or to the business, and he thought it would be a challenging prospect to repay a multi-million dollar loan in just two years. He asked if OPEGA could explain why Advantage does it the way they do. Ms. Henderson said she could only share what Advantage shared with OPEGA. They said that prior to the New Markets Program they had this model they were using under other economic development programs. When the federal New Markets Program came along they became eligible for that program but continued with the model they had always had. She said it did not occur to them to do it in a different way. Subsequently they noticed others doing it in a different way, but they were happy with their model and it works well for them. She said it seems effective because so far they are getting the same tax equity credit investors. This indicates there is a feeling of security about the investment if the same investors still want to participate. Ms. Henderson said there is also a fairly competitive federal application process. Maine does first come, first served, as far as distributing allocations but at the federal level they have to present their cases for why they should get a certain amount of allocation. This CDE has continued to get a federal allocation, even though they have the different model.

Director Ashcroft said OPEGA also heard from some of the businesses where the representatives of the CDE sits on the Board, or are otherwise partners, and they saw significant benefit from having somebody with that level of expertise be part of the discussion about what was going on with their business. She said as the CDE described it to OPEGA, they keep turning the dollars over, so in some ways there are more businesses that are potentially getting investment and being successful to the point that they do not need the investment any more. OPEGA did not see anything one way or another that said one model was any better, or worse, than any other, just that they are different and operate differently.

Rep. DeChant referred to the Chart on page 31 and asked if there was more than one CDE in a deal. Director Ashcroft said there can be and a number of them that OPEGA looked at did have more than one CDE. She referred to the case study for Great Northern and said there were two CDEs involved.

Sen. Gratwick asked if a CDE applied for State grants do they also need to have a parallel application for federal monies. Director Ashcroft said you do not have to, but the CDEs will often use the allocation they have from the federal programs in these deals as well. She said sometimes the same invested dollars that they are putting into the qualified equity investment qualifies for credits under both the federal and State program. Sometimes it might be separate pieces of the investment getting federal credits and a different piece getting State credits. Director Ashcroft said the end goal is to make sure that the equity investor is getting a level of return that will allow them to leave that money in the business and to not have the business have to repay the portion that is coming from their investment over time. So there are different mechanisms, including the idea of a leverage loan, that are used to get those credits to a level of where the equity investors have the rate of return that is required for them to make the investment.

Sen. Gratwick asked what level of return is deemed appropriate and is there federal oversight of all seventeen states where they have the New Markets Program. For example, and if there is an error made in one program will that information be relayed to the other sixteen states so that same error is not repeated. Ms. Henderson said OPEGA did not know of any coordination like that between the state and federal programs. The question of what is an appropriate level of compensation is one that has been struggled with at the federal level as well and has been cited in some Government Accountability Office (GAO) reports as an area of concern. Sen. Gratwick asked what the parameters were, 2%, 7%? Ms. Henderson said there are not any that OPEGA knew of at this point. Director Ashcroft said that is talked about in the GAO report. The issue they raise is the potential, or risk, that an investor could receive something that is an above market rate of return. Therefore, one might assume that they are basing that on whatever the going market rate might be expected for an investment at that time, but there is no percentage amount.

Sen. Saviello said when OPEGA looked at the specific returns on a dollar in and a dollar fifty back, or three dollars back, how did that compare. Everything on the surface should tell him he thinks this is a successful program, but if he does not know how that return compares to other programs he can't get there. Director Ashcroft said that is OPEGA's challenge with any of the programs. Even for the desired outcome, OPEGA is drawing from something that is broad and general in terms of a stated intent. Nowhere has anybody established a measurable quantifiable objective, and the Director did not know if the State ever had discussion about what its appetite is for risks in any of these programs, how much it is willing to spend per job, or anything like that. OPEGA has not done enough evaluations of other programs yet to have these same measures available for other programs. She said until OPEGA gets a few tax reviews done and has some things to compare to, they are going to be in that exact position of not knowing how any one program compares to anything else..

Sen. Gratwick thought there must be some structure or scale used to figure out how risky an investment is. Director Ashcroft said any of the firms that do this sort of thing successfully have established criteria for what they will and won't invest in. She did not know what those criteria are and what plays into them, but she would expect the State to come at it from a little different perspective then the folks that were looking to make money from their investments. She thinks the State might have a different set of criteria that it would use to determine what it thinks is a worthwhile investment.

Rep. Rykerson asked if the equity investors in the programs were a public record. Director Ashcroft said the FAME records OPEGA reviewed are all public documents and the folks that are the equity investors are named in the documents. OPEGA did not seek any confidential tax payer data from MRS.

Rep. Mastraccio said in looking at some of the outcomes, some of the companies took advantage of other tax incentive programs. Those programs have their own desired outcomes so there might be multiple ways to evaluate them. She said it was a pyramid of many tax credit benefits. She would be interested in knowing how much a job cost with all of those other programs factored in. Director Ashcroft said that is going to be another real challenge going forward because OPEGA had evaluated just the outcomes of this Program, but as Rep. Mastraccio points out, a business project that retains two hundred jobs might be supported by other programs as well. Not only do you not know whether that project has been supported at a level that exceeds what was necessary for it to go forward, but you do not have the information to be able to say out of the two hundred jobs, fifty are due to the New Markets Program and fifty are due, for example, to the Pine Tree Development Zone Program. Rep. Mastraccio said as of now they are all be attributed to New Markets and, in fact, maybe should not be. Director Ashcroft did not know when OPEGA will get to a point in the tax expenditure reviews where there is enough information to start trying to bring those pieces together. Rep. Mastraccio thinks it is an important thing to keep in the back of their minds, that it is not just one program and that it is important to look at these companies a little more globally when evaluating what kind of investment the State made in a particular company. Director Ashcroft said you would have to evaluate it from a company standpoint.

Ms. Henderson said she and Director Ashcroft had talked about the difficulty of identifying all the benefits accruing to a particular project. They agreed it did not fit in this Report as an issue because it is not a problem with this Program necessarily. It is more a problem about how the State manages the data related to businesses, and the benefits they are getting. Some of the data belongs in one agency and some belongs in another agency and the two can't share. Even if OPEGA tried to bring the data together, it is not always compatible and doesn't fit together well. Ms. Henderson said in talking with colleagues in other States, she knows some States have gone to a single point of entry for any business benefits. They are able to much more cleanly keep track of what particular benefits a business is getting because they have all of that data in one agency. Rep. Mastraccio hopes that is an issue that will be addressed sooner, rather than later, because it would be easier to do. Director Ashcroft said there are several of those kinds of issues that she would categorize as current challenges in evaluating these programs that are not specific to just the New Markets Program. It is her intent to submit at least a memo, if not a mini report, to the GOC with regard to what those challenges are because under the statute that sets up the tax expenditure review she and the GOC are encouraged and allowed to think about process changes that need to be made. She said one change needed is definitely in the area of the data, not only how it is kept and collected, but what is allowed to be shared publicly and what has gotten in the way in trying to evaluate these programs in a way we want to.

Sen. Saviello asked what organization in the other states was the data being collected and kept. Ms. Henderson said it is not something that OPEGA researched exhaustively, it is something she knew from talking with colleagues. She said in one state it is the Revenue Services agency, but she did not mean to imply that is the only way to do it. She said in that State the Revenue Service is also the entity that does evaluations, so is set up to do that. Ms. Henderson could not recall which state that was but will find that out for Committee members. Director Ashcroft said because of the way Maine Revenue and confidential data is currently set up there would be some challenges if Maine Revenue Services was the point of contact.

Rep. DeChant said she had done some of this kind of research in the past and found the Department of Commerce to be the point of entry.

Sen. Saviello said Maine looks at offering Tax Credits as one of their economic opportunities to bring business into Maine. He commented that other states may have sunsetted their similar program because they have other programs to offer. Director Ashcroft said OPEGA does not know what other states have for incentive packages, but it is OPEGA's own observation that the equity investors here have been described as firms that trade in tax credits. They are looking for investments so that means if a state that has programs with tax credits it is probably getting looked at, regardless of whether it is New Markets or not.

Sen. Gratwick said the federal Program has been around since about 2000 and asked if it is going to continue on a regular basis because he understands Congress has to allocate to the program every two years. Director Ashcroft said she did not know. Mr. Lee believes they are funded at the federal level through 2019 so expects them to go that far unless there is some significant change made.

Sen. Libby wanted to confirm that the net impact is just for the New Markets investment and does not take into account other funds incented by other tax programs. Director Ashcroft said that was correct and said for four of the businesses OPEGA felt like the investment they got from the Maine New Markets Program allowed them to attract other investment that they would not have otherwise gotten. She said OPEGA did factor in those leveraged amounts, that the business also spent, into the impact model.

Sen. Libby said, without considering whether these businesses took advantage of other programs available to them, we are saying that the net impact from the New Markets Program for the State is a net positive of $16 million in tax revenue. Director Ashcroft said if you put it in the box of just this program, that Rep. Mastraccio was poking holes in earlier that would be correct. OPEGA does not know how much of this would be attributable to other State benefits that they are receiving, if they are.

Rep. Mastraccio said it would also be how much of that might increase or decrease. Director Ashcroft said OPEGA does not know because the projects are fairly new, so there is not a good way to guess what might happen with these businesses beyond the current state. She said in that way OPEGA is erring on the conservative side in terms of what the impact may be, assuming that they are all successful in maintaining what they have done so far where jobs are concerned.

Sen. Gratwick thought NCSL would have information on cost per job because others have reviewed it. Director Ashcroft said for NCSL to have data on cost per direct job, somebody would have done the kind of evaluation work that OPEGA just did on all of those programs. She said there are a couple of states that have been doing this work for a long time and might have the numbers, but a lot of the other states are like Maine and are just getting started with this kind of evaluation.

Rep. Mastraccio asked what the federal government has done for work on cost effectiveness. Director Ashcroft said the federal government is trying to judge cost effectiveness by the amount of equity remaining in the business. OPEGA did not see any indication the federal government had looked at the per dollar of tax credit measure.

Rep. Rykerson said this information includes the State taxes that 764 people would be paying, but does not include, for instance, if they buy a house and pay local property taxes. Director Ashcroft said the additional state tax revenue is revenue that accrues at the State level. OPEGA did not incorporate property or excise taxes, etc. that are received at the municipal or county level.

Rep. Rykerson asked if it would include, for instance, State sales tax revenues associated with those 764 jobs. Ms. Henderson said OPEGA looked at direct jobs and impacts to indirect jobs and then the induced jobs and impacts. She said those are the impacts that are more associated with a person keeping his/her job and therefore having more money to go to the local pizza parlor and, therefore, another pizza job is supported. Those are not shown in the information in the report. Director Ashcroft noted that what would be expected for spending by a particular person who has a job in the economy is captured at a State level. Ms. Henderson said Rep. Rykerson was asking for a level of specificity that she is not sure is shown in the model OPEGA used. The model is built with a national framework and even though they got the State level module that reflects Maine's supply channels, it does not always reflect the specific breakdown of the types of taxes we have. She would have to go back to see if OPEGA has those specific details.

Sen. Libby said you take into account the income tax generated by the 764 jobs and the income tax generated by the indirect jobs as well. Ms. Henderson said for supply chain jobs that was correct. He asked if OPEGA took into account some portion of that person's income coming back to the State via sales tax. Ms. Henderson said she would have to check for which jobs, direct and/or indirect, the model does generate sales tax associated with their spending.

Recommendation 1 – Opportunities to Improve Program Design and Cost-Effectiveness Should be Considered if Legislature Authorizes Additional Allocations

Rep. Mastraccio wanted to confirm that CDEs put their application in and as long as they qualify for the federal program then they are assumed to qualify for the State. There is no risk assessment involved at all, it is just that they qualify. Director Ashcroft said correct. At the federal level the administering agency also does an evaluation on how successful the CDE has been in the projects they have invested in and Maine does not do that. Maine assumes if they are getting federal allocation that they have proven themselves successful enough to have gotten a piece of the federal allocation. There is then enough going on there for Maine to feel comfortable.

Rep. Mastraccio asked if OPEGA had gotten a sense that there was any concern from FAME, or that nobody was concerned, with that aspect of the piggybacking. Director Ashcroft said no and it makes it administratively efficient.

Sen. Gratwick said most of Maine's businesses are small and he would rather give ten allocations of $5 million each as opposed to one for $50 million. He noted that is a policy decision that is going to require an economist to make. Director Ashcroft said what Sen. Gratwick is saying is also an interesting point. An observation that OPEGA took away from the review is that for the most part this program is probably not something that small businesses are going to take advantage of mostly because of its complexity. The businesses have to put in a lot of their time and sometimes also money to hire professionals who will help them figure out what is going on with the deal for them. She said there was one business that got a small investment, $575,000, which was all that they needed. The only reason they got the investment, however, was because the CDE, which is an advantage of the model they use, used one QEI to fund three different projects. By doing this, they could afford to have one piece of that be a smaller investment as opposed to a larger investment.

Sen. Gratwick asked for the break point for a small versus large business. Director Ashcroft did not know what the cut off would be there.

Rep. Mastraccio said the piece that was also missing for her was when you are looking at the large company need for this kind of investment, how does that fit into Maine's long range economic development plan, which Maine does not have.

Recommendation 2 – Legislature Should Consider Incorporating Recent FAME Rule Change into Statute

Sen. Gratwick asked whether the federal rules came into effect after Maine had its misadventure with Great Northern Paper and Cate Street Capital. Director Ashcroft said she did not know to what degree one-day loans were already an issue at the federal level. She did know that the timing of when the new guidance came out coincided with the timing of when it was getting hashed out here.

Sen. Gratwick said when this all happened Maine was considered to be unsophisticated, had not done its homework and those advocating for establishing the program had come in and taken advantage of that. He asked whether that loophole has been closed, and are there things Maine should be looking at in addition. Director Ashcroft said OPEGA is not in a position to tell the Committee what else these entities might decide to put together as financing structures for the deals. Some of the financial structures are complicated because the various entities are trying to stay, not only in compliance with the federal and State programs, but all of the other tax related rules so that nobody is paying more taxes then needed. When using multiple programs, it gets even more complicated because they need to meet the rules around those as well. She said whether there are other opportunities in the whole mix to structure things in ways that people might perceive as being wasted dollars, she cannot say. What OPEGA came to understand was, while one-day loans looked bad on the surface in terms of Maine giving tax credits for money the business does not have to invest, the purposes for which they were done still drive to the larger goal of trying to make sure we get some investment into a business that will stay. The deals that involve the one-day loans have less than $1 per tax credit dollar available for business spending. The new FAME rule discussed in Recommendation 2 closes that loop hole to some degree, but she does not know what other things people might put together.

Sen. Gratwick said in the larger perspective we all make mistakes, he does not mind making a mistake, but he only wanted to make the same mistake once. He wants to make sure Maine is taking all due caution and agrees that so much that has been done has been good.

Rep. Rykerson asked how do you evaluate some of these issues except experimentally. There is a possibility that Maine is less attractive without the refundability of the tax credit, but you don't know that. Ms. Henderson said Rep. Rykerson was right. OPEGA did look at other states and saw that others do not have a refundable credit, but cannot necessarily take that to mean that Maine can remove refundability without their being side effects. They may have some of these investors who actually do have bases in their states so do have a tax liability. OPEGA has not done that level of research. Director Ashcroft said what would be important to do in considering any of these things would be to talk with the folks who are putting these deals together as they know what is going on with the various parties.

Director Ashcroft said she would not say the State made a mistake in not being able to identify upfront the concerns that would emerge with how some of these deals were being put together and there was a lot to understand about how these programs were already working at the federal level that maybe Maine could have asked more questions about because what is happening at the federal level is translating down to the way these things are getting put together in Maine. In doing that, Maine might have understood better what the possible areas were that you would not want to see happen in the State. Ms. Henderson said OPEGA also talked about Maine being at somewhat of a disadvantage because OPEGA was doing the evaluation intensively for a year, but the people who do this for work are ultimate experts and are spending all of their time every year thinking of new ways to do this. You can't always anticipate what they might think of to do next now that the one day loop hole is closed. She thinks that in such a complex program there are many opportunities for those types of risks.

Director Ashcroft said the other thing people did not realize that hit hard when all the publicity came out around Great Northern Paper is that this Program carries risks. People tend to think we should not have invested in GNP, but if you read through the case study on it you do get a different perspective on it. The State is assuming some of the risk and by virtue of that, you either want that risk in your program or you don't. She thinks those are the conversations that nobody has really had and could be thinking about.

Recommendation 3 – Guidance Should be Established for Potential Situations where Annual Aggregate Claims Exceed $20 Million

No questions or comments by the GOC members.

Recommendation 4 – Data Needed for Efficient and Effective Program Evaluation Should be Captured and Maintained

No questions or comments by the GOC members.

Director Ashcroft summarized Appendix C. Great Northern Paper: Case Study of a Maine NMTC Program Project at the request of Rep. Mastraccio and agreement of GOC members.

Rep. Rykerson asked if the information OPEGA used was from FAME or did OPEGA talk with the investors. Director Ashcroft said OPEGA got some information from FAME documents and spoke with Cate Street Capital representatives who, not only spoke with OPEGA, but also provided a lot of separate documentation about their uses of the funds, etc. Ms. Henderson noted that OPEGA also spoke with the CDEs that were involved.

Sen. Dow, Senate Chair, Taxation Committee referred to Appendix B and asked for clarification of how to interpret "The Low Income Community:" box for each of the projects. Director Ashcroft said the project had to qualify under the federal definition for a low income community and that is done on a census tract basis so the information in the box is the information about the census tract. The statistics noted for the census tract do not necessarily equate directly to any particular municipality or county. Census tracts are split up in various ways that do not align with thinking about the comparison between municipalities, for example, Portland and Millinocket.

Rep. Mastraccio asked if the population in an area a business happens to be located in is an area where the population might be qualified for the poverty rate, but does not mean that the whole city is. Director Ashcroft said the census tract is determined by population, about 4,000 people per census tract. When you think about them going out to do the US Census it is the clumps they put the results into when they are reporting out the gathering of census information.

Rep. Mastraccio said it is possible that the unemployment rate of 3.8% in that particular area of East Millinocket reflects an area where people live close to the area where they were actually working. This makes it a low unemployment rate, whereas if you went out further it would be higher. Director Ashcroft agreed.

Sen. Bellows, member of the LCRED Committee, referred to page 38 where OPEGA detailed the new job creation and asked if, in addition to Great Northern, three of the Maine based businesses that benefited from the investment did not add any new jobs. Director Ashcroft said correct, but wanted to make sure she understood Sen. Bellows' comment when she said they did not create any new jobs. She said for example, for one of the businesses, OPEGA would have factored into their results whatever jobs were created in the period they existed for.

Sen. Bellows referred to the 764 jobs that were created and that number is important to the model used in the Report that generates the benefit per job and also the GDP growth per job. When she did the calculations she could only get to 300 something new jobs so asked if OPEGA could put together for the LCRED Committee a breakout of where the 764 jobs come from. Rep. Mastraccio thought that information was in all of the summaries and said she recalled in one summary there are over 350 jobs that are still existing. She said you have to read through the whole thing. Director Ashcroft said she did not talk about how the inputs to the models were derived and referred to the Estimated State Impacts section of the Report. She said the profiles of the Businesses in the back of the Report are based on information OPEGA got from interviews with the businesses and what they said happened in their projects and how many jobs they had created. OPEGA took that information, as well as information that the CDEs had been reporting in their annual reports, and OPEGA's understanding of what the status of the business and project was at the time of the investment, and made a determination of how many of the jobs they were claiming did OPEGA think were directly attributable to the New Markets Investment. Director Ashcroft expected that if you added up all of the jobs listed in the profiles in appendix B that number should be more than the 764 jobs used as an input to the model.

Sen. Bellows said she'd like to see the number of jobs OPEGA attributed to the Program for each of the ten businesses so we can look to see, for example, 45 new jobs were jobs that were retained and which ones OPEGA put into the model. Director Ashcroft said OPEGA was hesitant to discuss business specific impacts for the Program, primarily because of the risk in the way it might be publicly viewed. OPEGA does not want to make any business seem like they were not an appropriate investment or did not have a project that was supposed to have some impact to Maine's economy. OPEGA did not do any economic impact modeling at a business project level. Director Ashcroft said she would follow-up with Sen. Bellows to discuss further OPEGA's approach to the modeling.

Director Ashcroft said the GOC will be holding the Public Comment Period on the New Markets Capital Investment Program Report at their March 24, 2017 meeting. That is the time for anyone to come speak to the GOC about the Report. She said this Report is a little different than other OPEGA reports because the GOC, under statute, will not be the committee that will be addressing the Report recommendations or deciding if there is anything that needs to be done with the recommendations. Those decisions will be for the Taxation Committee to decide and the GOC will be transmitting the Report to the Taxation Committee prior to July 1st. She said, however, OPEGA/GOC will also transmit to Taxation whatever public comments that come up at the GOC meeting that is relevant to some of the work the Taxation Committee is going to do. Director Ashcroft said even though statute says the report should go to the Taxation Committee, she believes it is the LCRED Committee that will also be looking to weigh in on some of the Report recommendations and it will have to be decided between the policy committees how to handle that. Following the Public Comment Period, the GOC will have a Work Session to either endorse or not endorse the Report.

UNFINISHED BUSINESS

- **Continued Discussion and Action of Proposed New Topics**

- Guardians *ad litem*

Rep. Sutton said she has been learning more about the pending Guardian *ad litem* bills that are being considered in the Legislature and asked if the topic could remain on the new topics list until the next meeting. The GOC agreed to do that.

- State Law Enforcement Agencies Undercover Operations

Director Ashcroft said OPEGA did speak with someone at the Attorney General's Office and it is the AG's understanding that the only agencies that carryout the kind of undercover operations the Committee might be thinking about are the State Police, Inland Fisheries and Wildlife and the Maine Drug Enforcement Agency. She thinks those are the three agencies the Committee would be talking about with regard to the scope of the review. OPEGA asked the AG's Office what oversight or involvement, they have in an undercover operation or with regard to the policies and procedures that the State agency is following and OPEGA was told the AG might get involved in either of those ways if the agency requested it.

Sen. Saviello said the District Attorney's Office may not get directly involved in the procedures but, at least from Inland Fisheries and Wildlife standpoint, they are directly involved in the decision to do the undercover operation. He said depending on where the DA is, some are very much involved and some are not. He said there is collaboration between the agency and the DA's Office.

- Maine Power Options

The GOC had requested OPEGA get additional information on MPO. Director Ashcroft said that information is included on the On Deck list document.

Rep. Rykerson said MPO does have a reporting requirement and asked if OPEGA downloaded those Reports. Director Ashcroft was not sure if OPEGA had done that.

Sen. Gratwick said there is still very little data that is available on Maine Power Options. He was forwarded the Reports from the Maine Government Facilities Authority, Maine Municipal Bond Bank and the Higher Education Authority, but he did not see anything that relates to MPO in the Report.

- Temporary Assistance for Needy Families

Additional information was gathered on the TANF topic and is included on the On Deck list document.

Sen. Gratwick asked if the $110 million was federal or State money. Director Ashcroft said it is federal block grant money.

Rep. Mastraccio wanted to know if the $110 million dollars is sitting in the bank that has not been spent on TANF that Maine oversees. Director Ashcroft said she did not know what bank the money is sitting in, it is federal block funds so she does not know if it is a situation where it just has not been drawn down yet or whether Maine actually has it.

Rep. Sutton said perhaps Maine's programs are working and, therefore, less people need them.

- Commission on Indigent Legal Services

Additional information was gathered on the Commission on Indigent Legal Services topic and is included on the On Deck list document.

Sen. Saviello asked if there was any topic on OPEGA's Work Plan that they have done a lot of work on already. Director Ashcroft said OPEGA has done the preliminary research on the Northern New England Passenger Rail Authority topic. Sen. Saviello thinks that information is important when ranking topics and should be included in the information emailed to the Committee.

Rep. Mastraccio urged Committee members to read OPEGA's Information Brief on NNEPRA prior to their ranking of the topic

Director Ashcroft said the GOC is working toward deciding what reviews they want to add to OPEGA Work Plan for 2017-2018. At their last meeting they were provided information about new requests that had come in, as well as information on the On Deck List topics. The GOC asked OPEGA to do additional research on the New Requests topics. She was now looking for the members of the Committee to decide what topics they wanted to add to OPEGA's Work Plan.

Director Ashcroft will email the GOC members a ranking/scoring exercise with the list of topics remaining under consideration. Members will rank the topics and email that information to OPEGA prior to the March 24th meeting.

- **Continuation of Review and Approval of OPEGA's Proposed Budget for FY 18/19**

  Director Ashcroft was not sure when the Council's Budget Subcommittee was going to start meeting. The GOC will discuss the budget at their next meeting.

REPORT FROM DIRECTOR

- **Status of Projects In Progress**

  OPEGA's Report on **Children's Licensing and Investigation Services** will be presented at the March 24th meeting. The GOC will also be holding the public comment period on **New Markets Capital Investment Program** at the March 24th meeting. Director Ashcroft is hopeful to provide the GOC the evaluation parameters for review and approval for the 2017 tax expenditure review on April 14th and on April 28th OPEGA is expecting to give their Reports on **State Lottery** and **Pine Tree Development Zones**. If the Pine Tree Zones Report is not presented on April 28th it will be presented at the first GOC meeting in May.

NEXT GOC MEETING DATE

The next GOC meeting is scheduled for Friday, March 24, 2017 at 9:00 a.m. and Rep. Mastraccio said Committee members should plan on an all-day meeting.

ADJOURNMENT

Rep. Mastraccio adjourned the Government Oversight Committee meeting at 12:45 p.m. on the motion of Sen. Saviello, second by Rep. Pierce, unanimous vote.