



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
April 28, 2017**

CALL TO ORDER

The Chair, Sen. Katz, called the Government Oversight Committee to order at 9:05 a.m. in the Burton Cross Building.

Senators:	Sen. Katz, Sen. Libby, Sen. Davis, Sen. Gratwick and Sen. Saviello Joining the meeting in progress: 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 Matthew Kruk, Principal Analyst, OPEGA Scott Farwell, Senior Analyst, OPEGA Kari Hojara, Senior Researcher, OPEGA Etta Connors, Adm. Secretary, OPEGA
Executive Branch Officers and Staff Providing Information to the Committee:	Richard Rosen, Commissioner, Department of Administration and Financial Affairs Michael Allen, Associate Commissioner, Office of Tax Policy, Maine Revenue Services Gregg Mineo, Director, Bureau of Alcoholic Beverages and Lottery Operations

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 APRIL 14, 2017 GOC MEETING

The Summary of the April 14, 2017 meeting was accepted as written.

Director Ashcroft updated the Committee on concerns with the Maine Capital Investment Credit Program raised by Mr. DiMillo at the last GOC meeting. The Committee sent a memo to the Taxation Committee regarding his concerns and the Taxation Committee has responded that they will be discussing Mr. DiMillo's concerns on May 9, 2017 at 1:00 p.m. Taxation has sent a formal request to the Governor to have someone from Maine Revenue Services and the Department of Administration and Financial Affairs be available for that meeting to discuss the issue.

NEW BUSINESS

• Presentation of OPEGA's Maine State Lottery Report

Director Ashcroft presented OPEGA's Maine State Lottery Report. She thanked OPEGA staff who worked on the review and the management and staff of the Bureau of Alcoholic Beverages and Lottery Operations (BABLO), Maine State Lottery and Department of Administrative and Financial Services (DAFS) who were very cooperative over the course of the review. (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.)

The Government Oversight Committee members' comments and questions included:

Sen. Gratwick asked if there was a structure and/or legal restrictions regarding the Maine State Lottery or gambling in Maine. Director Ashcroft could not answer Sen. Gratwick's question in detail because it was outside the scope of OPEGA's review, but noted that any GOC members who had sat on the Veterans and Legal Affairs (VLA) Committee might be able to answer that question. She said her sense would be there is regulation for all types of gambling in Maine, but could not say what the particulars are regarding the legal structure or restrictions.

Rep. DeChant asked if Director Ashcroft could go over the Scope of the review because it appeared to have evolved over time. Director Ashcroft said OPEGA originally had four Scope questions that were mostly focused on what the Lottery had for expenses and how they were using the revenues that were generated by the business, what the oversight structure was. In October 2015, while OPEGA was in progress with that Scope, there was concern that arose among legislators about how it appeared that so many low income people were putting so much money toward the lottery. There were additional questions about whether the Lottery was specifically targeting low income folks. There were also questions about how lottery winnings played into eligibility for public benefits. She said those types of questions got added to the Scope of the review.

Rep. DeChant asked how and why it had such a geographic overlay. Director Ashcroft said the news articles that raised concerns at the time were based on an analysis of lottery purchases by geography. Reporters had picked out particular municipalities, or counties, to highlight and had reported per capita sales for them. For example, Washington County had higher per capita sales than Southern Maine and there were questions about whether the Lottery was specifically targeting a particular demographic. OPEGA did its own analysis of the distribution of lottery sales and winnings across the State's geographies to try to confirm, or verify, what had been reported in the media and to also give a fuller picture than what was being reported.

Sen. Diamond referred to OPEGA's observation that on average 58% of the lottery sales is paid out in winnings. He noted that casinos in Maine are required to pay out no less than 87% and asked if there are any minimums that have to be paid out by the Lottery. Director Ashcroft said the statutory requirement is that at least 45% of sales had to be paid back out in prize winnings. Sen. Diamond thought that percentage was low.

Sen. Gratwick asked for further explanation of the footnote on page 3 stating that an "inverse relationship exists between socio-economic status".

Director Ashcroft said OPEGA did a limited amount of research into academic literature and studies on lotteries to see it was generally recognized condition that one could expect folks in certain socioeconomic statuses to

play the lottery more. OPEGA observed that there does seem to be a general consensus that the inverse relationship exists. She also noted that socioeconomic status includes a number of factors besides just income. In the literature OPEGA reviewed, there was no consensus on an explanation for the inverse relationship. There are all kinds of different theories, one being that folks who may be at a lower income are willing to take more risks to get what they hope will be a financial gain for themselves, or it has become an entertainment habit for them.

Rep. Pierce asked if OPEGA had looked at the type of stores that sold lottery tickets, noting they seemed to be more in convenience stores. Director Ashcroft said OPEGA did not stratify the lottery retailers by type of business. She said businesses have to apply to be a lottery retailer and have to be licensed by BABLO. She assumed there may be particular retailers that have decided they don't want the lottery as part of their offerings and other types of retailers that do.

Sen. Davis said the conclusion appears to be that people with lower income play the lottery more than people with other incomes. Director Ashcroft said there is a distinction between lower income and lower socioeconomic status so would have to say no to Sen. Davis' statement. There are other factors involved in describing socioeconomic status than just income.

Director Ashcroft said OPEGA will provide the Committee with a fuller description of the research OPEGA did in this area so members can have a better sense of it.

Rep. DeChant asked for clarification on the media buys noting that you buy advertising on certain radio stations because of the particular demographic it reaches and the same with television. She said what radio stations ads were purchased on was not shown in OPEGA's Report. Director Ashcroft referred to Table 1 and 2 on page 13 showing OPEGA's analysis of the television advertising buys. She said there are three Neilson designated marketing areas for television in Maine and OPEGA has listed the counties that are covered by each.

Rep. DeChant noted that she has twenty-seven years of marketing experience and her first job was for an advertising agency for a lottery. She explained that if the Lottery bought ads on WBLM then they are trying to reach largely male, 18-25 years old. If they bought ads on OPRAH, they are trying to reach a woman. This is what she is interested in understanding. She asked if OPEGA had reviewed that information.

Director Ashcroft said it is OPEGA's understanding that the advertising contractor makes recommendations to the Lottery about what markets, and how many spots in each market, are needed to achieve their goals. The Lottery described its coverage goals to OPEGA as making sure that every adult sees a particular TV spot, or hears a particular radio spot, on average the same amount of times in any particular ad flight that the Lottery is doing. She said that what OPEGA saw reflected in the advertising buy, seems consistent with that so OPEGA did not explore in depth the demographics of each radio station. She said OPEGA does have information on which stations the Lottery advertised with and will provide the GOC more information about that at the next meeting.

Rep. DeChant said that is of interest in the sense that it is the nexus of who is receiving the message. She thought it was invalid to have a marketing message for everybody over the age of 18 as your audience. She said that is not going to happen so you figure out where is the buying market for the audience you want to reach. She thinks the information on the stations is relevant because that is where the nexus is of where you are buying your ears and eyes.

The Chair, Rep. Mastraccio, said what she read in the Report was that in fact by looking at what the Lottery bought for advertising they were trying to target anybody over the age of 21 in the State of Maine who might want to buy a lottery ticket. She said what the GOC originally had for concerns as a Committee and, Sen. Burns in particular, were based on the media reports that Washington County and a certain group of individuals in the State of Maine were being targeted. She thinks that will become clear as you get closer to the end of the Report presentation.

Director Ashcroft said OPEGA did have a focus on a low income demographic in terms of what they were looking for so did not explore the whole array of different types of demographics. She agreed with Rep. DeChant's comments that the listening audience for any particular radio station would be relevant to demographics.

Rep. Mastraccio said to be fair the State knows what it is doing. Maine has a Lottery that is supposed to raise money and if they were not advertising and raising money, Maine would not be getting the revenue they are. She said whether you agree with the Lottery or not, the GOC was concerned, as a committee, that there was targeting going on and there were many GOC members that wanted some information regarding lottery sales.

Rep. DeChant said she was not arguing whether the Lottery is successful or that it is working. What she was questioning is who are you buying to expose your message to and then the discussion, not for today, is how does the advertising agency message that message.

Rep. Rykerson thought Rep. DeChant's comments were intriguing and important. He said the advertising is a government contract and the audience would be different advertising on the Nascar channel than if they are advertising on the Tennis channel.

Director Ashcroft said there is a tension between wanting to have a successful lottery so that the State can get as much revenue as possible, and making sure that we are not doing that through a State activity that is not good for the public. Some of the Committee members' questions are at the nexus of that tension. OPEGA did not set out to try to inform the GOC where they should draw the moral line, but would be happy to provide whatever other information from the review work that has been done to help the GOC figure out where that line is. The reality is that if Maine is going to have revenue generated from the Lottery then they have to be doing some things that are going to increase the sales of the lottery tickets. It seems the question for a lot of legislators really has been about where to draw the line about how aggressively we are going to go after that. Director Ashcroft said OPEGA did not see the Lottery aggressively targeting any particular demographic, there was no indication of an emphasis on any particular demographic.

Rep. Pierce referred to Figure 1 on page 11 regarding the Lottery marketing and advertising expenses FY11-FY15 noting that the Lottery has decreased their marketing budget about \$200,000 over a four year period and it appears that has leveled out.

Sen. Saviello asked if any of the ads the Lottery ran across the State were different. Director Ashcroft said the same advertisements are used across the State for any given time period. Whatever message was being delivered in that timeframe was the same in all media buys across the State.

Sen. Saviello agreed with Rep. DeChant that you could target your audience but, for example, in Farmington there is one radio station, probably two in Presque Isle and maybe three in Bangor that the Lottery would advertise on. He thought targeting cannot be done in Maine given what there are for media outlets.

Director Ashcroft agreed with Rep. Pierce that lottery tickets could be bought at one location and turned in at a different location. OPEGA had information on a retailer's lottery sales and how much in small prize winnings were paid at the retailer. However, there was no information to be able to match up how many of the tickets cashed at the retailer were also bought at that retailer.

Sen. Saviello said if he wanted to make the case that Waite is a poor town and buying more lottery tickets than anybody else, without taking anything else into consideration, he could make that conclusion. But if he takes into account the total population of the area, and that there is only one lottery retailer in that area, the conclusion changes dramatically. Director Ashcroft agreed. She also noted there were other factors to be considered in the Town of Waite and other towns. Non-Maine residents might be purchasing tickets so for those municipalities and counties that have borders, you might assume that Maine has out-of-staters buying lottery tickets. Waite is in close proximity to Canada.

Sen. Gratwick said the larger picture is that you have a business that decided an easy group of people to tax are the lower socio-economic individuals and that is what OPEGA's data seems to show. Even though you can parse it out individually by different towns showing there is no particular difference, nonetheless, the larger picture is that astute business people have, or the State, decided this is the group we want to target with a tax. Those funds are going into Maine's coffers.

Rep. Mastraccio asked Committee members to remember what the assigned scope of the Maine State Lottery Report was.

Rep. Sutton wanted people to consider if it is a tax or a voluntary purchase.

Rep. Mastraccio thought people also might buy at certain retailers if they thought it was a lucky store. There are so many factors and the GOC did not think about all these issues when the media reports came out. She said that was an example of looking at data that somebody else had collected and interpreted it differently. She appreciated what OPEGA did in not using the per capita data as it did seem to lack any real meaning.

Sen. Davis referred to page 3, total sales and noted it had increased 19% between FY12 and FY16 but that the population did not increase that much and asked if there was a reason for that. Director Ashcroft said there are multi-faceted reasons why somebody is choosing to buy a lottery ticket. Some may find it a form of entertainment but others may just be hoping to hit it big. She said the Lottery's explanation for the sales growth in that time period is that they introduced a lottery instant ticket at a \$25 price point which they had not had before.

Sen. Davis said the Lottery is doing less advertising and thinks you can draw from that they are getting smarter with their advertising. The Lottery is selling 19% more tickets, but at the same time, the payout increased 28%. He asked if folks were getting luckier. Director Ashcroft said it is random whether or not a person is going to win, but one would like to think that sales and winnings would track together in that the more sales you have, the more winnings you will have. That is shown in the Report. She thought that BABLO could speak better to that.

Rep. Mastraccio said another possible reason for increased sales is when there is a high payout for the Powerball. Director Ashcroft said that was a factor in the draw ticket sales.

Rep. Harrington referred to the 45% payout minimum in statute and asked if, in theory, that could be increased to 70%. Director Ashcroft said that was correct and the Lottery was at 58% payout for the five years OPEGA looked at.

Rep. Harrington asked if the Lottery increased the winning percentage over a certain period of time and then lowered the winning percentage without letting anyone know they had done that. Director Ashcroft did not think OPEGA saw any indication of the Lottery doing that during the time they worked with them.

Rep. Pierce said the Lottery is a State run function and its purpose is to raise money for the State.

Rep. Rykerson asked when the funding changed from going to school districts in the municipalities to the General Fund. Director Ashcroft said that changed when the Lottery was first introduced. There was initial language in the first bills that were introduced that were about education, but by the time it was passed in referendum, the language had changed to the General Fund.

Mr. Farwell said back in 1973 the original bill that went before the Legislature did designate funds to education in some way. The bill went through the legislative process and by the time it got to the referendum process it had changed to the General Fund. Sen. Davis noted that the original advertisement said the Lottery was going to save education and then that changed.

Rep. Sutton asked if a Form 1099 was issued by the Lottery for winnings over \$599. Director Ashcroft did not know that specifically, but the Lottery does collect the information for tax purposes so she would assume that if it is not for the purposes of issuing an actual 1099, then they are taking the tax at the time that they pay the winners. She said they do take the name, address and information needed for tax purposes. They also use that information in a web-based application to see if lottery winners owe any outstanding debt to the State for income tax, child support, unearned employment benefits, etc.

Sen. Gratwick asked if it was known how many people with winnings of over \$1,000 were recipients of State programs. Director Ashcroft said OPEGA would forward the DHHS' report regarding that information to the Committee members.

Rep. Mastraccio said BABLO must report to the VLA Committee. Director Ashcroft said they are, but the only information coming to the Legislature is the overview, or orientation, from the Agency that occurs at the beginning of every two year session. She said the statutory requirement is for an annual report by the Lottery that is supposed to come to the Legislature. OPEGA did not think the informal briefing matched what the expectation for reporting was in statute.

Sen. Libby noted that the Lottery advertises its meetings one day in advance and said that sounded highly unusual. He asked if the Director has any comments regarding that. Director Ashcroft said that is something he may want to ask the Lottery about. OPEGA questioned why they weren't putting information on meetings on the publicly available website and sending notification to the VLA Committee. She said the Lottery has agreed that would be a good idea, but she did not know how they arrived at the one day notice prior to a meeting. The Lottery did say they send information about upcoming meetings, or the agendas, to whatever the Legislative Council's portal is, but OPEGA has been unable to determine what that avenue is exactly. Whatever avenue it is, it is not getting to the committees of jurisdiction.

Mr. Mineo thanked OPEGA staff and his staff for their work on the Lottery review. He said it took an inordinate amount of time from the Bureau that they would have preferred to spend elsewhere, but thought it was the right thing to do and cooperated fully. He said they were satisfied with the review results, they feel vindicated and think the truth did come out. He would ask the GOC as they are discussing the Report and thinking of follow-up questions, that they go back to the original scope of work they asked OPEGA to do because he has heard some comments and questions at the meeting that go beyond the scope. He knows how BABLO is run, he is part of the decision-making and the Lottery operates in a responsible and orderly manner.

The Committee thanked Mr. Mineo for his comments.

Rep. Mastraccio said the public comment period for OPEGA's Maine State Lottery Report will be held at the May 12, 2017 GOC meeting.

UNFINISHED BUSINESS

• OPEGA Report on Children's Licensing and Investigation Services

- Committee Work Session

Director Ashcroft said the GOC held the public comment period on OPEGA's Report on Children's Licensing and Investigation Services at the last meeting. The Committee sent a letter to the Governor's Office requesting that the Agency be present at this meeting so they could ask questions. She said DHHS staff were not in attendance. However, they did answer the GOC questions that were sent to them in writing. She referred members to the email received from Anthony Madden, Deputy Director, DHHS, Division of Audit, answering those questions. (A copy of the Mr. Madden's responses is attached to the Meeting Summary.)

Director Ashcroft reviewed the questions and the Agency's responses. The Committee's questions and comments included:

Regarding question 1 Sen. Libby asked if the intent of the question asked was to cover only complaints that involved alleged abuse or was the question asking about all types of possible complaints.

Director Ashcroft said there were two different tracks going on at the last meeting. Most of the questions were around the abuse and neglect arena as this one was. There is a question further on about how the Agency handles a licensing violation.

Sen. Saviello recalled that the providers who gave comment at the last meeting were concerned that allegations made that are unfounded are automatically posted on the website. Director Ashcroft said what gets posted to the website are situations where there have been rule violations that resulted in licensing sanctions like a conditional license, not renewing a license, or a statement of deficiency. OPEGA found there was a varying amount of time that elapsed between the time the investigation was concluded and the time those got posted to the website, depending on whether there had been an appeals process that was required. The provider's plan of correction also gets posted at the same time.

Sen. Gratwick said MACWIS was not functioning very well and DHHS was in the process of moving from one system to another and thinks the Committee had questions about whether DHHS was able to communicate efficiently. He did not see that question had been answered and from what the GOC heard at the prior meeting, DHHS had not been able deal with the complaints adequately within the Department.

Director Ashcroft said that was a recommendation that OPEGA made that the Department did respond to in terms of their actions. She was not aware that there was an additional question about MACWIS coming out of the last GOC meeting. MACWIS is not the ideal system for DHHS and they are engaged in a process of deciding if they want to replace it. That is an action item already underway.

Rep. Mastraccio wanted to know how many staff does Children's Licensing actually have and how many vacancies there are. That is an example of the kind of questions she has for DHHS and it is a problem not having a representative from the Department at the meeting. She finds it difficult to have a quality discussion and that issues could likely be easily dealt with by having someone from DHHS at the meeting. She said not having any staff from Children's Licensing at the meeting only prolongs matters. Sen. Libby and Sen. Saviello concurred.

Rep. DeChant recalled from the GOC's conversation with some providers at the previous meeting that there are ill-will or retaliation complaints made against them and that was a problem. It could be chronic among certain individuals so she thought it was a relevant question still. She asked Director Ashcroft to help her interpret DHHS' two sentence response because she thinks they conflict. "Criminal or civil action may be sought when a report of child abuse and/or neglect is not made in good faith. Penalty for false reporting is not under consideration of the Department at this time." Director Ashcroft thought the first sentence is that the provider has either criminal or civil avenues to pursue if they think somebody is doing things to them in bad faith. It would be on the provider to take action.

Rep. Pierce does think the providers can go after individuals filing bad faith complaints against them. He suggested adding to the GOC's recommendations to DHHS that if a provider needs information from the Department, they be able to give information to the provider if they are asked for it.

Director Ashcroft said the purpose of the GOC's Work Session is to consider whether the Committee wants to take any action in and of itself with regard to the recommendations OPEGA made in its Report. She noted the Committee also sometimes extends that to make their own recommendations about things they heard during the public comments. She said what Rep. Pierce suggested earlier is not within the Scope of the review that OPEGA was conducting, but the GOC has in the past, taken what they heard in public comments and done something with that as well.

Director Ashcroft referred to Ms. Holman's emails that were in the members' notebook. (A copy of Ms. Holman's emails are attached to the Meeting Summary.)

Rep. Mastraccio was fine with OPEGA's Report Recommendations, but she had questions that were relating to DHHS' response of actions they were working on to address them. She wanted to know how many staff Children's Licensing has to make sure they can do what they say they can do. She wanted to know how many vacancies there are and wants to make sure that, over time, plans to be the same. She knows that when the GOC/OPEGA first started looking at the review, staffing was a problem. Another problem and question is where is DHHS on MACWIS and what is their time line. Rep. Mastraccio said those are the kinds of questions she has.

Sen. Gratwick shared Rep. Mastraccio's concern. He said the larger picture is that it would seem to him that they were all there for the benefit of Maine citizens, the Legislature, Executive Branch, etc. and the absence of the Department at the meeting he finds very troublesome. The GOC is one of the few committees who can actually require the Department to be there and although OPEGA's Recommendations seemed very good, Rep. Mastraccio raised some good questions that need to be answered. He said he would not sign off on the Report until the Committee had someone from the Department at a meeting and he would leave it up to the Chairs to determine how that can be done.

Director Ashcroft said for the Recommendations in the Report, DHHS has given the GOC the action items that they are taking and/or plan to take for each one. She asked if there were specific questions that the Committee had that she should be seeking specific answers to from DHHS to determine whether the GOC is satisfied, or not, with the actions DHHS is going to take. Most of those actions have a completion date of July 1, 2017. She said a possible approach would be to ask DHHS to come to a GOC meeting in late July or early August to give a status report on where they are with the action items.

Director Ashcroft said OPEGA is comfortable that for the most part, aside from MACWIS which is a much bigger matter for DHHS to figure out, what Children's Licensing intends to do matches up with what the issue was that OPEGA found. OPEGA is unsure about what actually will end up getting done with DHHS' clarification around parental notification in Recommendation #5. DHHS said they are going to do it, but OPEGA does not have a lot of detail about what that will be and the GOC can ask them to report back.

Rep. Mastraccio asked if the GOC should endorse OPEGA's Children's Licensing and Investigation Services Report, but with the caveat that the Committee wants DHHS to come to the August meeting.

Director Ashcroft said endorsing the report is about OPEGA's work. It is not about what the agency is or is not going to do. So from that standpoint the GOC was in a position to take a vote on endorsement whenever they feel they are ready to do so.

Sen. Libby thought it would be helpful to have some guidance on whether the responses from DHHS and their indication that they are voluntarily taking certain actions is sufficient to implement the Recommendations of OPEGA, or whether the GOC feels they need to move legislation through the process to codify and affirm some of the changes recommended in OPEGA's Report and changes that the DHHS says they are taking on already.

Director Ashcroft did not feel legislation was needed at this point. Where legislation seems to be at play would be around the parental notifications and she thinks that is what the Committee heard public comments on. It was pointed out that the language in statute is "may" and she thinks the GOC heard a strong support of leaving it at "may". The current language was also vetted quite a bit when that bill passed a year ago. She would be very comfortable asking the Department to come back and report their status at a future meeting. If things are not moving then, or the recommendations are not being taken seriously, that would be the time for the Committee to think about whether they should go further. Director Ashcroft said DHHS has been very cooperative with OPEGA and she knows they take the subject matter seriously.

DHHS staff not being at the meeting should not be an indication of how seriously the management and staff at Children's Licensing are taking the job.

Rep. Mastraccio agreed with the Director and asked when would be an adequate time period to have DHHS staff come to a meeting. The Director said OPEGA will be checking in anyway, but if the GOC wanted DHHS staff at a Committee meeting she will make sure a request is sent out when the GOC meeting dates have been set for the interim.

Rep. Pierce would like to have DHHS report back to the Committee in July.

- **Committee Vote**

Motion: That the Government Oversight Committee endorse OPEGA's Report on Children's Licensing and Investigation Services. (Motion by Rep. Pierce, second by Sen. Saviello.)

Discussion: Sen. Gratwick said he appreciated what has been done, but the Committee received additional information regarding the Report only a few days ago and he has not had the opportunity to review it carefully in order to ask the proper questions. He said the GOC's role is you have a scope of inquiries, but that is always going to lead to other questions. He did not see any need, other than to affirm that OPEGA has done a good job so far, to put a period at the end of that sentence and thought the Committee should leave the Vote open until the August meeting.

Director Ashcroft said endorsing the Report in no way has any relation to whether the GOC is done with its work on the Report. It is a statement to the rest of the Legislature that it is something they should be paying attention to. Rep. Mastraccio agreed.

Vote: Motion passed, vote 10-1.

Sen. Saviello suggested the GOC invite staff from DHHS to the August meeting and that by mid-July the Department give the Committee a written update because their actions on Report recommendations are to be in place July 1st. Also to let the GOC/OPEGA know whether DHHS staff will attend the meeting so the Committee knows if there is other action they have to take to have DHHS staff at the meeting.

Director Ashcroft asked Sen. Gratwick, for the record, what concerns are leading him to not endorse OPEGA's Report. Sen. Gratwick said he had not had sufficient time to review the documents received that morning to be able to determine whether the Report has addressed all the questions that have now been raised.

RECESS

The Chair, Rep. Mastraccio, recessed the Government Oversight Committee at 11:11 a.m.

RECONVENED

The Chair, Rep. Mastraccio, reconvened the GOC meeting at 11:20 a.m.

Sen. Libby, having been on the prevailing side of the previous motion made the following motion.

Motion: That the Government Oversight Committee reconsider its action whereby they endorsed OPEGA's Children's Licensing and Investigation Services Report. (Motion by Sen. Libby, second by Rep. Pierce, motion passed by unanimous vote 11-0.)

Motion: That the Government Oversight Committee moves to endorse OPEGA's Children's Licensing and Investigation Services Report. (Motion by Sen. Libby, second Sen. Gratwick.)

Discussion: Sen. Gratwick said he was persuaded that pursuing his particular course of action at this time will not help the Committee escalate what he believes to be an extraordinarily important issue so decided to vote with the majority and endorse the Report.

Vote: The above motion passed by unanimous vote, 12-0. (Sen. Diamond voted on the motion in the allowed time frame in accordance with the GOC's Rules.)

Rep. Rykerson asked if the GOC will be continuing the Work Session on the Children's Licensing and Investigation Services Report. Director Ashcroft said the Committee has not yet discussed whether there is something else, as a Committee, they would like to do other than to ask DHHS to do a report back. Rep. Mastraccio said further discussion by the Committee regarding OPEGA's Children's Licensing and Investigation Services Report will be added to the May 12th agenda.

Rep. Mastraccio asked if there was objection to taking an agenda item out of order. Hearing none she moved to **Review of Draft Legislation for OPEGA-Proposed Changes to Tax Expenditure Evaluation Process.**

- **Review of Draft Legislation for OPEGA-Proposed Changes to Tax Expenditure Evaluation Process**

Director Ashcroft said at the April 14th meeting she had proposed changes to the statute that currently governs OPEGA's review of tax expenditures that involved taking some of the deadlines out of statute. She had also noted there were some prohibitions around confidential tax data causing inefficiencies in OPEGA's reviews and limiting analysis OPEGA could perform. She had suggested language changes to expand disclosure and use of some tax data now held strictly confidential and the GOC heard from some individuals that they thought OPEGA had gone too far in what it was proposing for language. The Committee asked her to be more specific in exactly what it was OPEGA wanted to be able to share with their consultant for confidential data and to limit what might be considered for an additional exception to disclosure of tax records. Director Ashcroft did that and last week put out her suggested changes to Maine Revenue Services (MRS) and the Chamber of Commerce looking for their feedback. She did not get that feedback until yesterday with some of the input coming from MRS in writing to the GOC today. By virtue of the discussions she has had with MRS and the Chamber since yesterday, the Director determined they still had not reached the point of common ground. She heard that her ideas still need revisions so she would recommend that the GOC not continue to consider Sec. 3 and Sec. 4 of the draft legislation. That language would be struck from the current draft bill and those matters will be dealt with at a later time.

Director Ashcroft said what is in Sec. 1 and Sec. 2 of the draft legislation are things that would be helpful in terms of the flexibility of OPEGA's scheduling and for the other reasons talked about at the last meeting. She was looking for whether the GOC was willing to vote to introduce a bill that would at least encompass Sections 1 and 2.

Rep. Mastraccio said by taking out Sections 3 and 4 the Director was taking out the controversial sections, but the bill is still allowing OPEGA to do the scheduling kinds of things that are really important for the present time. Director Ashcroft agreed and said OPEGA will continue to operate within the confines of what is already in statute with regard to confidential tax data.

Rep. Mastraccio asked if OPEGA would continue to work on coming to an agreement with those who have concerns about the legislation. Director Ashcroft said there is more than one avenue to get to where OPEGA needs to be.

Rep. DeChant recalled from the Committee's previous discussion, that there were two pieces to the suggested changes. One was for ease of scheduling evaluations and reports and the other was to make sure there was

useful data accessible for analysis and comparisons. She said by taking out Sections 3 and 4 that still leaves the situation muddy around the data.

Director Ashcroft said it is not that it is muddy, it is more that it is limiting. One of the issues was what OPEGA is able to share for data with their consultant who does OPEGA's economic impact modeling. Being limited in what data can be shared with the consultant for input to the model, means the results OPEGA can get out may not be as meaningful.

Rep. DeChant asked when the GOC would have another opportunity to address this matter through legislation. Director Ashcroft said it would probably be next session in terms of a bill, but said there are other options that can be considered. What needs to happen once again, is to get all parties at the table and see if they can come to agreement.

Rep. DeChant commented that it seemed if Section 3 and 4 stayed in the bill there is going to be a lot of protest. Director Ashcroft agreed and said there is a letter from MRS to the GOC in their packet that lays out what the objections are from their standpoint. She also noted that Commissioner Rosen and Dr. Allen were at the meeting if the Committee wanted to hear from them directly. She does understand MRS' viewpoint and they had suggestions in their letter that OPEGA had not yet considered.

Rep. DeChant said she would support Director Ashcroft's recommendation, but said it is frustrating that over years and years there have been the same kind of around the barn conversations when it comes to data around the tax expenditures.

Commissioner Rosen expressed his appreciation having received information from Director Ashcroft this week in terms of the proposal being talked about and for an opportunity for MRS to provide a response, or observation, of what was being proposed. He said he was at the meeting to give a general statement of his perspective as Commissioner. The expertise is really with Dr. Allen who can provide the GOC with the specifics that are in the memo from MRS.

Commissioner Rosen referred to the opening paragraph of the MRS' memo "The Maine Taxpayer Bill of Rights provides 'information obtained from taxpayers by MRS is kept strictly confidential, unless release is otherwise authorized by law.... In fact, the law imposes criminal penalties on any MRS employee who wrongfully inspects or divulges confidential information.' Taxpayers can confidently report their tax information accurately and completely knowing that Maine Revenue Services will keep that information strictly confidential. Without that trust, voluntary compliance suffers, revenue drops, and MRS' ability to administer the tax code is threatened. Because confidentiality is of such central importance to a modern tax system, MRS has concerns with OPEGA's proposal." He said Dr. Allen was at the meeting to speak to the GOC about the specifics of those concerns. What he wanted to reflect to the Committee, as Commissioner of the Department, is the specifics expressed in the above paragraph also represent a culture and a rigorous adherence in terms of the seriousness with which the men and women that manage MRS, and the Tax Assessor that leads MRS, take on the key responsibility of keeping information protected. This is to make sure that tax filers know that MRS will attempt to apply and administer the tax code in a fair and professional way as possible, but that the information that they submit is held in strict confidence and that it is safe. He said that trust from the filing public that they can rely on is paramount. So MRS takes steps day-in and day-out to protect the information that they hold against attack, and he said attack is the right word when he is talking about people who are constantly looking to steal identities for financial reward. There is already recognition that protection of information in the digital age is key. In his view, any consideration of a change in statute that would direct MRS to turnover more information is nothing that MRS is seeking. If anything, MRS is always looking for ways to enhance the protection of that information. So if the Legislature is considering models of accessing that data and information, he would ask that the Committee include in their discussion the perspective of what might be put at risk in terms of private tax filer information being revealed.

Commissioner Rosen said his recommendation would be to not pursue this route and don't look for ways to expand access to reach into private tax filer information. If, as the GOC evaluates tax expenditures and

economic development programs, they come to the determination that it is too difficult to deal with confidential data then get the programs out of the tax code. He thinks that would be a good conclusion. When there are separate incentive programs that are funded, have nothing to do with the tax code, receive an appropriation, people are invited to apply, all the rules and transparency can be designed, easy to track with eyes open upfront. But when programs are embedded in the tax code, the Commissioner thinks it becomes an extraordinary challenge to leave them there and then try to extract data and risk exposing tax filer confidential information. He did not think it was an easy exercise and the fundamental question for the policy makers may be where do we place these programs. Not so much how do we reach in and extract information from a tax return.

Rep. Pierce asked if the Commissioner or Dr. Allen had objection to the language in Sec. 1 and 2 of the proposed draft bill if Sec. 3 and 4 are struck from it. Dr. Allen said MRS did not have any objection to Sec. 1 and 2.

Sen. Katz said MRS appropriately guards taxpayer information as they should, and MRS is cautioning the GOC, as they should, about the risks of that changing, but he said there are three ways that information could be released. One is to release the information to the employees of OPEGA for their own analysis. Second might be to a consultant hired by OPEGA and third might be to make it generally publicly available. He said if businesses are getting the benefit of certain tax incentives then some information would be more publicly available in terms of reporting. He asked if Commissioner Rosen and Dr. Allen could comment on the three levels.

Commissioner Rosen said any of the scenarios talked about in which the tax information goes beyond the bounds of the control of MRS is a significant increase in risk. Sen. Katz asked the Commissioner to expand on his response. The Commissioner said the information has gone beyond the control and the management of the Bureau so there is no way to protect against release of the information. MRS' system and the operational structure of the Bureau are to strictly limit and protect what is accessible and available within the Bureau, there is a vigorous structure at MRS that is always being enhanced. Clearly once information comes out of that environment it is at a much greater risk for release and distribution of individual identifying information.

Sen. Katz said OPEGA is also an agency that has, since its inception, very strict confidentiality requirements for staff. He asked if it was a matter of imposing the same culture and the same hard-and-fast rules.

Commissioner Rosen said he did not think it was so much about talking about OPEGA. It is fundamentally a question of if the Legislature wants access to that information essentially OPEGA is an extension of the Legislative Branch. It is an operating entity within the Legislature and if the policy makers are discussing how do we, as the Legislative Branch, gain access to information included on a Maine citizen's or business' tax return then he thinks there has to be an acknowledgement of the exposure and clarity around the purpose of that directive and who is assuming that responsibility or the consequences of it. There is a direct conflict in the approach that MRS would take in terms of continually tightening and limiting its own authority as opposed to going outside those boundaries.

Sen. Katz said the Bureau of Taxation has a lot of confidential information which is known to employees, or at least certain employees within the Bureau of Taxation and they guard that confidentiality as part of their culture. He said OPEGA, although not an Executive Department, is another governmental entity and also deals with confidential information that is not available to the GOC as legislators. The Office has a history, although not as long as the Bureau, of jealously being guardians of confidential information. He asked what the specific issues were about allowing OPEGA the same tightly controlled access to information that MRS has if they are not sharing it with the Committee except to the extent of their conclusions about the effectiveness of various programs that they come by analyzing the confidential information.

Dr. Allen said Sen. Katz used the word that MRS was trying to get across in the memo, which is culture. He said culture is emphasized day-in and day-out at MRS as far as the confidentiality of taxpayer information and how strongly the State takes that confidentiality seriously. Every day when he logs onto his computer there

are two items that pop up, one is a list of objectives of MRS and a statement says you are about to enter the MRS' computer system that contains all confidential information that cannot be talked about outside the office, etc.

Dr. Allen said MRS also has a lot of federal data so that brings in the Internal Revenue Services and MRS has to make sure they follow all the Federal Government rules regarding confidentiality in order for them to get the federal data. He said every year the Internal Revenue Service comes into MRS and reviews all of their security to make sure that no one can get access to any of the federal data as well. He said they do have contractors that work at MRS, but every contractor that comes in to work at MRS and has access to data has to go through an FBI background check and be fingerprinted. The contractors are not allowed to take any data outside of the MRS building. Dr. Allen said MRS' contract workers have to do their work onsite, on MRS' computers and abide by MRS' rules. He said the idea of giving any sort of data that could provide any information about any particular taxpayer to a third-party contractor that goes outside of MRS' facility, is concerning to them.

Dr. Allen said business incentives are talked about a lot and thinks there is the general impression that this is about big C corporations that file corporate income tax returns, but most of the benefits that are business incentives go to individuals through S-corporations, sole proprietorships, partnerships, etc. and they file individual income tax returns. When you are talking about providing taxpayer information about so-called pass through businesses, you are really saying that you are providing my tax return to somebody because he took a particular credit that flowed to him through his business. He said it was not that MRS had concerns about providing information on businesses or C corporations, but it does go down to the individual level in most cases.

Rep. DeChant did not think she had an issue with limited background, with the amount of clearance that select few people on OPEGA's quest would have to go through the same rigors that Dr. Allen just described. She said if you are a company that is receiving State money through a tax incentive, she thinks there has to be an understanding that there is an evaluation part to that. Rep. DeChant asked what MRS would recommend because there has been years and years of getting close to being able to say we kind of got the data, but it was not quite what we were looking for in order to evaluate. She asked what MRS would suggest to be able to evaluate the programs because the taxpayers deserve a right to have these programs evaluated.

Commissioner Rosen said he would take them out of the tax code. Do not use the tax code as the vehicle. Set up a separate program, fund it and set the rules in advance, have people apply and have complete transparency of all the reporting. He gave an example of the difference between a tax credit for an individual who installs a ramp for the accessibility at a house, as opposed to having a grant program for funding ramps and saying here is the \$600,000, individuals apply for it, this entity manages the grant, complete open and transparent and there is nothing on the tax code.

Rep. DeChant was lost with Commissioner Rosen's analogy because she thinks if you put a ramp on your house that is private and she is not evaluating that as to effectiveness of a program. If you are taking money, for example, from the Pine Tree Zone, she wants to be able to evaluate that and asked how you do that if you can't get the information needed.

Commissioner Rosen said he used the ramp example because it was a new program the Legislature adopted last session. If the follow-up question is we want to evaluate the utilization and effectiveness of that program, it is better to set it up as a funded grant than as a tax credit or deduction.

Rep. Pierce suggested that Director Ashcroft discuss with interested parties their concerns regarding Sec. 3 and 4 in the draft legislation.

Rep. Mastraccio agreed and said that is why Director Ashcroft recommended that the GOC take Sec. 3 and 4 of the draft legislation out and leave Sec. 1 and 2 which deal with the scheduling issues that the GOC/OPEGA has had in putting actual dates in statute.

The Committee thanked Commissioner Rosen and Dr. Allen for the information they provided.

Director Ashcroft said Sec. 1 and 2 in the draft legislation remove deadlines that she discussed with the GOC as being unrealistic for the way OPEGA needs to manage the tax expenditure projects so that they can present quality reviews. Also the way it was intersecting with legislative schedules was not ideal. She said Sec. 1 and 2 would help keep OPEGA from being out of compliance with statute into the future.

Rep. DeChant asked when the other sections in the draft legislation will be back before the GOC. Director Ashcroft said, as everybody has recognized, they need to continue to have discussions about those sections. She said OPEGA is currently getting the confidential information and vigorously protecting it with MRS' help. MRS provided OPEGA a laptop that is secure to their specifications, so it is not a matter of OPEGA getting access to information, but more about the process they are doing to try to use it and report it out to the GOC. She thinks OPEGA is going to go back to the drawing board on that and would expect if they were going to have something to recommend it would come out in a bill next session.

Rep. Mastraccio said OPEGA's suggestions will come back to the GOC.

Motion: That the GOC move ahead with introducing a bill that includes Sec. 1 and 2 with the understanding that OPEGA staff will continue its discussion with various stakeholders, including MRS, on the matters in Sec. 3 and 4 so those subject matters can be address in the next Legislative Session. (Motion by Sen. Katz, second by Sen. Saviello, motion passed by unanimous vote 11-0.)

- **Continued Discussion of OPEGA's Work Plan for 2017-2018**

- **State Law Enforcement Agencies Undercover Ops (Tabled at April 14, 2017 GOC meeting)**

Motion: That the Government Oversight Committee put the State Law Enforcement Agencies Undercover Ops on the On Deck List. (Motion by Sen. Katz, second by Sen. Saviello, motion passed 10-1.)

REPORT FROM DIRECTOR

- **Status of Projects In Progress**

Director Ashcroft reported that OPEGA is working on the **Temporary Assistance for Needy Families (TANF)**, **Employment Tax Increment Financing**, and **Pine Tree Development Zones** and looking to have the Pine Tree Development Zones Report for the GOC in late June or early July. OPEGA also has the **Maine Capital Investment Credit** and will be talking to the Committee about that as well as the **BETR** and **BETE** evaluation at the next GOC meeting. OPEGA is well underway with putting together the packet of information for the Taxation Committee for the **Expedited Reviews**.

- **Status of GOC Initiated Bills LD 367 and 1217**

Director Ashcroft noted that the LCREC Committee held Public Hearings on LD 367 and 1217 on April 26th and said there was a theme of questions that arose about how do we make sure that the plan is current and is regularly used by policy makers, not something that sits on a shelf. How to make sure the plan has good buy-in from everyone. She referred the GOC to a couple of documents in their notebooks that she had prepared to address those types of questions. The first documents is titled Discussion of How Long-term Strategic Plan for Economic Improvement and Evaluations of State's Investments in Economic Development are Intended to Inform Policy and Budgetary Decisions and the second document is an updated version of the Outline of GOC Approach to Develop Long-Term Strategic Economic Improvement Plan and Improve Effectiveness and Efficiency of Evaluation of State Investments in Economic Development which includes a x-ref to the relevant portions of LD 367 and 1217. (A copy of the documents are attached to the Meeting Summary.)

Sen. Katz said it might be possible that the legislation could hit the floor before the GOC meets again. Director Ashcroft thought LCRED's Work Sessions on the LDs are on May 10th. Sen. Katz thought the GOC needed to have more of a conversation about them so they can be solid advocates for the legislation, assuming that Committee members felt strongly about it.

Rep. Mastraccio said they were hoping to do a lot of work with the LCRED Committee so hopefully there will be a unanimous report out of that Committee. She said if members hear anything or have questions, for them to not hesitate to contact Director Ashcroft if they don't have the answer. She thought those testifying for the legislation were buying into it and that Sen. Katz did a good job presenting testimony at the LCRED Committee.

NEXT GOC MEETING DATE

The next GOC meeting is scheduled for Friday, May 12, 2017 at 9:00 a.m. The Committee will not meet on May 26, 2017 and will discuss their next meeting at a later time.

ADJOURNMENT

The Chair, Rep. Mastraccio, adjourned the Government Oversight Committee meeting at 12:06 p.m. on the Motion of Sen. Davis, second by Rep. Pierce, unanimous vote.

Ashcroft, Beth

From: Madden, Anthony <Anthony.Madden@maine.gov>
Sent: Thursday, April 27, 2017 5:06 PM
To: Ashcroft, Beth
Cc: Mayhew, Mary; Porteous, Alec; Adolphsen, Nick; Downs, Herb F.; Peavey, Sheryl; Beardsley, Nancy; Whitten, Janet; Sorensen, David
Subject: RE: Request for Children's Licensing Management to Attend GOC Meeting

Beth,

Please find the Department's responses to the GOC's questions below.

Thank you,
Tony

Anthony E. Madden
Deputy Director
DHHS Division of Audit
287-2834

From: Ashcroft, Beth [mailto: Beth.Ashcroft@legislature.maine.gov]
Sent: Wednesday, April 26, 2017 2:29 PM
To: LePage, Paul; LePage, Paul
:: Mayhew, Mary; Beardsley, Nancy; Whitten, Janet; Adolphsen, Nick; Madden, Anthony; Davis, Brent; Fenton, ; Hancock; Sorensen, David
Subject: RE: Request for Children's Licensing Management to Attend GOC Meeting

Governor LePage,

I know the GOC will be disappointed not to have the opportunity to directly dialogue with Ms. Whitten as the Committee has enjoyed very helpful exchanges with her in the past. Below are questions that I sent to Tony Madden at DHHS yesterday when he asked that we provide specific questions. Is it sufficient for me to be communicating them to you by email as well, or do you require a formal letter?

- Please describe in more detail how a complaint is handled when it comes in to the agency, particularly with regard to how it is triaged or classified in terms of urgency or severity. What parameters or factors are considering in determining the urgency or severity?
The process of receiving and assigning reports of alleged child abuse/neglect and/or licensing violations regarding a child care provider is well explained in the Office of Program Evaluation & Government Accountability (OPEGA) report. Reports are reviewed and assigned with multiple factors taken into consideration, urgency and severity included. A primary factor that determines the urgency of the Department's response is an allegation of immediate risk of harm to children in care of the provider. An example of an emergency/ same day response would include a provider that is currently severely impaired by drugs or alcohol and is unable to care for the children. High risk allegations of abuse and/or neglect that may not require same day response, but would require the investigation to begin within the policy timeframe of 3 business days would need to have mitigating factors that reduce or eliminate the immediacy. An example would include a report of sexual abuse to children in a child care in which the alleged offender has been arrested and the provider has taken appropriate action to protect the children enrolled in the childcare program.

When a report of child abuse/neglect is received the allegations are documented in the narrative of the report and also identified in the Maine Automated Child Welfare information System (MACWIS) allegation module. The Department has defined low-moderate severity and high severity allegations. The following are the definitions for Physical Abuse. Definitions also exist for Emotional Maltreatment, Neglect, and Sexual Abuse, and may be provided upon request.

Low – Moderate Severity Physical Abuse: When a Person responsible for a child caused or engaged in behavior that was likely to cause a minor physical injury to that child that did not or would not require medical attention. This does not include parental behaviors prior to a child's birth.

High Severity Physical Abuse: When a Person responsible for a child caused a serious physical injury to that child that required medical attention (whether or not medical attention was actually received). This does not include parental behaviors prior to a child's birth;

-or-

That person has engaged in confirmed conduct, past or present, that is unlikely to change in a timely manner and that created an immediate risk (threat of) of serious physical injury to a child, which, if to occur, would require medical attention.

- **What is Children's Licensing's perspective on how often complaints against a provider are motivated by ill-will or retaliation against the provider? Does Children's Licensing do any assessment of whether a complaint is motivated by ill-will? If so, when does this occur and is the complaint handled any differently in terms of investigation steps or notification of parents? If not, does Children's Licensing have thoughts on whether they should be handled differently?**

The Department is aware that on occasion there are reports made regarding child abuse/neglect that are not made in good faith. If there are obvious concerns regarding the referent's motivation in making the report the Department will attempt to verify information reported prior to assigning for investigation. Children's Licensing does respond to 100% of complaints. However, reports that include only alleged rule violations or with questionable allegations of abuse/neglect would be assigned to the Licensing Specialist to complete a complaint investigation. Complaint investigations vary in terms of depth based on the nature of the complaint and many are resolved with minimal investigation. Licensing Specialists completing a complaint investigation do not send the formal parental notification letters to the parent/guardian of the named victim. The Licensing Specialist may determine that contacting a parent(s) is necessary to determine the validity of the allegations regarding the rule violations. The Department follows procedures for determining assignment criteria and relies on the professional judgment of supervisors and managers when there are factors to take into consideration such as, the credibility of the referent.

- **What are the differences, if any, in the way Children's Licensing investigates, and notifies parents, when the complaint is about an unclean facility versus a complaint about suspected child abuse/neglect?**

As described in the OPEGA report, there are distinct differences between an Out of Home Investigation conducted by an Investigator which must include allegations of child abuse and/or neglect and a Complaint investigation completed by a Licensing Specialist that includes alleged licensing violations. Parental notification during a complaint investigation would only occur if the Licensing Specialist determined that a parent/guardian could provide information to corroborate an incident (witnessed or their child shared information) and that contact is necessary to support the Department's decision to either cite a rule violation or not.

- **At what point is law enforcement notified on a complaint of child abuse/neglect?**

If a suspected criminal act of abuse to a child is alleged, Child Protective Intake Staff make a referral to the District Attorney where the alleged crime occurred. If the suspected criminal act is learned during the course of an investigation the Investigator or Licensing Specialist make the referral.

- Does Children's Licensing have any thoughts on possibly implementing a penalty for falsely accusing or lodging complaint against a provider?
Criminal or civil action may be sought when a report of child abuse and/or neglect is not made in good faith. Penalty for false reporting is not under consideration of the Department at this time.
- How and when will DHHS be implementing the background check and fingerprinting for child care providers?
The Department has identified a target date of 9/31/17 for implementation of the fingerprinting requirement. This requirement is in the proposed Family Child Care Rule which is currently open for public comment. This requirement will be included in the Facility Rule when revised.
- Does Children's Licensing have enough staff and supervisors to handle the work load for their functions? If not, what other resources are needed?
Staffing for Child Care Licensing and Out of Home Investigation are adequate to manage the workload.

Thank you.

Beth L. Ashcroft

Director

Office of Program Evaluation and Government Accountability

207.287.1901

From: LePage, Paul [<mailto:Paul.LePage@maine.gov>]

Sent: Wednesday, April 26, 2017 10:18 AM

To: Ashcroft, Beth; LePage, Paul

∴ Mayhew, Mary; Beardsley, Nancy; Whitten, Janet; Adolphsen, Nick; Madden, Anthony; Davis, Brent; Fenton, Hancock; Sorensen, David

Subject: RE: Request for Children's Licensing Management to Attend GOC Meeting

Good morning, Beth,

The Governor did receive your request and has indicated that while he does not intend to send any staff to participate in your meeting, he will gladly ensure that any questions you have are answered if you send them to our Office in writing.

Please do not hesitate to let me know if you have any questions.

Best regards,

Stephanie

Stephanie Ham

Executive Assistant to Governor Paul R. LePage

SHS #1, Augusta, ME 04333-0001

p: 207-287-3539 | f: 207-287-1034

Stephanie.ham@maine.gov

From: Ashcroft, Beth [<mailto:Beth.Ashcroft@legislature.maine.gov>]

Sent: Friday, April 21, 2017 10:03 AM

To: LePage, Paul

Cc: Mayhew, Mary; Beardsley, Nancy; Whitten, Janet; Adolphsen, Nick; Madden, Anthony; Davis, Brent; Fenton, Hancock; Sorensen, David; Legislature: Committee on Government Oversight

Subject: Request for Children's Licensing Management to Attend GOC Meeting

Importance: High

Good Morning Governor LePage,

Attached please find a formal request for Janet Whitten, Manager of Children's Licensing and Investigation Services, and/or Nancy Beardsley, Director of the Division of Environmental Health, to participate in the Government Oversight Committee meeting next Friday, April 28th with regards to OPEGA's March 2017 report on Children's Licensing and Investigation Services. I would appreciate a response to the request by Wednesday, April 26th.

Hard copies of the attached letter are being delivered to your office this morning.

Thank you.

Beth L. Ashcroft

Director

Office of Program Evaluation and Government Accountability

Maine State Legislature

82 SHS

Augusta, Maine 04333-0082

Office – 207.287.1901

Fax – 207.287.1906

From: june holman <juneholman712@gmail.com>
Sent: Thursday, April 27, 2017 2:01 PM
To: Katz, Roger; Mastraccio, Anne-Marie; Davis, Paul; Diamond, Bill; Gratwick, Geoff; Libby, Nathan; Saviello, Thomas; DeChant, Jennifer; Harrington, Matthew; Pierce, Jeffrey; Rykerson, Deane; Sutton, Paula; Connors, Etta
Subject: Childcare Business Perspective

Re: Childcare Licensing Investigation Report

Childcare Business Owners Testimony on Abuse and Neglect Complaint Notification Letters

Co Chairs: Senator Katz and Representative Mastraccio and esteemed members of the Committee on Government Oversight

My name is June Holman, I am a child care provider in Portland. I have been in the childcare business for about 14 years. During that time, I have had many investigations due to angry employees, parents, neighbors or family members.

Unsubstantiated complaints can be made by disgruntled employees who were written up for neglecting to follow the policies or rules, parents of children who are not happy with rates or my hours of operation, neighbors who do not want a daycare next door to them or even my ex-husband who was interested in messing with my life every now and again. We are easy targets for anyone who wants to hurt us because we work with children. I accept that this is the nature of my job and in no way want you to stop investigating every complaint. It does ruin my day, week or month, but it is the only way to ensure the safety of all children. I have always been compliant with every step of every investigation, but to send out letters or notify my customers at the onset of an investigation or even at the end, when the complaint is unsubstantiated, is not reasonable and could be very damaging to me, my reputation and my ability to continue to take care of children.

This would be a great way for me to get my competition out of business if I wanted to. If I make several anonymous complaints of abuse against another childcare and you send out letters to all of their customers from the State of Maine saying that there is reason to investigate them for abuse, parents could consider themselves to be negligent if they did not pull their children out of the childcare. This will unnecessarily damage a persons business.

I have grandchildren in other childcares. I know how likely it is that claims of abuse could be used as retaliation. If my daughter received a letter from DHS that indicated that they need to conduct an investigation for abuse or neglect, I would tell her to pull her vulnerable children out of the childcare until the investigation is complete. I would say this, even though I know how many times allegations can be made without any cause and that the State of Maine has had only 1 case of substantiated abuse or neglect in childcare out of hundreds of complaints in the last 2 years. When there is an official notice from the State of Maine saying that they will be conducting an investigation of potential abuse, there is an assumption that they have good reason to believe abuse happened.

Imagine if a letter had been sent to everyone of those patrons of those hundreds of businesses who were later found to be innocent. A law requiring investigators to send out letters at the start of the investigation would have ruined those innocent business owners and left many children without care. It seems to be a knee jerk reaction to the Lyman case to say that parents should be notified of all complaint investigations and this will have unintended consequences.

I was, what many people would call, a helicopter mom. I vowed when my first child was born to never let anything bad ever happen to her and held on to that intention for a very long time. When she went to Kindergarten for the first time, she came home many days in a row with stories of things that seemed unfair or unjust. She said, 'Johnny pushed me on the playground', 'Sally took a book from me and said I was ugly' and she fell while running on the tar and got a scrape on her knee that was not even bad enough for a bandaid. That got me steamed. I went to the school and said, I want to be called every time something happens to my child and I wanted to hear it from them and not my child. It is my right as a parent. They informed me that when something of significant importance happens, they will notify me, but they will not be tracking and notifying me of every little thing that does not warrant notification.

This reaction to the Lyman incident is similar to my school experience. Investigations are all potentially retaliatory, they do warrant investigation but not ALL of them warrant notification to all parents until something is substantiated. My daughters situations warranted intervention by the teacher or staff, but none of them warranted notification to me. I had to trust the system to let me know when it reaches a level that warrants notification to me. All complaints warrant intervention and investigation, but not all of them warrant notification to my customers.

Thank you for using a great deal of caution and consideration in making this decision to strike a balance that will, of course, investigate every allegation and still allow survival of good childcare businesses.

Sincerely,

June Holman
Hug-A-Bug Childcare, Portland

Connors, Etta

From: june holman <juneholman712@gmail.com>
Sent: Thursday, April 27, 2017 2:05 PM
To: Katz, Roger; Mastraccio, Anne-Marie; Davis, Paul; Diamond, Bill; Gratwick, Geoff; Libby, Nathan; Saviello, Thomas; DeChant, Jennifer; Harrington, Matthew; Pierce, Jeffrey; Rykerson, Deane; Sutton, Paula; Connors, Etta
Subject: Instead of immediate notification of my childcare customers

During that hearing the members of this committee asked, what should you do instead of sending out letters to all of our clients every time a complaint was made.

Co Chairs: Senator Katz and Representative Mastraccio and esteemed members of the Committee on Government Oversight

My name is June Holman, I am a child care provider in Portland. I testified at the public hearing for the Childcare Licensing Investigative Report on 4/14/17.

Letters or notification could go out to the other parents of children who are not subjects named in the complaint, ONLY after the initial investigation has occurred AND there is SUBSTANTIAL evidence of abuse or SEVERE neglect and that there is potential for that to have affected the other children. This quantification would need to be based in evidence and provided to the childcare provider prior to parent notification. This would be preliminary before the end of the investigation and the provider should have an opportunity to dispute the preliminary findings before the letters go out.

I believe that in the event of significant evidence of abuse or severe neglect, the out of home abuse department has the authority to shut the place down so I feel that in those cases, this parent notification is a mute point. We are discussing the cases where there is significant evidence or indication that abuse could have occurred AND that it is systemic in nature but the investigation needs to be completed.

The term systemic also needs to have clarification. For example, in the case of a child who has its bottle warmed in a microwave (which is not allowable or advisable because there could be warm pockets that could scald the child's mouth or throat), and the child gets burned, this could be considered abuse or negligence, and could be construed as systemic. I do not believe, in this case, that it warrants all parents of the facility to be notified just because one staff member was potentially not trained properly or was trained but did not do the right thing. This investigation (while definitely warranted) only involves the child who was harmed and notification should be made only to that family. An investigation should still occur and findings could be substantiated, but this would be an example that would not warrant the term 'systemic' at the preliminary stage and therefore not warrant letters to be go out to all parents of a facility. Of course notification to the parents of the child involved in the complaint is already covered.

In the event that there is lead found in the water, this would be a systemic concern and all parents should be notified. The investigation could determine if the provider was negligent in this case by neglecting to conduct the proper water tests. Preliminarily, the problem could be causing harm to all children so there should be some notification to all parents while the determination of liability is made. This letter also should report the investigation classification as a licensing violation as opposed to an abuse and neglect violation. Likewise, in the event of a sex offender who was not background checked and working in a facility. This could be a systemic issue in which case (if the offender had access to all children), then all parents of children whom the offender had access to would be notified.

Another middle of the road example, might be that a child who is bruised or hurt and a parent feels there was abuse. The initial preliminary investigation has to have substantial evidence that the child was abused AND that this is something systemic. Abuse can happen in an isolated manner, there must be careful consideration as to whether the abuse was systemic or the case of one incident of abuse. I'm not saying that one case of abuse is not important to be addressed and perhaps after substantiation the entire childcare should be notified, but in the event that there is not systemic concern it might not be necessary to ruin the entire business and the person who has dedicated her life to caring for children. The abuse could have been committed by an employee without her knowledge. We all want children to be safe, but this recommendation for legislation to send out letters of notification to all parents every time a complaint is made, might be throwing the baby out with the bathwater.

There should be quantification of types of abuse, degrees of severity as well as a clear definition of the term 'systemic impact' that does not consider everything to be systemic. It would be unreasonable to let an accusation that is classified as "systemic" be the deciding factor that dictates the notification or letters will go out to customers before substantiation.

I appreciate your time and consideration on a matter that is so important to the success of childcare businesses like mine that supports young working families in Maine.

Sincerely,

June Holman
Hug-A-Bug Childcare, Portland

Discussion of How Long-term Strategic Plan for Economic Improvement (LD 367) and Evaluations of State's Investments in Economic Development (LD 1217) are Intended to Inform Policy and Budgetary Decisions

Q: How will the long-range strategic plan for **economic improvement** in Maine contemplated in LD 367 be used to inform policy and budgetary decisions on an on-going basis?

A: Between LD 367 and LD 1217, the Legislature (LCRED and AFA specifically) as well as the Governor and State agency heads will get regular and timely information on the current strategic Plan, the progress being made in achieving the goals and objectives of the Plan, and recommendations for any adjustments to the State's investments in economic development that should be made to better support achievement of the Plan. There is also a requirement in LD 367 for the Legislature, Governor and other entities responsible for activities impacting the State economy to consider the Plan in planning, administering and budgeting for those activities. Specifically:

- LD 367 calls for Maine Economic Growth Council (MEGC) to develop a long-term strategic plan for economic improvement in the State with that Plan developed a revised through a comprehensive and transparent process involving both public and private stakeholders. It is called a Plan for **economic improvement** because it is intended to focus on a broad range of areas beyond what might be considered traditional economic development, similar to the range of the indicators MEGC currently addresses in its Measures of Growth report. The State's investments in economic development initiatives are only one component of what would be encompassed in the envisioned strategic Plan.
- Provisions built into LD 367 call for MEGC to monitor progress on the Plan continuously and to report on that progress to LCRED, AFA and other relevant JSCs informally every year and in formal written report every two years. The proposed statutory deadlines for that reporting ensures progress on the Plan is discussed with Legislature early in both first and regular sessions prior to much committee work on budgets and bills.
- Provisions in LD 367 call for MEGC to update the Plan on a regular schedule and also to do a full revision of the Plan every four years using the same comprehensive process as was used to develop the initial Plan. This ensures the Plan stays current and meaningful.
- LD 367 calls for wide distribution of the initial Plan, updated plans, revised plans and all progress reports that MEGC publishes. Specified distribution in the bill is to the Governor and relevant State agencies, the Legislature in general as well as relevant JSCs, to heads of the State's institutes of higher education (i.e. UMS, MCCA, MMA), to heads of regional economic development agencies and other stakeholders as appropriate.
- LD 367 also requires that all of these entities consider the goals, objectives, benchmarks and recommendations contained in the plans and reports when planning, administering and budgeting resources for programs and activities that affect State economy.
- LD 1217 calls for regular evaluations of the State's investments in economic development. The evaluations would be conducted by an independent evaluator contracted by DECD. These evaluations would be conducted every four years.
- LD 1217 sets the objectives for these independent evaluations such that the State's portfolio of economic development investments is assessed against the goals and objectives of the strategic Plan developed by MEGC.

- LD 1217 requires that DECD report the results of these evaluations, and planned actions for addressing any recommendations, to the Governor and the Legislature. Also that DECD present the reports and planned actions to LCRED in a public meeting.
- LD 1217 also requires LCRED to consider the results of the evaluations and provides authority for LCRED to report out legislation to implement recommendations.
- LD 1217 requires the DECD Commissioner to submit a report on progress in implementing the recommendations from the most recent evaluation to the Governor and LCRED every two years.

The attached document outlines the GOC approach and the specific actions required in each bill with references to the Page and Lines of the bill where the relevant language can be found. Below also is a timeline illustrating how MEGC’s effort and those of DECD’s independent evaluations come work together to inform policy makers.

Date	Action
By Dec. 31, 2018	MEGC formally submits initial long-range strategic plan in writing to Governor, Legislature, State Depts, heads of the State’s institutes of higher education, heads of regional economic development agencies and other stakeholders as appropriate.
By Jan. 31, 2019	MEGC presents initial strategic plan in public meeting to LCRED, AFA and other relevant JSCs
By Dec. 31, 2020	MEGC assesses progress, prepares written progress report on strategic plan and submits progress report to Governor, Legislature, State Depts, heads of the State’s institutes of higher education, heads of regional economic development agencies and other stakeholders as appropriate. At this time, MEGC has also completed an update of the Plan and is submitting the updated Plan.
By Jan. 31, 2020	MEGC presents progress report and the updated strategic Plan in public meeting to LCRED, AFA and other relevant JSCs.
By Jan. 31, 2021	MEGC informally briefs LCRED, AFA and relevant JSCs on the current status of the Plan.
By Feb. 1, 2021	DECD submits results/report from comprehensive evaluation of State economic development investments to Governor, Legislature and MEGC. DECD Commissioner presents evaluation report and any planned actions by DECD, or other administering agencies, on the included recommendations in public meeting to LCRED.
By Feb. 1, 2021	LCRED also considers the independent reviewers recommendations and has authority to submit a bill to implement the recommendations.
By Jan. 31, 2022	MEGC informally briefs LCRED, AFA and relevant JSCs on the current status of the Plan.
By Dec. 31, 2022	MEGC assesses progress, prepares written progress report on strategic plan and submits it to all entities that received initial Plan. At this time MEGC also has completed its full revision of the Plan and is submitting the revised Plan.
Cycle Repeats	

Outline of GOC Approach to Develop Long-Term Strategic Economic Improvement Plan and Improve Effectiveness and Efficiency of Evaluation of State Investments in Economic Development

Part I – Maine Economic Growth Council Develop, Maintain and Monitor Progress On Strategic Plan (LD 367)

Step	Date	Resources Needed
MEGC develop initial strategic plan (<i>Page 1 Lines 13 and 25 – 37, Page 2 Lines 1 - 14 of LD 367</i>)	By Dec. 31, 2018	Annual appropriation of \$175,000 (\$350,000 per biennium) to the Maine Economic Growth Council beginning for FY18
MEGC assess progress and prepare written progress report on strategic plan (<i>Page 2 Lines 15 – 17 of LD 367</i>)	By Dec. 31, 2020 every two years thereafter (2022, 2024, 2026, ...)	
MEGC update plan (<i>Page 1 Lines 17 – 20 of LD 367</i>)	By Dec. 31, 2020 and every 4 years thereafter (2024, 2028, 2032...)	Plus one time appropriation of \$150,000 to MEGC for FY18 to get development of first plan underway
MEGC develop full revision of strategic plan (<i>Page 1 Lines 21 – 37, Page 2 Lines 1 - 14 of LD 367</i>)	By Dec. 31, 2022 and every 4 years thereafter (2026, 2030)	
MEGC formally submit initial plan, progress reports, updated plans and revised plans in writing to the Governor and Legislature (<i>Page 2 Lines 19 – 21 of LD 367</i>)	By their due dates (see above)	All appropriations need to be to a non-lapsing account since expenditures in any given year will be less than or exceed the annual appropriation based on whether it is a year for plan updates and revisions
MEGC present initial plan, progress reports and updated and revised plans in public meetings to <ul style="list-style-type: none"> the Joint Standing Committee on Appropriations and Financial Affairs; the Joint Standing Committee on Labor, Commerce and Economic Development; and other Joint Standing committees whose policy areas are captured in key components of the plan. (<i>Page 2 Lines 25 – 32 of LD 367</i>)	Initial plan presented by Jan. 31, 2019 and current progress reports, updated plans or revised plans by Jan. 31 every year thereafter	(Note that MEGC’s current annual appropriation is \$55,000 so the proposed appropriation is an additional \$120,000 per year or \$240,000 per biennium. This is still substantially less than MEGC’s original budget in the early 1990’s which was \$250,000 per year.)
MEGC distribute written copies of initial plan, progress reports and updated and revised plans to commissioners of relevant State Depts (i.e. DECD, DOL, DOE, DOT), to heads of the State’s institutes of higher education (i.e. UMS, MCCA, MMA), to heads of regional economic development agencies and other stakeholders as appropriate. (<i>Page 2 Lines 21 – 24 of LD 367</i>)	By Dec. 31, 2018 and every year thereafter	
Governor, Legislature and agencies receiving the plans and progress reports consider goals, objectives, benchmarks and recommendations contained in the plans and reports when planning, administering and budgeting resources for programs and activities that affect State economy. (<i>Page 3 Lines 3 – 8 of LD 367</i>)	Continuous	
State and quasi-state entities, including institutes of higher education, and non-State entities to provide information as requested by MEGC for progress monitoring (<i>Page 3 Lines 9 – 12 of LD 367</i>)	Annually as requested by MEGC	

Part II – DECD Contract for Macro-level Evaluation of State’s Portfolio of Investments in Economic Development (LD 1217)

Objectives of this evaluation may include an assessment of: *(Page 5 Lines 4-21 of LD 1217)*

1. the extent to which the state’s portfolio of economic development investments, particularly in terms of level and types of investments, aligns with and supports the state economic development strategic plan;
2. the extent to which individual activities and programs, or groups of activities and programs, within the state’s portfolio are contributing to the achievement of particular goals, measurable objectives and performance targets associated with the state economic development strategic plan;
3. how the state’s portfolio of economic development investments, particularly in terms of level and types of investments, compares to investments in other states;
4. the impact of the state’s economic development investments in improving the competitiveness the state’s established and emerging technology and industry sectors in regional, national and global arenas; and
5. the extent to which the overall framework for the state’s economic development investments provides for sufficient transparency and accountability, effective and efficient coordination among the state’s activities and programs, and easy access for interested businesses and other entities.

Evaluation reports would include recommendations on: *(Page 5 Lines 22 – 38 of LD 1217)*

- a. opportunities to modify the current portfolio of state economic development investments, particularly with regard to level of investment or types of activities and programs, in order to better align resources with the state economic development strategy; more cost-effectively support achievement of goals, objectives and performance targets associated with the strategy;
- b. opportunities to shift investments from economic development activities and programs to other state efforts in order to better align resources with the state economic development strategy; more cost-effectively support achievement of goals, objectives and performance targets associated with the strategy;
- c. opportunities to improve transparency and accountability for state economic development investments, coordination among economic activities and programs in the portfolio, or accessibility of businesses and other entities to those activities and programs; and
- d. any other areas for improvement.

Step	Date	Resources Needed
DECD contracts with independent evaluator to conduct comprehensive evaluation of State economic development investments and submits results/report to Governor, Legislature and MEGC. <i>(Page 4 Lines 36 – 40, Page 5 Lines 1 – 3 of LD 1217)</i>	February 1, 2021 and every 4 years thereafter	\$150,000 - \$200,000 per evaluation. DECD currently has a funding source established that should cover these needs, though the current structure of the funding source is not ideal and should be reconsidered.
DECD Commissioner presents evaluation report and any planned actions by DECD, or other administering agencies, on the included recommendations in public meeting to LCRED <i>(Page 6 Lines 5 – 10 of LD 1217)</i>	February 1, 2021 and every four years thereafter (2025, 2029)	<i>(Current funding source established Page 6 Lines 22- 42. Page 7 Lines 1 -25 of LD 1217)</i>
LCRED also considers the independent reviewers recommendations and has authority to submit a bill to implement the recommendations. <i>(Page 6 Lines 11 – 13 of LD 1217)</i>	February 1, 2021 and every four years thereafter (2025, 2029)	

DECD Commissioner submits to Governor and LCRED a progress report on the implementation of recommendations from the most recent evaluation. <i>(Page 6 Lines 14 – 19 of LD 1217)</i>	February 1, 2023 and every four years thereafter (2027, 2031)	
DECD Commissioner reviews and evaluates programs and functions of DECD and the operation of the economic delivery system using information from MCEG's efforts around the long-term strategic plan for economic improvement (LD 367), the independent DECD evaluations (see above) and OPEGA's Tax Expenditure reviews. <i>(Page 1 Lines 18 – 37, Page 2 Lines 1 – 8 of LD 1217)</i>	February 1, 2019 and every two years thereafter (2021, 2023, 2025) (this requirement current exists in statute)	

Part III – OPEGA Evaluate Individual Programs that are in State's Portfolio of Investments in Economic Development (Programs Intended to Encourage and Support Research and Development and Economic Development in the State) *(GOC has voted to introduce legislation to implement this but that legislation not developed yet)*

The process for these evaluations would mirror that currently established for OPEGA evaluations of tax expenditures programs some of which are also economic development programs.

OPEGA would determine the population and maintain on-going inventory of these programs in concert with GOC similar to what is currently required for tax expenditure programs. The most recent inventory of economic development programs developed by Maine Development Foundation would be used as the starting population. Additions and deletions would be made over time as legislative changes to programs are made. OPEGA would also propose, and the GOC would approve, which of the programs should receive full evaluations. OPEGA would also propose a schedule for review that incorporates the additional evaluations of economic development investments into the current 6-year cycle schedule for Tax Expenditure evaluations. OPEGA estimates this will result in approximately 8 evaluations per year. The GOC would review and approve the schedule annually.

Objectives for each individual program evaluation may include an assessment of:

- (a) The fiscal impact of the tax expenditure, including past and estimated future impacts;
- (b) The extent to which the design of the tax expenditure is effective in accomplishing the tax expenditure's purposes, intent or goals and consistent with best practices;
- (c) The extent to which the tax expenditure is achieving its purposes, intent or goals, taking into consideration the economic context, market conditions and indirect benefits;
- (d) The extent to which those actually benefiting from the tax expenditure are the intended beneficiaries;
- (e) The extent to which it is likely that the desired behavior might have occurred without the tax expenditure, taking into consideration similar tax expenditures offered by other states;
- (f) The extent to which the State's administration of the tax expenditure, including enforcement efforts, is efficient and effective;
- (g) The extent to which there are other state or federal tax expenditures, direct expenditures or other programs that have similar purposes, intent or goals as the tax expenditure, and the extent to which such similar initiatives are coordinated, complementary or duplicative;
- (h) The extent to which the tax expenditure is a cost-effective use of resources compared to other options for using the same resources or addressing the same purposes, intent or goals; and

- (i) Any opportunities to improve the effectiveness of the tax expenditure in meeting its purposes, intent or goals

The evaluation reports would include conclusions regarding the extent to which the program is meeting its purposes, intent or goals and may include recommendations for continuation or repeal of the program or modification of the program to improve its performance.

Step	Date	Resources Needed
Specific steps for review of economic development programs would mirror those for the tax expenditure reviews which are established in 3 MRSA §§998 – 999.	Dates would align with those for tax expenditure reviews. OPEGA is currently determining what to propose for reasonable timelines in the future given the Office’s experience with the 2016 tax expenditure evaluations.	<p>There are currently 2 full time staff dedicated to tax expenditure reviews. OPEGA estimates need for at least 2 more Analysts and 1 Senior Analyst in the Office to take on this additional workload. Two of those staff would be dedicated to economic development/tax expenditure reviews and the other would be for the overall Office to allow for structuring the office so that some of the current roles and responsibilities the Director handles in evaluations can be shifted to another upper level staff position. Very rough estimate of additional funding required for the positions is \$332,000.</p> <p>Additional staff would require additional office space for OPEGA as our current location is maxed out and already not well suited for the work we need to perform. This would require additional one time funding for creating, furnishing and equipping the additional space. Do not have a reasonable estimate of this additional cost at this time.</p>



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 367

H.P. 273

House of Representatives, February 2, 2017

**An Act To Implement the Recommendations of the Government
Oversight Committee To Develop a Long-range Strategic Plan for
Economic Improvement in the State**

Reported by Representative MASTRACCIO of Sanford for the Government Oversight Committee pursuant to the Maine Revised Statutes, Title 3, section 997, subsection 2.

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed pursuant to Joint Rule 218.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 10 MRSA §929-A, sub-§1**, as enacted by PL 1993, c. 410, Pt. MMM, §1,
3 is amended to read:

4 **1. The Maine Economic Growth Council; establishment.** The Maine Economic
5 Growth Council, referred to in this ~~section and section 929-B~~ chapter as "the council," is
6 established to develop, maintain and evaluate a ~~long-term~~ long-range economic plan for
7 the State.

8 **Sec. 2. 10 MRSA §929-B**, as amended by PL 1999, c. 272, §3, is repealed.

9 **Sec. 3. 10 MRSA §929-C**, as enacted by PL 2007, c. 420, §6, is repealed.

10 **Sec. 4. 10 MRSA §929-D** is enacted to read:

11 **§929-D. Powers and duties**

12 **1. Develop and maintain a long-range strategic plan for the State's economy.**
13 By December 31, 2018, the council shall develop a long-range strategic economic
14 improvement plan for a sustainable state economy in accordance with this subsection.
15 The plan must be sufficiently broad in scope to address relevant state, national and
16 international economic, financial, demographic, natural resources and infrastructure
17 factors. The council shall update the plan by December 31, 2020 and every 4 years
18 thereafter. Plan updates may include, but are not limited to, adjustments to objectives,
19 action items, timelines or benchmarks in response to changing economic conditions and
20 market trends and taking into account current progress on planned efforts. The council
21 shall complete a full review and revision of the plan by December 31, 2022 and every 4
22 years thereafter. Plan revisions may include, but are not limited to, reconsideration and
23 revision of the State's overall long-range economic improvement strategy and related
24 goals.

25 A. In developing and revising the plan, the council shall:

26 (1) Employ a continuous process with a 5-year to 10-year planning horizon;

27 (2) Include consideration of:

28 (a) The types of industries and jobs with significant growth potential in the
29 State;

30 (b) The State's evolving industrial base;

31 (c) The dynamic regional, national and international markets and Maine's
32 comparative, competitive and absolute advantages;

33 (d) Other relevant studies and evaluations in the private and public sectors
34 regarding the long-term economic growth of the State;

35 (e) The quantity and quality of the State's workforce;

36 (f) Discrepancies in challenges and opportunities among different regions in
37 the State;

- 1 (g) Opportunities and challenges for small businesses; and
2 (h) Maximizing the return on investment in the State;
3 (3) Use a public and private partnership approach that is objective and
4 nonpartisan with appointment of working groups and advisory committees as
5 necessary to represent stakeholders; and
6 (4) Use a transparent public process that allows for public input as appropriate.

7 B. The plan must consist of:

- 8 (1) Goals and objectives for the long-term economic improvement of the State
9 that support a high quality of life for all people in the State;
10 (2) Specific, quantifiable and measurable benchmarks against which progress
11 toward accomplishing the goals and objectives of the plan can be measured;
12 (3) Strategies to accomplish the benchmarks based upon the best practices in this
13 State, other states and other countries; and
14 (4) Recommendations with respect to allocation of resources.

15 **2. Monitor progress.** The council shall regularly assess progress toward
16 achievement of the strategic plan goals, objectives and benchmarks and produce a written
17 progress report by December 31, 2020 and every 2 years thereafter.

18 **3. Submit and present plans and reports.** The council shall:

19 A. Submit the strategic plan, progress reports, updated plans and revised plans
20 developed pursuant to subsections 1 and 2 in writing to the Governor and Legislature
21 by the dates set forth in subsections 1 and 2. The council may distribute the plans
22 and reports to those additional entities it considers appropriate, including state and
23 quasi-state agencies, public institutions of higher education in the State, regional
24 economic development agencies and other stakeholders; and

25 B. By January 31, 2019, present the initial strategic plan developed pursuant to
26 subsection 1 in public meetings to the joint standing committee of the Legislature
27 having jurisdiction over appropriations and financial affairs, the joint standing
28 committee of the Legislature having jurisdiction over labor, commerce and economic
29 development matters and other joint standing committees whose policy areas are
30 captured in key components of the plan. Annually thereafter, the council shall brief
31 these committees on the current status of the plan, including presentation of any
32 progress reports, updated plans or revised plans required by paragraph A.

33 **4. Fiscal agent.** The Department of Economic and Community Development shall
34 serve as the council's fiscal agent providing regular financial reports to the council on
35 funds received and expended and an annual audit. The council shall seek funds and
36 accept gifts, if necessary, to support the council's objectives.

37 **5. Staff support.** The council shall contract with the Maine Development
38 Foundation for project management, contracted services and staff support for carrying out
39 the purposes of this section.

1 **Sec. 5. 10 MRSA §929-E** is enacted to read:

2 **§929-E. Strategic plan implementation**

3 **1. Consideration of strategic plan.** The Governor, the Legislature and agencies
4 receiving the initial strategic plan, progress reports and updated and revised plans
5 pursuant to section 929-D, subsection 3, paragraph A shall consider the goals, objectives,
6 benchmarks and recommendations contained in the plans and reports when planning,
7 administering and budgeting resources for programs and activities intended to, or with the
8 potential to, affect the State's economy.

9 **2. Progress reports.** To assist the council in preparing the progress reports pursuant
10 to section 929-D, subsection 2, state agencies with responsibilities, programs or activities
11 relevant to the plan's goals, objectives and benchmarks shall provide information
12 requested by the council.

13 **Sec. 6. 12 MRSA §8876, last ¶**, as amended by PL 1997, c. 720, §9 and PL 2011,
14 c. 657, Pt. W, §7 and PL 2013, c. 405, Pt. A, §23, is further amended to read:

15 The director shall coordinate the efforts of this program fully with ongoing bureau
16 and federal forestry program planning efforts and with the efforts of the Maine Economic
17 Growth Council to develop a ~~long-term~~ long-range plan for the State's economy pursuant
18 to Title 10, section ~~929-B~~ 929-D.

19 **Sec. 7. Appropriations and allocations.** The following appropriations and
20 allocations are made.

21 **ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF**
22 **Maine Economic Growth Council 0727**

23 Initiative: Provides one-time funds for the initial development of a strategic long-range
24 economic plan for the State. Funds appropriated for this purpose may not lapse but must
25 be carried forward to be used to complete the development of the strategic economic plan
26 authorized by the Maine Revised Statutes, Title 10, section 929-D.

27			
28	GENERAL FUND	2017-18	2018-19
29	All Other	\$150,000	\$0
30			
31	GENERAL FUND TOTAL	<u>\$150,000</u>	<u>\$0</u>

32 **Maine Economic Growth Council 0727**

33 Initiative: Provides funds for the ongoing costs of monitoring, assessing and revising the
34 strategic long-range economic plan for the State. Funds appropriated for this purpose
35 may not lapse but must be carried forward to be used to complete the development of the
36 strategic economic plan authorized by the Maine Revised Statutes, Title 10, section
37 929-D.

38

1	GENERAL FUND	2017-18	2018-19
2	All Other	\$120,000	\$120,000
3			
4	GENERAL FUND TOTAL	\$120,000	\$120,000
5			
6	ECONOMIC AND COMMUNITY		
7	DEVELOPMENT, DEPARTMENT OF		
8	DEPARTMENT TOTALS	2017-18	2018-19
9			
10	GENERAL FUND	\$270,000	\$120,000
11			
12	DEPARTMENT TOTAL - ALL FUNDS	\$270,000	\$120,000

13 **SUMMARY**

14 This bill provides additional clarity, requirements and resources for the Maine
15 Economic Growth Council's efforts to fulfill its current statutory mandate to develop,
16 monitor and maintain a long-range strategic economic improvement plan for the State. It
17 also includes provisions to support the State's achievement of the goals and objectives in
18 that plan by establishing requirements for the Governor, Legislature and agencies with
19 relevant programs and activities to consider the long-range strategic economic
20 improvement plan and provide information to the Maine Economic Growth Council at the
21 request of the council. This bill would increase the annual General Fund appropriation to
22 the Maine Economic Growth Council from its current \$55,000 to \$175,000 and would
23 provide a one-time additional appropriation of \$150,000 for development of the initial
24 plan in order to meet the timelines required in this bill.



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1217

H.P. 849

House of Representatives, March 28, 2017

**An Act To Implement the Recommendations of the Government
Oversight Committee To Improve the Efficiency and Effectiveness
of Evaluations of the State's Investments in Economic Development**

Reported by Representative MASTRACCIO of Sanford for the Government Oversight Committee pursuant to the Maine Revised Statutes, Title 3, section 997, subsection 2.

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §13051**, as corrected by RR 2013, c. 2, §5, is repealed.

3 **Sec. 2. 5 MRSA §13053, first ¶**, as amended by PL 1987, c. 816, Pt. P, §6, is
4 further amended to read:

5 The Department of Economic and Community Development is established to
6 encourage economic and community planning and development policies and programs of
7 the State and to coordinate these programs and policies within the context of a state
8 economic development strategy plan and the long-term economic plan for the State
9 developed pursuant to Title 10, section 929-A, subsection 1. The department is also
10 established to work with municipalities and regional planning and economic development
11 organizations to build strong local and regional economics and to implement programs
12 and services through these local and regional organizations.

13 **Sec. 3. 5 MRSA §13056-A**, as amended by PL 2011, c. 563, §2, is repealed.

14 **Sec. 4. 5 MRSA §13056-B**, as amended by PL 2009, c. 337, §1, is repealed.

15 **Sec. 5. 5 MRSA §13056-C**, as amended by PL 2011, c. 563, §3, is repealed.

16 **Sec. 6. 5 MRSA §13058, sub-§5**, as amended by PL 2009, c. 337, §3, is further
17 amended to read:

18 **5. Review of program; report to Governor and Legislature.** The commissioner
19 shall review and evaluate the programs and functions of the department and the operation
20 of the economic delivery system using the information available from the long-term
21 economic plan for the State pursuant to Title 10, section 929-A, subsection 1, the
22 evaluation of state economic development ~~evaluation~~ investments pursuant to section
23 13056-A 13070-P and the evaluations of tax expenditures pursuant to Title 3, section 999.
24 The commissioner shall report the commissioner's findings and recommendations with
25 respect to the issues described in this subsection to the Governor and to the Legislature no
26 later than February 1st of each first regular session of the Legislature. The commissioner
27 shall conduct the review and evaluation with respect to the following:

28 A. The purpose of these programs and the degree to which the purpose is being met;

29 B. The degree of significance of the purpose of the programs and functions of the
30 department;

31 C. The extent of the coordination of programs and services as required in subsection
32 4;

33 D. The needs, problems and opportunities that are not being met by the programs and
34 services of the department;

35 E. The types of programs and services necessary to meet the needs, problems and
36 opportunities as set out in paragraph D;

37 F. The problems and successes in the economic delivery system;

- 1 G. The state of small business in this State, including economic data, the
- 2 effectiveness of state programs to aid small business, problems of small business that
- 3 may be affected by state policies and such other information on small business as
- 4 desired by the commissioner;
- 5 H. Within available resources, the extent of business growth and change, including
- 6 business expansions, new businesses and business closings;
- 7 I. Within available resources, the status of investments in business in the State; and
- 8 J. The extent to which the purposes of the Maine Downtown Center are being met.

9 **Sec. 7. 5 MRSA §13063-O, sub-§1, ¶C**, as amended by PL 2009, c. 337, §4, is
 10 further amended to read:

11 C. Each year, submit a report to the joint standing committee of the Legislature
 12 having jurisdiction over business, research and economic development matters. The
 13 report must include:

- 14 (1) An accounting of the use of all program funds received and expended since
- 15 the program's inception;
- 16 (2) A summary of the status of any approved projects;
- 17 (3) A summary of the results of any completed projects;
- 18 (4) Evaluation data and assessment consistent with section ~~13056-A~~ 13070-P;
- 19 and
- 20 (5) Other information required to be submitted and evaluated by the joint
- 21 standing committee of the Legislature having jurisdiction over business, research
- 22 and economic development matters.

23 **Sec. 8. 5 MRSA §13070-J, sub-§1**, as amended by PL 2015, c. 494, Pt. B, §1, is
 24 further amended to read:

25 **1. Definitions.** As used in this article, unless the context otherwise indicates, the
 26 following terms have the following meanings.

27 ~~B. "Commissioner" means the Commissioner of Economic and Community~~
 28 ~~Development.~~

29 ~~C. "Department" means the Department of Economic and Community Development.~~

30 D. "Economic development incentive" means federal and state statutorily defined
 31 programs that receive state funds, dedicated revenue funds and tax expenditures as
 32 defined by section 1666 whose purposes are to create, attract or retain business
 33 entities related to business development in the State, ~~including but not limited to:~~

- 34 (1) ~~Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;~~
- 35 (2) ~~The Governor's Jobs Initiative Program under Title 26, chapter 25,~~
 36 ~~subchapter 4;~~
- 37 (3) ~~Municipal tax increment financing under Title 30-A, chapter 206;~~

- 1 (4) ~~The jobs and investment tax credit under Title 36, section 5215;~~
2 (5) ~~The research expense tax credit under Title 36, section 5219-K;~~
3 (6) ~~Reimbursement for taxes paid on certain business property under Title 36,~~
4 ~~chapter 915;~~
5 (7) ~~Employment tax increment financing under Title 36, chapter 917;~~
6 (8) ~~The shipbuilding facility credit under Title 36, chapter 919;~~
7 (9) ~~The credit for seed capital investment under Title 36, section 5216-B; and~~
8 (11) ~~The credit for Maine fishery infrastructure investment under Title 36,~~
9 ~~section 5216-D.~~

10 D-1. "Economic development investments" means commitments of state funds,
11 dedicated revenue funds and tax expenditures as defined by section 1666 for research
12 and development activities and economic development incentive programs.

13 E. "Economic development proposal" means proposed legislation that establishes a
14 new program or that expands an existing program that:

15 (1) Is intended to encourage significant business expansion or retention in the
16 State; and

17 (2) Contains a tax expenditure, as defined in section 1666, or a budget
18 expenditure with a cost that is estimated to exceed \$100,000 per year.

19 F. "Research and development activities" means activities that directly or through
20 capital investment support basic and applied scientific research and related
21 commercial development funded by state appropriations and bond proceeds.

22 G. "State strategic economic improvement plan" means the long-term economic plan
23 for the State's economy developed by the Maine Economic Growth Council pursuant
24 to Title 10, section 929-A, subsection 1.

25 **Sec. 9. 5 MRSA §13070-J, sub-§2,** as amended by PL 2001, c. 481, §2, is
26 repealed.

27 **Sec. 10. 5 MRSA §13070-J, sub-§2-A** is enacted to read:

28 **2-A. Disclosure.** The following provisions govern disclosure requirements.

29 A. An applicant for an economic development incentive shall at a minimum identify
30 in writing:

31 (1) The public purpose that will be served by the business through use of the
32 economic development incentive and the specific uses to which the benefits will
33 be put; and

34 (2) The goals of the business for the number, type and wage levels of jobs to be
35 created or retained as a result of the economic development incentive received.

36 Applications filed for economic development incentives are public records for
37 purposes of Title 1, chapter 13.

1 B. To assist the department in preparing the comprehensive evaluation of state
2 investments in economic development pursuant to section 13070-P, subsection 1, a
3 recipient of state funding for research and development activities or economic
4 development incentives, including General Fund appropriations, dedicated revenue,
5 tax expenditures as defined in section 1666 and general obligation bond proceeds for
6 economic development, shall, in addition to any other reporting requirements
7 required by law, collect, maintain and provide data as requested by the department.

8 **Sec. 11. 5 MRSA §13070-J, sub-§4**, as amended by PL 2009, c. 337, §5, is
9 further amended to read:

10 **4. Agency reports.** The following agencies shall submit the following reports.

11 A. The State Tax Assessor shall submit a report by October 1st annually to the
12 Legislature and the department identifying the amount of public funds spent and the
13 amount of revenues foregone as the result of economic development incentives. The
14 report must identify the amount of the economic development incentives under the
15 jurisdiction of the Bureau of Revenue Services received by each business to the
16 extent permitted under Title 36, section 191 and other provisions of law concerning
17 the confidentiality of information.

18 B. The Commissioner of Labor shall report by October 1st annually to the
19 Legislature and the department on the amount of public funds spent on workforce
20 development and training programs directly benefiting businesses in the State. The
21 report must identify the amount of economic development incentives under the
22 jurisdiction of the Department of Labor received by each business and the public
23 benefit resulting from those economic development incentives.

24 C. The Maine Community College System shall report by October 1st annually to
25 the Legislature and the department on the amount of public funds spent on job
26 training programs directly benefiting businesses in the State. The report must
27 identify the amount of economic development incentives under the jurisdiction of the
28 system received by each business and the public benefit resulting from those
29 economic development incentives.

30 **Sec. 12. 5 MRSA §13070-O, sub-§1, ¶J**, as enacted by PL 2007, c. 434, §8, is
31 amended to read:

32 J. Require that a business that receives benefits under the program have a business
33 statement that includes the requirements of section 13070-J, subsection 2-A.

34 **Sec. 13. 5 MRSA §13070-P** is enacted to read:

35 **§13070-P. Comprehensive evaluation of state investments in economic development**

36 **1. Conduct evaluation.** By February 1, 2021, and every 4 years thereafter, the
37 commissioner shall submit a comprehensive evaluation of state economic development
38 investments, referred to in this section as "the evaluation," not to include programs
39 subjected to independent evaluations required by federal programs, to the Governor and
40 the Legislature.

- 1 A. The scope of the evaluation must include research and development activities and
2 economic development incentives in this State.
- 3 B. The evaluation must be performed by independent, objective reviewers.
- 4 C. The evaluation objectives include, but are not limited to, an assessment of:
- 5 (1) The extent to which the State's portfolio of economic development
6 investments, particularly in terms of level and types of investments, aligns with
7 and supports the state strategic economic improvement plan;
- 8 (2) The extent to which individual activities and programs, or groups of activities
9 and programs, within the State's portfolio are contributing to the achievement of
10 particular goals, measurable objectives and performance targets associated with
11 the state strategic economic improvement plan;
- 12 (3) How the State's portfolio of economic development investments, particularly
13 in terms of level and types of investments, compares to investments in other
14 states;
- 15 (4) The effect of the State's economic development investments in improving the
16 competitiveness of the State's established and emerging technology and industry
17 sectors in regional, national and global arenas; and
- 18 (5) The extent to which the overall framework for the State's economic
19 development investments provides for sufficient transparency and accountability,
20 effective and efficient coordination among the State's activities and programs and
21 easy access for interested businesses and other entities.
- 22 D. The evaluation must include recommendations to the department, the Governor
23 and the Legislature on any identified:
- 24 (1) Opportunities to modify the current portfolio of state economic development
25 investments, particularly with regard to level of investment or types of activities
26 and programs, in order to better align resources with the state strategic economic
27 improvement plan and more cost-effectively support achievement of goals,
28 objectives and performance targets associated with the plan;
- 29 (2) Opportunities to shift investments from economic development activities and
30 programs to other state efforts in order to better align resources with the state
31 strategic economic improvement plan and more cost-effectively support
32 achievement of goals, objectives and performance targets associated with the
33 plan;
- 34 (3) Opportunities to improve transparency and accountability for state economic
35 development investments, coordination among economic activities and programs
36 in the portfolio or accessibility of business and other entities to those activities
37 and programs; and
- 38 (4) Areas for improvement.
- 39 E. In planning and conducting the evaluation, the department and independent
40 reviewers may consider pertinent information available from the Maine Economic
41 Growth Council, as established in Title 10, section 929-A, and from reviews

1 conducted by the Office of Program Evaluation and Government Accountability, as
2 established in Title 3, section 991. The independent reviewers may consult with the
3 Office of Program Evaluation and Government Accountability on accessing data,
4 confidential or otherwise, necessary for the evaluation.

5 **2. Action on evaluation recommendations.** By February 1, 2021 and every 4 years
6 thereafter, the commissioner shall present the evaluation and results from the most recent
7 evaluation required under this section to the joint standing committee of the Legislature
8 having jurisdiction over labor, commerce, research and economic development matters.
9 The commissioner shall report to the Governor and the committee on actions planned by
10 the department and other entities administering the programs to address the
11 recommendations made. The committee shall also consider the independent reviewers'
12 recommendations and may submit a bill to the Legislature to implement
13 recommendations.

14 By February 1, 2023 and by February 1st every 4 years thereafter, the commissioner shall
15 submit to the Governor and the joint standing committee of the Legislature having
16 jurisdiction over labor, commerce, research and economic development matters a
17 progress report related to the evaluation required under this section that describes the
18 implementation status of the planned actions to address the recommendations from the
19 prior evaluation.

20 **Sec. 14. 5 MRSA §13070-Q** is enacted to read:

21 **§13070-Q. Maine Economic Development Evaluation Fund**

22 **1. Fund established.** The Maine Economic Development Evaluation Fund, referred
23 to in this section as "the fund," is established as a nonlapsing Other Special Revenue
24 Funds account administered by the department for the purposes of funding the
25 comprehensive economic development investments evaluation required pursuant to
26 section 13070-P, subsection 1.

27 **2. Fund sources.** The fund receives money deposited by the Treasurer of State
28 pursuant to this section and any other gift, grant or other source of revenue deposited for
29 funding the comprehensive economic development investments evaluation required
30 pursuant to section 13070-P, subsection 1.

31 **3. Payments to fund.** Notwithstanding section 1585 or any other provision of law:

32 A. The department shall assess agencies or private entities that receive General Fund
33 appropriations or general obligation bonds for economic development incentives an
34 amount for contribution to the fund that is not to exceed 0.8% of General Fund
35 appropriations received by or general obligation bonds issued to an agency or entity
36 for economic development incentives. Private entities that receive funds from general
37 obligation bonds for economic development incentives shall pay to the Treasurer of
38 State in the fiscal year in which the general obligation bond was issued an assessment
39 amount determined by the department that is not to exceed 0.8% of the proceeds from
40 the bond issue in any fiscal year, which payment must be made from available
41 resources other than bond proceeds. Only those programs that receive \$250,000 or
42 more in economic development appropriations in any fiscal year or those entities that

1 receive funds from a general obligation bond issue of \$250,000 or more for economic
2 development incentives in any fiscal year, as identified and certified by the
3 department and the Office of Fiscal and Program Review, may be assessed pursuant
4 to this subsection. The department shall provide to each agency or private entity that
5 is assessed a payment under this paragraph an annual budget for the fund and a
6 detailed account of each institution's required assessment. Total payments made
7 pursuant to this paragraph may not exceed \$200,000 in any fiscal year; and

8 B. Agencies or private entities that receive General Fund appropriations or general
9 obligation bonds for research and development activities shall contribute to the fund
10 an amount not to exceed 0.8% of General Fund appropriations received by and
11 general obligation bonds issued to an agency or entity for research and development
12 activities. Private entities that receive funds from general obligation bonds for
13 research and development activities shall pay to the Treasurer of State in the fiscal
14 year in which the general obligation bond was issued an amount not to exceed 0.8%
15 of the proceeds from the bond issue in any fiscal year, which payment must be made
16 from available resources other than bond proceeds. Only those programs that receive
17 \$500,000 or more in research and development appropriations in any fiscal year, or
18 those entities that receive funds from a general obligation bond issue of \$500,000 or
19 more for research and development activities in any fiscal year, as identified and
20 certified by the Office of Innovation, established pursuant to section 13105, and the
21 Office of Fiscal and Program Review, may be assessed. The Office of Innovation
22 shall provide to each agency or private entity that is assessed a payment under this
23 paragraph an annual budget for the fund and a detailed account of each institution's
24 required assessment. Total payments made pursuant to this paragraph may not exceed
25 \$200,000 in any fiscal year.

26 **Sec. 15. 5 MRSA §13107**, as amended by PL 2011, c. 563, §§8 and 9 and c. 655,
27 Pt. EE, §10 and affected by §30, is repealed.

28 **Sec. 16. 5 MRSA §13108**, as enacted by PL 2003, c. 673, Pt. M, §8, is repealed.

29 **Sec. 17. 5 MRSA §13109**, as amended by PL 2009, c. 337, §7, is repealed.

30 SUMMARY

31 This bill implements changes in the efficiency and effectiveness of statutorily
32 required independent evaluations of research and development activities and economic
33 development incentives that are the responsibility of the Department of Economic and
34 Community Development. The Government Oversight Committee identified these
35 changes in its ongoing follow-up of the recommendations included in the Office of
36 Program Evaluation and Government Accountability's 2006 report on economic
37 development programs in Maine. Current law requires the department to conduct an
38 independent evaluation of research and development activities and a separate evaluation
39 of economic development incentives that are not covered in the research and development
40 evaluation. Since the primary purpose of research and development activities is to support
41 economic development, this bill combines the statutory provisions related to both these
42 evaluations into a requirement for conducting and funding one independent evaluation

1 that encompasses both. The bill also changes the required cycle for evaluation from every
2 2 years, with results reported to the Legislature during second regular sessions, to every 4
3 years, with results reported during first regular sessions. This is intended to allow the
4 Legislature more time to consider the recommendations from evaluation reports and
5 allow for recommendations to be implemented in between evaluation periods.
6 Additionally, this bill establishes the objectives for the evaluation and ties those
7 objectives and any recommendations made to the State's long-term economic plan
8 developed by the Maine Economic Growth Council pursuant to the Maine Revised
9 Statutes, Title 10, section 929-A, subsection 1. There is currently a separate bill,
10 Legislative Document 367, before the 128th Legislature addressing the Maine Economic
11 Growth Council's responsibilities for that plan. Lastly, this bill seeks to ensure that
12 evaluation results are considered and acted on, as appropriate, by assigning responsibility
13 for review and action to both the Department of Economic and Community Development
14 and the joint standing committee of the Legislature having jurisdiction over labor,
15 commerce, research and economic development matters.