

**Government Oversight Committee:  
On Deck List  
(As of 3-10-17)**

	Topic	General Scope
1	<p><b>Beverage Container Recycling (Bottle Bill)</b></p> <p>Responsible Agencies:</p> <ul style="list-style-type: none"> <li>Department of Environmental Protection (DEP)</li> <li>Department of Agriculture, Conservation and Forestry (DACF)</li> <li>Maine Revenue Services (MRS)</li> </ul>	<ul style="list-style-type: none"> <li>• Compliance with current law by initiators of deposit</li> <li>• Current recycling rates for beverage containers</li> <li>• Current handling fees and bottler requirements of redemption centers</li> <li>• Continued need for current beverage container recycling laws</li> <li>• Opportunities to meet goals of beverage recycling laws via alternative models</li> <li>• Impact of potential changes to beverage container recycling laws on beverage container redemption facilities and initiators of deposit</li> </ul>
<b>Additional Information</b>		
<ul style="list-style-type: none"> <li>• Proposed by a former GOC member in the 124th Legislature.</li> <li>• Maine's handling fees may exceed that of most other states with bottle bills.</li> <li>• Expansion of redeemable beverages causes additional work for redemption centers despite attempts to mitigate costs via changes that allow commingling agreements.</li> <li>• There may be bottlers, particularly those from out of state, not in compliance with Maine's law.</li> <li>• Issues with the bottle bill have been raised for many years and bills have been considered and passed in the 125th, 126th and 127th Legislature. For example:             <ul style="list-style-type: none"> <li>○ PL 2011 Chapter 429 changed the legislative oversight for this program to the Joint Standing Committee on Environmental and Natural Resources. It also established, as a civil violation, \$100 fine per container returned in excess of 48 containers that are found to be from out-of-state (attempt to reduce fraud).</li> <li>○ PL 2013, Chapter 259: An Act to Promote the Production of Maine Beverages retained, in the returnable beverage container laws, the exemptions for small bottlers of water and small brewers and added an exemption for small manufacturers.</li> <li>○ PL 2013, Chapter 275: An Act to Improve Efficiency in the Collection of Beverage Containers required collection from redemption centers be made by a distributor, or commingling group of distributors, every 15 days and required additional pickups when a center has a certain number of containers. It also required the Department of Agriculture, Conservation, and Forestry to adopt rules for conducting audits on containers presented to distributors by redemption centers as ready for redemption.</li> <li>○ PL 2015, Chapter 166: An Act To Promote Recycling Program Integration and Efficiencies transferred administration of the provisions regarding returnable beverage containers from the Department of Agriculture to the Department of Environmental Protection.</li> </ul> </li> </ul>		

	Topic	General Scope
2	<p><b>Maine Charter School Commission</b></p> <p>Responsible Agency: Maine Charter School Commission (MCSC)</p>	<ul style="list-style-type: none"> <li>Processes, practices and standards the MCSC has used in soliciting, reviewing, and making approval decisions on public charter school applications</li> <li>MCSC's role in providing advice and assistance to applicants</li> <li>Factors that impact MCSC's ability to effectively and efficiently fulfill its statutorily assigned roles and responsibilities</li> </ul>

**Additional Information**

- The topic is the result of a formal request for an OPEGA review from the Chairs of the Education Committee of the 126th Legislature. The GOC ultimately voted (7-2) to put the topic on the On Deck List in May 2014.
- Additional information from OPEGA research related to this topic at that time is included in the attached summary.
- Enacted legislation related to this topic includes:
  - Public Law 2013, Chapter 216. An Act to Allow Charter Schools to Request Waivers from Certain Requirements allowed, upon approval by the public charter school's authorizer, a public charter school to request from the Commissioner of Education a waiver of requirement with certain exceptions.
  - Public Law 2013, Chapter 272. An Act to Improve Maine's Charter School Laws made changes to public charter school approval and funding processes.
  - Public Law 2015, Chapter 54. An Act to Amend the Laws Related to Public Funding of Charter Schools made changes to laws governing the funding of public charter schools authorized by the MCSC starting FY15-16.

	Topic	General Scope
3	<p><b>Publicly Funded Programs for Children Birth to Five Years</b></p> <p>Responsible Agencies: Department of Education (DOE) Department of Health and Human Services (DHHS)</p>	<ul style="list-style-type: none"> <li>Strengths and weaknesses, including gaps, overlap, and coordination, in the State's current programs for children birth to five years</li> </ul>

**Additional Information**

- The GOC of the 125th Legislature voted this topic On Deck in September 2012 during its consideration of OPEGA's report on Child Development Services. The intention was that OPEGA and the next GOC would review the reported results of the children's task forces that were currently meeting on this topic and consider whether further review of this topic area was needed to identify overlaps and gaps in services.
- The 125<sup>th</sup> Legislature passed LD 568 which had called for creating a stakeholder group to conduct an assessment of this nature including, but not limited to, Child Development Services, public prekindergarten programs and six programs administered by DHHS Bureau of Child and Family Services. That bill was vetoed by the Governor, and consequently, the stakeholder group was not created.
- In testimony before the GOC in 2012, DOE described two groups doing work on Birth to 5 learning that the Department felt would cover the area of focus given for this topic. Those groups were the State Agency Interdepartmental Early Learning Team (SIEL) and the Maine Children's Growth Council (MCGC) Sustainability Committee.
- The Work Plan for SIEL had deadlines on several tasks set at end of June 2013, end of Dec 2013 and end of June 2014. It appears that one of SIEL tasks was to review the results of the MCGC Sustainability Committee and the deadline associated with that task was end of June 2013.
- OPEGA has recently asked DOE to provide information on the status of these efforts and any results or reports that came from them.

- Public Law 2013, Chapter 581. An Act to Establish a Process for the Implementation of Universal Voluntary Public Preschool Programs for Children 4 Years of Age was enacted in the 126<sup>th</sup> Legislature. It established a process for the implementation of public preschool programs including providing start-up, operational, and grant funding and directing the Commissioner of Education to promulgate rules.

	Topic	General Scope
4	<p><b>Substance Abuse Treatment Programs in Prison System</b></p> <p>Responsible Agency: Department of Corrections (DOC) Office of Substance Abuse (OSA)</p>	<ul style="list-style-type: none"> <li>• Effectiveness and/or cost-effectiveness of programs in rehabilitating participants and reducing recidivism</li> </ul>

**Additional Information**

- This topic was added to the On Deck list as the result of a citizen's 2009 request for a review of two specific programs – Correctional Recovery Academy and the Intensive Outpatient Program.  
OPEGA recently requested that DOC provide updated information on substance abuse programs in the Corrections System and the Department provided the following information current as of January 2017.
- The Maine Department of Corrections offers substance abuse treatment programs at all of its secure adult facilities, including the Maine State Prison (MSP), Maine Correctional Center (MCC), Mountain View Correctional Facility (MVCF), and Women's Center (WC). Additionally, programs are offered at the Bolduc Correctional Facility (BCF) and Women's Reentry Center (WRC). The Department partners with Correct Care Solutions (CCS) and Day One to provide these services.
- In 2016, the male prisoners admitted into the Department's institutions had the following substance abuse treatment need:
  - 45% were assessed as needing outpatient substance abuse treatment;
  - 21% were assessed as needing residential substance abuse treatment;
  - 33% were assessed as not needing substance abuse treatment;
- In 2016, the female prisoners admitted into the Department's institutions had the following substance abuse treatment need:
  - 77% were assessed as needing outpatient substance abuse treatment;
  - 2% were assessed as needing residential substance abuse treatment;
  - 2% were assessed as needing individual substance abuse treatment;
  - 20% were assessed as not needing substance abuse treatment;
- The Department has two residential substance abuse treatment programs for male prisoners, the Correctional Recovery Center at MCC and the Substance Abuse Unit at MVCF. The remaining treatment programs offered across the facilities are outpatient substance abuse programs.
- Residential Substance Abuse programs
  - The Correctional Recovery Center (MCC) is a 12 month residential substance abuse treatment program, provided by Correct Care Solutions, that has the goal of reducing prisoner's dependency on drugs and alcohol. The Correctional Recovery Center utilizes a therapeutic community structure, which emphasizes routine, structure, and peer-accountability. Upon completion of the program, prisoners either transfer to a minimum security facility or are released to the community. Across the last 18 months, this program has graduated 55 prisoners.
  - The Substance Abuse Unit (MVCF) opened in July 2015 and is a 12 month residential substance abuse treatment program, provided by Day One, focused on reducing prisoner's dependency on drugs and alcohol. This unit utilizes a modified-therapeutic community structure, which emphasizes routine, structure, and peer-accountability. Upon completion of the program, prisoners either transfer to a minimum security facility or are released to the community. Since it opened, this program has graduated 54 prisoners.

- Outpatient Substance Abuse programs
  - The Department offers evidence-based outpatient substance abuse programming at all of its adult facilities (excluding Downeast Correctional Facility). These programs are delivered by Correct Care Solutions.
  - The primary outpatient substance abuse program utilized is Cognitive Behavioral Interventions for Substance Abuse, a curriculum developed by the University of Cincinnati Corrections Institute. This program is approximately six (6) months in duration.
  - The Department offers other outpatient substance abuse programs to both male and female prisoners. Seeking Safety is an outpatient program that addresses both trauma and substance abuse, and may be offered to male and female prisoners. At the female facilities, Co-Dependent No More is also offered.
  - At the minimum security facilities (excluding Downeast Correctional Facility), Living in Balance is also offered to address substance abuse treatment needs in a more flexible manner. This open-enrollment curriculum is focused on substance abuse recovery and is able to be individualized based upon the prisoner's substance abuse treatment needs, allowing for the flexibility needed at a minimum security facility. The program has up-to 47 different program lessons to be included in the program delivery.
  - In 2016, 518 male prisoners and 181 female prisoners successfully completed outpatient substance abuse treatment while incarcerated.
- As of July 2012, MDOC entered into a contract with Correct Care Solutions to provide both medical and behavioral health services to the adult and juvenile populations. In July 2015, Correct Care Solutions began providing substance abuse treatment services across the Department's adult facilities. The substance abuse treatment services provided by Correct Care Solutions are paid for by the DOC (general funds), with support from the DHHS SAMHS Office (general funds).
- Also in July 2015, the juvenile facility at Mountain View was repurposed into a secure adult correctional facility focused on providing treatment programs to male prisoners. Day One, the previous provider of juvenile substance abuse treatment services at this location, was retained and began offering the substance abuse treatment services at the Mountain View Correctional Facility, including the Substance Abuse Unit. The services provided by Day One are paid for by the DHHS SAMHS Office.

	Topic	General Scope
<b>5</b>	<b>Maine Power-Options</b>  Responsible Agency: Maine Municipal Bond Bank Maine Health and Higher Education Authority	<ul style="list-style-type: none"> <li>• Effectiveness of program in meeting its intent</li> <li>• Effectiveness and transparency of Request For proposal and contractor selection process for electricity supply</li> <li>• Public transparency of MPO activities and decisions</li> </ul>

**Additional Information**

In August 2013, OPM reported the results of its review of MPO to the Governor's Office in a Draft Advisory White Paper. OPM concluded that:

- MPO could not provide evidence demonstrating cost savings for participating members;
- Oversight of the program was weak;
- the electricity supply contract was a concern; and
- MPO participants had numerous alternatives other than MPO available for procuring energy.

In 1999, the Legislature passed legislation directing the Maine Municipal Bond Bank and the Maine Health and Higher Education Authority to create an aggregation program to purchase electricity, fuel oil and other commodities on behalf of governmental units (such as municipalities, schools, and sewage and water districts) and other not-for-profit entities in the State. Maine PowerOptions (MPO) was created as an energy-purchasing consortium that serves as an aggregator for Maine's local governmental and non-profit organizations. Maine PowerOptions group-purchasing programs are designed to increase the buying power of eligible participant organizations for the purchase of fuel oil and electricity. MPO has approximately 820 members statewide.

MPO has an Internal Advisory Committee (IAC), made up of members that periodically provide suggestions and recommendations for improvements to the program. There is a competitive bid process conducted every three years to select an electricity provider who will offer the best choice of options for the term, and is open only to licensed energy suppliers in Maine. The members of the IAC participate in the interview process for selection of the energy supplier. A single electricity supplier has won the contract since the program's inception. The contracted supplier pays MPO a monthly fee for the expenses of running the program.

**Additional Information Gathered by OPEGA Since February 2017:**

The Office of Policy and Management reported to OPEGA that they had no further involvement with MPO after the draft white paper was provided to the Governor's office. The Director of the Governor's Energy Office to whom the draft white paper was addressed is no longer with the Governor's Office and OPEGA has no further confirmation on what actions, if any, were taken.

As an energy aggregator, MPO is licensed by the Public Utilities Commission. The PUC reported to OPEGA that they did not receive any calls from consumers in 2016 related to MPO.

In a conversation with OPEGA, the Maine Public Advocates' office did express some concerns with transparency and the overall value of the program.

There are currently about 250 members contracting with the supplier. The one-time membership fee ranges between \$0 and \$500 based on the entity's annual electricity expense. The fee is waived if annual electricity expense is less than \$25,000. Membership is voluntary and members are free to explore other options in the market.

No information has been published by MPO to indicate how much its members spend on electricity through its contracts, as members choosing to participate in the program select the rate and term which best suit their needs. However MPO provided OPEGA with the 2016 calendar year electricity consumption by its members, which was 390 million kilowatt hours.

Information regarding potential savings to members of MPO is also not published. MPO points out that favorable terms and conditions also benefit members beyond pricing, and the legislation that created MPO does not mandate cost savings.

The contracted supplier pays \$19,000 per month to MPO as part of the supplier agreement, which funds the administrative costs to run the program.

	Topic	General Scope
6	<p><b>Temporary Assistance for Needy Families (TANF)</b></p> <p>Responsible Agency: Department of Health and Human Services' Office for Family Independence</p>	<ul style="list-style-type: none"> <li>• Reasons for decline in TANF enrollment</li> <li>• Possible correlations between declines in TANF enrollment and trends in:               <ul style="list-style-type: none"> <li>○ infant mortality,</li> <li>○ childhood poverty,</li> <li>○ childhood food insecurity,</li> <li>○ drug affected newborns, and</li> <li>○ housing problems</li> </ul> </li> <li>• Adequacy of Federal and State resources supporting TANF</li> </ul>

**Additional Information**

The TANF Program is a financial assistance program for needy families with dependent children who are deprived of parental support or care because of the death, continued absence, incapacity of a parent, or the under employment of a parent who is the principal wage earner. Maximum assistance provided to a family (with the possibility of extensions) is 60 months in a lifetime.

Applicants must meet age, relationship, deprivation, citizenship, alien status, residency, and cooperation requirements, as well as remain within the income and resource limits of the program in order to be eligible to receive TANF benefits.

Recent newspaper articles indicate that TANF enrollment in Maine has dropped by more than 60% since 2012 while statewide poverty rates have not improved.

An initiative in the Governor's Proposed Budget for FY18 and FY19 reduces proposed amount for TANF by about \$105 million from prior years to adjust allocation between TANF program and the Child Support program within the same fund to align activities with the appropriate program. Also to reduce allocation in TANF program to align with existing resources.

**Additional Information Gathered by OPEGA Since February 2017:**

OPEGA contacted the Legislature's Office of Fiscal and Program Review (OFPR) which provided the following information on TANF.

According to the U.S. Department of Health and Human Services' Office of Family Assistance (OFA) website, federal TANF block grant funds can be used for four major purposes:

- Provide assistance to needy families so that children can be cared for in their own homes
- Reduce the dependency of needy parents by promoting job preparation, work and marriage
- Prevent and reduce the incidence of out-of-wedlock pregnancies
- Encourage the formation and maintenance of two-parent families

Maine caseloads for TANF financial assistance have declined significantly from 2012 to 2016 as shown by data taken from the federal OFA website (see table below)

<b>FFY 2012 - FFY 2016 AVG Caseload for TANF by FFY and CY</b>						
Temporary Assistance for Needy Families (TANF)						
AVERAGE MONTHLY NUMBER OF RECIPIENTS, ADULTS, AND CHILDREN: Oct. 2015 - Sep. 2016						
State	<i>Fiscal Year 2016 (October - September)</i>			<i>Calendar Year 2016 (January - December)</i>		
	Total Recipients	Adults	Children	Total Recipients	Adults	Children
2012	22,554	7,471	15,083	20,306	6,744	13,562
2013	15,070	4,941	10,129	14,305	4,655	9,650
2014	12,211	3,879	8,332	11,548	3,640	7,908
2015	10,109	3,070	7,039	9,829	2,950	6,879
2016	8,503	2,435	6,068	8,259	2,347	5,913

There are fewer families who meet the eligibility requirements for TANF for a variety of reasons. There have been a number of changes to the TANF program since 2012 that have contributed to the decline in caseload, including changes in TANF eligibility requirements.

Maine's unobligated federal TANF block grant funds through SFY 2015, as taken from the State's accounting system, totaled just over \$110 million. This block grant funding is available to be used for the other TANF purposes.

	<b>Topic</b>	<b>General Scope</b>
<b>7</b>	<b>Commission on Indigent Legal Services</b>  Responsible Agency:	<ul style="list-style-type: none"> <li>• Effectiveness of the Commission in meeting its mission</li> <li>• Economical use of resources</li> </ul>

**Additional Information**

The Maine Commission on Indigent Legal Services was established by the Legislature in 2009 to provide high quality representation to Maine citizens who are entitled to counsel at state expense under the United States Constitution or under the Constitution or statutes of Maine. The Commission's mission is to protect the rights of Maine's indigent citizens in courts throughout the State by providing oversight, support, and training to assigned private counsel and to contract counsel. The Commission assumed responsibility for providing indigent legal services on July 1, 2010.

Concerns expressed in the request relate to application of financial eligibility requirements in assigning court-appointed attorneys, attorney billing practices, and billing and collection efforts for citizens with assigned attorneys who are required to pay a portion of the attorney fees.

**Additional Information Gathered by OPEGA Since February 2017:**

LD 1433, An Act An Act To Create the Office of the Public Defender and Amend the Duties of the Commission on Indigent Legal Services, was introduced during the 127<sup>th</sup> Legislature. This bill came out of Committee with a divided report. The Ought Not To Pass report was accepted by the House and the bill did not become law. There is an initiative in the current biennial budget bill, LD 390, Part A, that proposes to do the same thing as LD 1433. It can be expected, therefore, that discussion about the Commission will occur at the Appropriations Committee at some point. The proposed budget amounts for the proposed Office of the Public Defender are \$16,364,733 General Fund and \$793,497 Other Special Revenue Funds for FY18, and slightly more for FY19. Proposed budget amounts for the Commission on Indigent Legal Services are \$8,300 General Fund for each of the two fiscal years for to cover the Commission's revised role.

**Maine Charter School Commission and Baxter Academy**  
**OPEGA Summary for the Government Oversight Committee**  
**Updated for April 12, 2013**

**Statute and Rules**

Legislation passed in 2011 allowed public charter schools in Maine. They are authorized and governed under Title 20-A Chapter 112 Public Charter Schools. Public charter schools are defined in statute as schools parents choose to send their children to that are independent of a school administrative unit, and are established and operated under the terms of a contract between the school's governing board and its authorizer. Public charter schools must provide a program of education for one or more of the following: preschool, prekindergarten and any grade(s) K-12. The program may focus on certain types of students such as special education or at-risk and may include various academic approaches or themes such as natural resources and the environment or science, mathematics and technology.

Pursuant to statute, the Department of Education has established major substantive Rule 05-071 Chapter 140 to govern the authorizing, oversight and operation of public charter schools in Maine. The rule requires public notice of activities of authorizers and charter schools, sets forth student enrollment procedures, establishes standards for the performance of authorizers, clarifies the funding of public charter schools, clarifies the process for petitioning for conversion of a non-charter public school, and provides criteria for determining when a charter school governing board is sufficiently independent of an education service provider with which the board may contract.

Statute sets out what shall be included in requests for proposals for charter schools, applications, and charter contracts. In addition, the Maine Charter School Commission, also pursuant to statute, has adopted Rule 90-668 Chapter 2 – Procedures for Commission Authorization of Public Charter Schools. The rule establishes the:

- process the Commission will use to solicit, accept and review public charter school applications;
- performance indicators that will be used as the performance framework for any approved application; and
- minimum requirements for a charter contract.

Rules adopted by the commission before June 30, 2014 are routine technical rules and after that they are major substantive rules.

The Maine Charter School Commission is established as one of the entities that can authorize public charter schools. Commission members are appointed for 3-year terms by the State Board of Education with input from the Joint Standing Committee on Education and Cultural Affairs. A local school board can also authorize public charter schools within the boundaries of the SAU it governs. Local school boards can form a collaborative to set up a regional public charter school.

Public charter schools are subject to federal, state and local laws such as those relating to special education and required to have independent audits. Statute charges authorizers with responsibility for oversight and evaluation of public charter schools they authorized. Statute also establishes roles and responsibilities for the Department of Education.

The Maine Charter School Commission is comprised of seven members appointed to three-year terms by the State Board of Education with input from the Legislature's Joint Standing Committee on Education and Cultural Affairs. Three Commission members must be members of the State Board of Education and they nominate the four other members who must be approved by a majority vote of the State Board. Members appointed to the Commission must have diverse

professional experience in education, social services, youth training, business startup and administration, accounting and finance, strategic planning and nonprofit governance.

The Commission has two staff persons – an Executive Director and an Administrative Assistant. The Executive Director started in October 2012 but volunteered for the Commission prior to being hired. Legal assistance for the Commission is currently provided by the Assistant Attorney General who assists the Department of Education.

The law allows the Charter School Commission to authorize a maximum of 10 charter schools during an initial 10-year transition period. Charter schools authorized by local school boards do not count toward the 10-school limit of the Charter School Commission.

### **Maine Charter School Commission Process for Authorization of Public Charter Schools**

The basic process established in Commission Rule for soliciting and considering public charter school applicants includes:

- Issuance of a Request for Proposals (RFP) with notice to general public and interested parties.
- Public informational meetings to answer questions about the RFP (with notice of meetings posted on Commission website and distributed to interested parties) and/or written responses to questions on the RFP posted to the Commission website.
- Letter of Intent filed with the Commission by an entity intending to submit an application.
- Submission of Application and review for completeness by Commission or Commission staff.
- Evaluation of Application by an assigned Review Team consisting of not more than 3 Commissioners and other technical experts as needed.
- Review Team presentation of recommendations on Application to full Commission.
- Commission determination of whether the Application appears to demonstrate the applicant's competence in each element of the Commission's published approval criteria and appears to demonstrate that the applicant is likely to open and operate a successful public charter school as required in Title 20-A, section 2407(4)(C)(1).
- Denial of Application if Commission determines criteria not met. Otherwise,
  - Commission holds in-person interview with Applicant to clarify information provided in the application, to seek additional information, to determine whether members of the Board and school leaders understand their obligations for academic and operational accountability, and to gauge the applicant's capacity to effectively launch and oversee the proposed charter school.
  - Commission holds public hearing to elicit public comment on the expected impact of the proposed charter school on students, parents, the community to be served by the school, and public education in the State.
  - Commission votes to approve, conditionally approve or deny Application. A decision to conditionally approve the application must set forth the specific changes that must occur in order for the application to be fully approved, and the deadline by which the changes must occur. A decision to deny the application must state the reason for denial.
  - Commission negotiation and finalization of contract with approved Applicant.

The Rules prohibit Commission members, and any others participating in the application review process, from discussing any potential or actual application with a proposed or actual applicant during the period

between the issuance of the RFP and the final Commission vote on all applications submitted in response to that RFP, except during the in-person interviews provided for in the Rules.

### **Publicly Accessible Information about Public Charter Schools and the Commission**

Information about public charter schools can be found on the Department of Education Charter School website - <http://www.maine.gov/doe/charterschools/index.html>. DOE's website includes the governing statute, questions and answers about charter schools, and information on: how charter schools are authorized, how to create a charter school, charter school founders and operators, and how to enroll in a charter school. The enrollment information includes links to two Commission-approved charter schools - Cornville Regional Charter School and The Maine Academy of Natural Sciences. DOE's website also includes a link to the website for the Maine Charter School Commission.

The Maine Charter School Commission website at <http://www.maine.gov/csc/index.html> has information on the Commission and its activities including:

- Commission members
- Meetings and materials – minutes, agendas
- Request for Proposals issued by the Commission
- Applications received in response to the two RFPs issued to date
- Additional information requested of applicants by the Commission
- Authorized schools
- Laws and rules

### **Baxter Academy**

Baxter Academy of Science and Technology is located on York Street in Portland, Maine and expects to open in September 2013. According to the Baxter Academy website at <http://baxter-academy.org>, the school has received the required number of applications and letters of intent for its charter, has a new 5-year lease on its building, and is reviewing over 200 teacher applications.

Baxter submitted its initial application to the Commission on May 29, 2012 and, after its review, the Commission granted Baxter conditional approval. The Commission specified its conditions in letters to Baxter and required a revised application by September 30, 2012 with revisions addressing those conditions incorporated. Baxter submitted its revised application on September 28, 2012 and the Commission granted approval and began negotiations for the charter contract with the further requirement that Baxter provide proof of a minimum of 150 letters of intent by March 15, 2013.

As discussed in the Commission's March 30, 2013 letter to the Government Oversight Committee, the Commission halted contract negotiations with Baxter when it learned the Baxter's Executive Director had been fired. The Commission requested 12 documents, and responses to Commission questions, from Baxter which were heard and reviewed at a public meeting held Monday, March 25<sup>th</sup>. The list of requested documents and Commission questions (as taken from the Commission's website) are attached. The Commission requested further information to be provided subsequent to the March 25<sup>th</sup> meeting.

The Commission held a meeting on April 8, 2013 to further consider whether to proceed with a contract for Baxter Academy. OPEGA observed the Commission reviewed the additional information provided by Baxter, further questioned Baxter Academy representatives present at the meeting and revisited criteria that had previously caused concerns for various Commission members. Citing recent significant improvements in Baxter's academic plans, financial situation, potential enrollment figures and Board and parent involvement, the Commission voted unanimously to go forward with a contract - noting that a finalized

contract would still be contingent on the Board making changes to its by-laws and completing the hiring of an Executive Director.

### **Public Concerns Raised**

On March 22, 2013, the Mayor of the City of Portland formally requested that the Attorney General conduct a review of several matters since recent changes to the Board and management of Baxter Academy had raised serious questions about its viability, as well as concerns about the application process and subsequent approval granted by the Maine Charter School Commission. The Attorney General responded that she understood the Charter Commission was currently reviewing these and other concerns and that she was confident and hopeful the Commission would take the allegations seriously and thoughtfully consider them as it re-examined its approval of the Baxter Academy application.

The Mayor's request to the AG and his concerns were recently covered in the media preceded by recent media coverage related to the Baxter Academy Board's dismissal of its Executive Director in March 2013. Other questions and concerns discussed in the media since Baxter Academy submitted its application to the Charter Commission regard the financial assumptions in Baxter's budget including specific questions about lines of credit, enrollment projections and the availability of federal grants.

A summary of selected media coverage of the Baxter School's application and the Charter Commission's consideration of that application is attached.

**Maine Charter School Commission Document and Information Request to Baxter Academy for the Commission's March 25, 2013 Meeting**

(as taken from the Commission's website at <http://www.maine.gov/csc/index.html>)

**Documents to be delivered to the Commission by the Board of Directors for Baxter Academy by March 18 in advance of the interview scheduled for March 21, 2013:**

1. The names of all current members of the Board of Directors for Baxter Academy, along with their resumes, the date of appointment to the board for each member, and their primary role as a board member (either office and/or special area of expertise).
2. The number of current proposed enrollments, based on received letters of intent, along with the grade levels. Include the numbers from each SAU, to the extent that this number is known.
3. A statement on the financial status for the pre-opening period, with documentation on the status of funds either received or committed from donors, other fund-raising, or from commercial lines of credit.
4. A current three-year budget plan.
5. An updated organizational chart showing the key administrative positions and their relationship to the Board.
6. The name and resume for the new Executive Director, if presently known.
7. If known, the names and resumes for the chief financial officer, director of technology, and the director of special education/special services.
8. The status of the building lease agreement, together with a copy of the lease, if signed.
9. A description of the present status of contracts for transportation, food service, custodial services.
10. The names and roles of the current membership of the Advisory Board.
11. A description of the present status of a hiring plan for instructional staff.
12. Information on pending litigation against Baxter Academy of Technology and Science or its Board.

**Potential MCSC questions to the Baxter Academy Board of Directors for the March 25, 2013 Interview**

1. The Commission has a number of questions concerning Baxter Academy's financial capacity to open its school and to fulfill the requirements of the charter contract that we must enter into before the school may open and receive public tuition subsidy from the per pupil allocation as provided by law.
  - a. What is your current forecasted enrollment, based on a verified list of "intents to enroll" received from parents? Has this list been checked to ensure that none of the caps on enrollment from one or more SAUs has not been exceeded?
  - b. Do you have a revised three year budget plan based on: a) a new estimated enrollment plan; b) a revised staffing plan (including revisions to the administrative structure); and c) updated information on transportation, food service, and other contracted services?
  - c. What is the status of the potential new line of credit? Has FAME agreed to serve as a guarantor? Is it able to be drawn upon at present?

- d. Does this plan have contingencies within it should enrollment drop below either the 150 student forecast as approved in the Commission's vote to grant a charter (date of vote), or in your current best estimate for enrollment numbers?
    - e. What present revenue or other access to funds does the school have on hand to enable it to enter into either facilities lease or other contractual arrangements necessary before school opens? Please specify the amounts available from donations, grants, other fundraising, and from an approved line of bank credit.
  2. With regard to the academic program offering: In light of personnel and budgetary changes, what revisions, if any, does the school propose to make to its stated academic program and schedule based on its present enrollment projections?
  3. There has been high turnover on the Baxter Academies board of Directors since the first submission of its application and even since the vote to issue a charter. The Commission needs further assurances that the present Board has the capacity necessary to enter a contract and open a school in September 2013. Specifically, we need information and plans from the Board in the following areas:
    - a. Based on updated list of Board members, their resumes and specific areas of expertise that will support Baxter Academy, what areas of needed expertise will you now seek to add? A timeline for this?
    - b. Please give us an indication as to the frequency and number of board meetings you have held since the vote to approve the charter and minutes of formal votes taken at those meetings.
    - c. Can you give us an indication as to your projected number and frequency of planned board meeting going forward throughout this next year?
    - d. How have you posted public notice of Board meetings to date? What is your plan for the future for notifying parents, staff and public about the dates and times for board meetings, and your plans, if any, to involve them in your decision making?
    - e. Please list for us the action steps, with names of the specific Board member assigned, for specific operational tasks and oversight activities that the Board and school intend to make in order that school may open in September and operate throughout the first full year of operation.
  4. What is the potential impact of any pending litigation on the ability to go forward as a school? How are the litigation costs to be paid? If the intellectual property is deemed not to belong to the school, how would this effect the ability to go forward as a school? If the litigation was to go for a long period of time, how would that affect the school?

**Summary of Select Media Coverage of Baxter Academy Application  
to Maine Charter School Commission (MCSC)  
July 2012 – April 1, 2013**

In June and July 2012, the MCSC was considering multiple charter school applications including Baxter Academy in Portland. Baxter Academy is planned as a Science, Technology, Engineering and Math (STEM) school. Opponents, such as the Mayor of Portland and Maine Education Association, raised questions about the financial assumptions in the Baxter Academy budget. Baxter stated it had secured a \$500,000 line of credit from an anonymous benefactor to fund start-up costs and was projecting \$360,000 in the first year from federal U.S. Department of Education grants. The grant amounts were questioned, as were enrollment projections of 160. Baxter presented a new budget for 100 students with a smaller federal grant projection.

The MCSC subcommittee recommended approval, but the full Commission continued to have questions about Baxter's finances. One member suggested a budget based on 80 students might be good. Supporters noted the need for a STEM school and some MCSC members characterized issues raised in opposition as political.

At the same time the Commission was being criticized for the time it was taking to approve charter schools and the small number being approved. Commission members stated they were making decisions based on specific merits, not whether charter schools are good or bad generally.

In November Baxter Academy was approved as Maine's third charter school with a projected opening in September 2013.

In March 2013, the Baxter Academy Board dismissed John Jaques, the Director stating that it saw a pattern of mismanagement and had been considering dismissing Jaques after it learned the school did not have the line of credit it needs for its contract with the State. The Board discovered the line of credit was not in place when it went to sign the building lease.

Jaques denied mismanagement and stated board acted unethically and dismissed him in order to obtain a donation of \$250,000 contingent upon his removal. Jaques said that donation was from the father of a member of the school's advisory board. The Board said a family member was paying Jaques' salary, and that the donation did come from someone who had previously worked with Jaques then pulled his support. The individual who said his organization, the Jebediah Foundation, would not provide any more funding to the academy as long as Jaques was in charge confirmed this.

Jaques cut board off from school email, records, website and facebook page which included applications for positions and enrollment. There was back and forth in the press between current Baxter board members who supported the dismissal and former advisory board members who supported Jaques. A lawsuit was filed by the Board to get materials from Jaques because they were necessary in order to proceed with plans to open school in September.

Board has now signed lease and gained access to teacher applications.

On March 22 it was reported that the Portland Mayor asked Attorney General to investigate allegations of mismanagement, determine whether MCSC conducted an appropriate review of the school's financial picture and whether Commission offered inappropriate advice or assistance during application process.

The MCSC meeting on 3-25-13 to discuss Baxter Academy was covered. Jaques supporters criticized new leadership at school and said that most members of advisory board had resigned and school is corrupt. Baxter supporters claimed problems are a distraction and that the school is moving forward with a new

plan, parents are still supportive, they have 156 student applications and are only about \$100,000 short of \$350,000 fundraising goal.

March 29 reports on GOC to be asked to authorize an inquiry, review school's finances, standards used by MCSC to consider application. The Governor criticized Portland Mayor for requesting an Attorney General investigation. The Mayor reiterated his discomfort with sending hundreds of thousands of school funds to a school whose own directors have raised questions about financial management. The MCSC Chair stated that criticism is from those who don't want charter schools, and the Commission is doing the oversight and vetting as deeply as it can. Baxter board members raised a concern that a long inquiry could jeopardize a September opening.