



SEN. CRAIG V. HICKMAN, SENATE CHAIR
REP. JESSICA FAY, HOUSE CHAIR

MEMBERS:

SEN. LISA KEIM
SEN. MIKE TIPPING
SEN. RICHARD BENNETT
SEN. JILL C. DUSON
SEN. JEFFREY TIMBERLAKE
REP. AMY ARATA
REP. H. SAWIN MILLETT, JR.
REP. MARK BLIER
REP. ANNE MARIE MASTRACCIO
REP. MARGARET M. O'NEIL

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
April 28, 2023

Call to Order

The Chair, Sen. Hickman, called the Government Oversight Committee to order at 9:30 a.m.

ATTENDANCE

Senators: Sen. Hickman, Sen. Keim, Sen. Duson, Sen. Bennett, Sen. Tipping, Sen. Timberlake

Representatives: Rep. Fay, Rep. Arata, Rep. Mastraccio, Rep. Millett, Rep. Blier, Rep. O'Neil

Legislative Officers and Staff: Peter Schleck, Director, OPEGA
Jen Henderson, Senior Analyst, OPEGA
Kari Hojara, Analyst, OPEGA
Sabrina Carey, Secretary, OPEGA, GOC Clerk

Others: Heather Johnson, Commissioner, DECD

Introduction of Committee Members

The members of the Committee introduced themselves.

New Business

(To watch this meeting - the recorded Live Stream can be viewed here: <https://legislature.maine.gov/Audio/#220>)

- **Meeting Summary**

The April 14, 2023, Meeting Summary was accepted as written.

(A copy of this document can be found here: <https://legislature.maine.gov/doc/10043>)

- **proposed reclassification of fishing vessels, tax expenditure review**

The Chair, Rep. Fay, invited OPEGA Analyst Kari Hojara to join the Committee to discuss the proposed reclassification of the Fishing Vessels Tax Expenditure.

Ms. Hojara explained that the idea is to reclassify this deduction from the full evaluation tax expenditure review category to the expedited review category. The deduction is currently assigned to receive this full evaluation. She explained that the reason they were proposing to reclassify it, is that during beginning work on the deduction, there was information that told them that this may be a conformity matter and all other conformity matters are assigned to this other type of review.

Sen. Bennett asked about differences in data being presented regarding the expenditure and asked if it could be explained. Ms. Hojara answered that this was based on the prior and current versions of the Maine State Tax Expenditure Report. She explained that the latest document is the one OPEGA put together for the committee. The report came out in February 2023 and refers to the fiscal years '24 and '25.

Sen. Bennett stated that he looked forward to the review as in the more current document it looks like the impact to the taxpayer is quite a bit less and that information would be shared.

Ms. Hojara answered that switching it to an Expedited Review would limit the information on that but stated that there was a representative from MRS in the room who may be able to provide more information on the estimates if desired.

Sen. Bennett stated that he just wanted those numbers to be validated.

Ms. Hojara answered that currently, an Expedited Review goes through the "red" books and provide information about the estimates that exist and the legislative history of the deduction but there is not a validation by OPEGA on those numbers.

Sen. Bennett asked the Chairs to invite the MRS spokesperson to join the conversation.

The Chair, Rep. Fay invited the MRS representative, Daniel D'Alessandro, to the table.

Sen. Bennett asked for clarification about the differing numbers given regarding the taxpayers affected.

Mr. D'Alessandro stated that he did not have the specifics of what changes were being discussed but thought that the more recent information was based on experience actualities rather than projections for the overlapping years.

Sen. Tipping asked for a detailed description of the "Category B" Tax Expenditure Expedited Reviews and where the conformity measures are reported.

Ms. Hojara suggested that he could read the statute that outlines the Expedited Review process which lays out what is required to be in the reports. She read the first part of the Statute for this process:

“MRS Title 3 Chapter 37 §1000. Expedited review of tax expenditures

1. Expedited review process. Beginning July 1, 2016, the policy committee shall conduct expedited reviews of tax expenditures and the associated tax policies identified under [section 998, subsection 1, paragraph B](#), in accordance with the schedule established in [section 998, subsection 2](#).

A. For each tax policy subject to review, the policy committee shall assess the continued relevance of, or need for adjustments to, the policy, considering:

- (1) The reasons the tax policy was adopted;
- (2) The extent to which the reasons for the adoption still remain or whether the tax policy should be reconsidered;
- (3) The extent to which the tax policy is consistent or inconsistent with other state goals; and
- (4) The fiscal impact of the tax policy, including past and estimated future impacts. [PL 2015, c. 344, §4 (NEW).]”

Sen. Tipping clarified that for each expenditure there is the legislative history and the potential recommendations for them.

Ms. Hojara added that the information is broken down by the individual measures within a category. There would be information on each of the things individually.

Rep. Millett understood that it was more of a conformity issue than an income tax deduction issues which warrants consideration for a faster paced review. He read the flow chart and thought that it would give the Tax Committee time to put in legislation for the second session. He asked if they could advance the suggested timeframe to January.

Ms. Hojara stated that those dates are set in statute and explained that this particular deduction would be classified with a group of expenditures that would not be up for review until 2027. She suggested that the Committee could consider other options than either fully reclassifying for Expedited Review or undertaking a Full Evaluation. She stated that if it is a matter of interest, the Committee could ask for more information about this particular deduction, which would perhaps have a quicker turnaround.

Sen. Hickman suggested that because it is an Annual Review Process there will be recommendations that come in a regular session. He stated the Committee could report something to the Taxation Committee if they had recommended legislation before March 1st.

Rep. Mastraccio stated that her interpretation was that the Tax Committee would be proposing legislation, not the GOC. She wanted to hear OPEGA’s opinion on how that has worked in the past.

Ms. Hojara answered that she would leave that answer to the Taxation Committee to weigh in on how it has worked for them as she did not have much insight on that.

Rep. Millett stated that if the Taxation Committee is provided with a report that the GOC would hear and receive on December 15, that it was adequate time for them to consider legislation if warranted.

Motion: To approve the proposal to recategorize the Capital Construction Funds for Maintenance or Replacement of Fishing Vessels

(Motion by Rep. Mastraccio, seconded by Sen. Hickman, unanimous yes of those present)

- **LD 849 – TERWG Recommendations**

Rep. Fay explained that LD 849 just had its Public Hearing and it proposes a number of changes that would impact the GOC’s authority and the responsibilities of OPEGA and resources. The legislation follows the recommendations of the Tax Expenditure Review Working Group that was established in the 130th Legislature. She stated that a number of the current Committee Members were on that working group. She shared that the

Public Hearing had been on the 18th (April) and the Work Session was scheduled for May 4th. She explained that the idea was to discuss whether the Committee wanted to act as a Committee to express support, opposition or other comments about any aspects of the Bill to the Taxation Committee.

Rep. Mastraccio stated that she had testified and explained that the part she objected to was the (Government Oversight) Committee Membership. She stated that the membership of the Committee and the selection of Chairs are established by Joint Rules of the Legislature. She explained that the working group recommended that at least two members of the Committee must also be members of the Joint Standing Committee on Taxation and one member be from the Joint Standing Committee of Innovation, Development, Economic Advancement and Business. Her objection was that the GOC should have a broad representation of all the Committees of Oversight. She thought it important that no committee should be overrepresented. She suggested that no more than two members from any one committee be on the GOC.

Sen. Bennett stated that Rep. Mastraccio had good points. He shared that he was on the task force and supports their findings. He reiterated that Committee Membership is established pursuant to the Joint Rules and they are appointed by the Presiding Officers, so he did not think it was possible to do what is contemplated in the bill. He agreed that they should not be setting Committee Memberships in statute.

Rep. Millett stated that he also served on TERWG and he suggested at the time that they devote so much time to tax matters and the tax matters include incentives that impact the economy of Maine, so he felt that the composition requiring a regular attendance by members of the Taxation Committee and someone currently familiar with Economic Development made sense. He wondered why the GOC in the most recent previous years has been comprised mostly of Appropriations and Members of Leadership.

Rep. Mastraccio shared that she understood that the GOC was created by a bill that only passed because the Committee was determined to have fully equal representation between the two bodies and parties. She reiterated her suggestion of an amendment for no more than two members from any one committee should be on the GOC.

Sen. Tipping suggested that Leadership could potentially use the upcoming subject matter each year to help determine the overlap of Committee membership within their appointments rather than mandating any specific Committee be represented for any or the entirety of the future.

Sen. Bennett stated that they could simply say the President of the Senate shall appoint someone to the Tax Committee and the GOC and the House will do the same, and put that in statute but suggested it would be better in joint rule.

Rep. Mastraccio asked if OPEGA had submitted any testimony or made any recommendations to the Tax Committee based on the things being asked as there are things that have a potential impact on resources.

Director Schleck answered that there is a provision in policy that applies to the nonpartisan staff that generally, testimony is not permitted. He explained that there may be special exceptions and there may be historical examples that members can cite, but generally OPEGA tends to present information to Committees through Work Session days or otherwise, but not through Public Hearings.

Rep. Mastraccio stated that she remembers previous Directors being present at work sessions in particular and communicating with analysts during their preparation for the bill. She thought it should be an approach that should be continued to be taken in the present, making sure the OPLA Analyst is checking in on how this additional informational assistance can be worked through. She asked Director Schleck if they had weighed in on this particular legislation or not.

Director Schleck answered that they have not formally weighed in on the legislation.

Rep. Arata asked Director Schleck if he had input on if it is even allowed to have a bill determine the number of members versus through a Joint Rule. She explained that she had looked into putting in a bill that would impact GOC membership but found out that she couldn't because it goes against the Joint Rules.

Director Schleck answered that there is a simple sentence indeed in statute that states that the GOC Chairs and Members are determined by Joint Rule. He suggested an approach whereby the Committee could send a letter through the Chairs and Leads to provide input.

Rep. Mastraccio thought that would be a great idea, but that the entire Legislature should have the discussion on how to address it. She explained that she would leave the bill as is, and clarified that she would leave out any amendment stating there must be a certain number from any other Committee. She suggested that maybe they could put in legislation that would leave it to Joint Rule and suggest that they put broad representation of Committees on the GOC.

Rep. Millett reflected on how the Committee endorsed the TERWG Report and the drafting of the bill and thought that they should not prescribe the Appointments that the Presiding Officers are ultimately responsible for in Statute. He wondered if Director Schleck could draft an alternative to that one section that implies that this is the intent of the legislature as recommended by the GOC.

Sen. Bennett thought that Rep. Millett's thought was a good idea and thought it would be appropriate to also send a letter to the Joint Rules Committee and propose a Joint Rule Amendment.

Rep. Fay asked Sen. Bennet for clarification on his request as to whether he just wants to send a letter or propose a Joint Order to amend the Rules.

Sen. Bennett clarified that he would start with a letter, although he noted that as a member of the Joint Rules Committee, he noted that they had not met yet.

Director Schleck recommended drafting a letter for now from the Chairs and Leads to the Tax Committee conveying the view regarding the Statute and the issue about Membership and refer to the fact that they could also be prepared to send a letter when the Joint Rule Committee convenes.

Rep. Mastraccio stated that she wanted to make sure that the information gets to the Tax Committee before they work this bill on May 4th.

Rep. Fay stated that the matter of urgency is that there is a Work Session on the bill and that if the Committee wants to weigh in, it should be decided before ending the current meeting.

Motion: To endorse LD 849 and the language with an addition of Rep. Millett's proposed language for the Committee membership and send the recommendations to the TAX Committee.

(Motioned by Rep. Mastraccio, seconded by Rep. Arata, unanimous yes of those present)

(Sen. Hickman registered his vote in accordance with the Committee Rules)

- **Work Session - OPEGA Report on Maine's Visual Media Incentives**

(A copy of this Report can be found here: <https://legislature.maine.gov/doc/9940>)

(A copy of submitted written comments can be found here: <https://legislature.maine.gov/doc/10025>)

Rep. Fay recapped that the Committee had previously had a Public Comment period on the Report last meeting. She explained that the purpose for the Work Session is to vote on the endorsement of the Report, decide whether to take additional actions, if any, and to officially transmit the report to the Taxation Committee.

Rep. Mastraccio stated that she was excited to see the response from the Department of Economic and Community Development (DECD) to the report and asked if the Chair could invite them up to talk about it.

Rep. Fay invited DECD Commissioner Johnson to join the Committee discussion.

Commissioner Johnson stated that as Visual Media evolves in the market, there are a lot of perspectives of what is most important. She shared that they have commissioned a study that is taking stakeholder feedback to collect some data around the issue. She stated that getting other voices to facilitate the discussion is sometimes helpful so that they don't lead down their own path. She explained that the most critical part would be to take the feedback to the Film Commission the membership of which is being re-established by the Governor to have a diverse set of ideas and inputs to synthesize all of that data.

Rep. Mastraccio stated that she wanted to know that the Commissioner would follow up with the Committee to share what they come up with.

Commissioner Johnson stated that she would be able to do that.

Rep. Millett shared that he thought the response was good and objective and appreciated the option that the Commissioner come back and update the Committee.

Sen. Tipping appreciated the clear answers in the letter response from DECD. He asked about how they decided to reform the program instead of end it and why is it important to economic development. Commissioner Johnson stated that there are programs currently underway so finding the best way to make changes while not pulling the current opportunities from productions. She stated that they are trying to find enough of a compromise to keep lots of stakeholders but not water it down so that it is no longer impactful.

Sen. Tipping asked why is this a priority for expansion of economic development instead of focusing on other areas or industries.

Commissioner Johnson thought that Maine's economy is growing well over the last years in comparison to where it was. She hoped that they could get to a program that would grow the space in a cost-effective way.

Sen. Tipping asked what the projects and opportunities were currently being developed.

Commissioner Johnson recalled some of the Public Comment on the Report that talked about gaming and the long-term potential of that and getting young people into coding. The principles of game development come out of really important STEM skills that are cross sector generated. She stated that there is a real ecosystem around the creative economy in Maine that would represent an opportunity for continued support. Diverse economies are what create value over time and is a continuum for into which people can fit.

Sen. Bennett asked about LD 1075 and what the Commissioner's thoughts on that bill were.

Commissioner Johnson stated that the sponsor of the bill has offered to carry the bill over to allow for the study results before regrouping.

Rep. Mastraccio stated that there has been a bill like this one every year that she has been in the Legislature. She thought that this was viable in Maine as the technical schools are teaching the school kids these skills and a lot of them want to continue and further their educations in this area. She stated that the arts are important and she was excited to see if there can be an incentive program that is part of the arts so that they want to stay in Maine.

Sen. Tipping asked about the current DECD study and how it was decided on using an outside contractor and how much it costs.

Commissioner Johnson stated that it was important to have an independent look at where the market opportunities sit in Maine so that they could really evaluate how they would move the needle. She explained that the report should be ready by the end of June.

Rep. Arata stated that there was an error in the OPEGA Report on page 13 that should be corrected going forward that caused alarm to her and other members previously and asked that it be noted going forward.

Ms. Hojara apologized for the error and explained that it was the last four years of the data that was pulled down ending in 2019.

Sen. Tipping noted that the correction was noted and included in the Public Hearing.

Director Schleck explained that the endorsement of the Report can be made subject to the provision that this fact is clarified accordingly.

Motion: To Endorse the OPEGA Report; Visual Media Incentives with the edit on page 13 clarifying the data around travel costs for the 4-year period listed.

(Motioned by Sen. Bennett, seconded by Mastraccio, unanimous yes of those present)

(Sen. Hickman voted in accordance to the Committee Rules)

Ms. Hojara walked the Committee through the next potential options, including requesting information and updates from state agency officials or from OPEGA, or sending a letter to the policy Committee making recommendations or expressing the views of the GOC on the matter.

Rep. Mastraccio thought that it should be shared with the Taxation Committee to know what the GOC's thought were.

Director Schleck noted that there would be an errata sheet posted with the Report that clarifies the language of the Report and the correction.

Motion: To transmit the Report to the Taxation Committee along with a summary of the Committee's discussion

(Motioned by Rep. Mastraccio, seconded by Rep. Arata, unanimous of those present)

(Sen. Hickman voted in accordance to the Committee Rules)

Director's Report

Director Schleck acknowledged that the HCIFS Committee wrote back to the GOC with a response on the CoverME request made by Sen. Bennett.

Rep. Mastraccio stated that the HCIFS Committee was appreciative of the chance to be able to take on the issue. Sen. Bennett asked for the status of this issue within the GOC.

Director Schleck answered that it is not part of the formal OPEGA Work Plan, and suggested that they continue to monitor the issue but that it does not need OPEGA involvement at this time.

Rep. Mastraccio stated that HCIFS is going to follow through and intends to have a report back.

Director Schleck stated that they sent the letter and the department has provided answers.

Sen. Tipping asked if Customer Call Wait Times, on which DHHS just recently wrote back about, could be placed on a future agenda to discuss it more in detail.

Director Schleck also shared that there is an update in the Member binders on the legislation of interest to the Committee, and explained that some of the bills have been voted Ought Not To Pass or been tabled. He noted a Public Hearing on May 2nd on the bills addressing GOC authority to access certain records.

Unfinished Business

None.

Next GOC meeting date and planning

Director Schleck explained that there does not seem to be enough members available to attend on the next set meeting date of May 12 (nor any OPEGA deliverables ready), so he suggested that they skip that date and have the next meeting on May 26.

Rep. Fay noted there was no objection and confirmed the date of May 26, 2023.

The next GOC Meeting will be held on May 26, 2023 at 9:30 AM.

Adjourn

The Chair, Sen. Hickman, adjourned the Government Oversight Committee meeting at 3:30 PM on a motion by Rep. Fay, Second by Rep. Mastraccio.