



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
January 27, 2017
Accepted February 17, 2017**

CALL TO ORDER

The Chair, Sen. Katz called the Government Oversight Committee to order at 9:00 a.m. in the Burton Cross Building.

ATTENDANCE

Senators: Sen. Katz, Sen. Libby, Sen. Davis, Sen. Diamond, Sen. Gratwick and Sen. Saviello

Representatives: Rep. Mastraccio, Rep. Pierce, Rep. DeChant, Rep. Harrington, Rep. Rykerson and Rep. Sutton

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA
Etta Connors, Adm. Secretary, OPEGA

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

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

SUMMARY OF THE JANUARY 20, 2017 GOC MEETING

The Summary of the January 20, 2017 GOC meeting was accepted as written.

NEW BUSINESS

None

UNFINISHED BUSINESS

- **Adopt Committee Rules**

The Committee received the draft Committee Rules at the January 20th meeting and were to review them for discussion at today's meeting. Director Ashcroft noted that there had been one change to the model Committee Rules with regard to being able to vote by email, phone or fax with the Presiding Officer's approval and recommended striking that from the GOC's Rules. She also recommended removing 9. J, K and L of the Rules because were not relevant to the GOC.

Rep. Sutton asked if the Director could elaborate more on 9. J. because didn't know why the reports would not be included if they were already prepared. Director Ashcroft said the GOC does not hear bills so it is not a typical process where there is a reporting out of a bill by the committee with a minority or majority report that needs to go to the Legislature. She did not know what J would apply to given the kind of work the Committee does. Votes taken at the GOC are not reported out to the Legislature in any kind of formal way. It is more about documenting what has gone in the Committee.

The Chair, Rep. Mastraccio, believes the statute covers how bills have to come out of the GOC and include how members voted on the legislation. It is not specified as a majority or a minority vote, the legislation the GOC puts forward is different than the Joint Standing Committees.

Sen. Diamond referred to 9. F regarding absentee voting and said the GOC is unlike other committees and when votes are taken at this Committee, members could be voting, for example, to keep a topic before them or to take it off the Work Plan or On Deck list. He is concerned that if a member is not at the meeting, votes taken would remove something for consideration and one or two votes could do that. Director Ashcroft agreed there may be a scenario, and there was one just recently regarding the topics for the Northern New England Passenger Rail Authority, where there were a number of GOC members absent when the initial votes were taken and several members who were not present were given the opportunity to vote. Their votes made a difference as to whether or not the topics ended up on OPEGA's Work Plan, but that was not known until the period had passed that Committee members were allowed to vote. Committee members would continue to have the opportunity to vote absentee, but the voting would have to be done in person.

Sen. Katz said the current status of the proposal is not to allow voting by phone, fax or email with the permission of a Presiding Officer and asked if any GOC members wanted to make an argument against that. None were made.

Motion: The Government Oversight Committee approves the 128th GOC Committee Rules of Procedure with the suggested edits. (Motion by Sen. Davis, second by Rep. Pierce, passed, unanimous vote)

- **Review OPEGA/GOC Responsibilities, Process and Upcoming Work on Tax Expenditure Reviews**

- **Taxation Committee Report From 2016 Expedited Reviews**

Director Ashcroft said a few years ago OPEGA was tasked with putting together a proposal for how the Legislature might conduct ongoing evaluations of tax expenditure programs. The definition of those programs is basically for any tax break that is given in the State of Maine. Maine Revenue Service's (MRS) biennial report has all of the tax expenditures in it and that is what is used as the base for identifying the population of tax expenditures.

Director Ashcroft referred to OPEGA's Proposal for Legislative Review of Maine State Tax Expenditures that was submitted to the GOC and Joint Standing Committee on Taxation in March 2015. She said it was provided for the members to review and may help answer questions regarding how the 2017 Review Schedule for Tax Expenditures was selected. The Proposal was to establish legislation for the process in the

Legislature and the Taxation Committee submitted it as a bill. OPEGA worked with the Taxation Committee, MRS, and stakeholder groups to come to the final language in the bill that satisfied everyone and is now in OPEGA's Statute, Title 3, Chapter 37. (A copy can be obtained by contacting OPEGA.)

The GOC is responsible for shepherding and overseeing the actual review process itself and OPEGA's work on the evaluations that are done. The Tax Expenditure review reports differ from other reports that OPEGA gives to the GOC as they go to the Taxation Committee which is the body that will consider the recommendations in OPEGA's report. The GOC's role is to ensure that OPEGA has done a credible, objective and sufficient job in evaluating the tax expenditures and through that process to communicate to the Taxation Committee whether they have concerns about what OPEGA has produced for the Legislature. Director Ashcroft said beyond that it is not envisioned that the GOC would have a role in determining whether any of the recommendations should be implemented, at least not in the first pass through. By a certain time in the first part of the year, OPEGA is to present to the GOC the reports they have completed from the prior year. OPEGA has three tax expenditure reports they will be reporting out over the next few months. The GOC will consider those reports, will hold a public comment period on the reports for the purpose of assessing OPEGA's work, but not necessarily commenting on whether or not the GOC should do anything with the recommendations. That is a little different process but it does seem appropriate that the GOC has the opportunity to hear what people think about the report that OPEGA puts out and the recommendations within it.

Rep. Rykerson asked if the tax expenditures were affecting the budget and is that why programs are being reviewed. Director Ashcroft said they are never actually considered much in the budget process. The reason OPEGA got tasked with reviewing them is because they are all put upfront in the budget as revenue losses that are factored into how much revenue the State has available. These tax expenditures do not get the same scrutiny as the programs that go through the normal budget process and that is part of the Legislature's reason for wanting OPEGA to review them. The reviews are ongoing and OPEGA will be looking at what have been the outcomes of the programs and the expenses of the programs over some span of time.

Rep. Rykerson noted there have been changes since some of the tax expenditures were talked about being reviewed and asked if the Committee would be incorporating these changes moving forward. Director Ashcroft said it is the GOC's responsibility by October 1st every year to review the entire population of tax expenditures, the classification of those expenditures and whether they will be subject to full evaluations. The GOC reapproves that and the schedule every year. As part of that process, OPEGA monitors what has happened in the prior legislative session in terms of bills that have passed that either have added, repealed or made adjustments to tax expenditures that would affect where they are on the schedule or if they are being evaluated at all. Rep. Rykerson asked if the information was compiled in a new report or is it a standalone document. The Director said it is a standalone document and referred members to the 2017 Review Schedule for Tax Expenditures as of October 2016 in their notebooks that was approved by the previous Committee. The Committee, under statute, approves those schedules and classifications in consultation with the Taxation Committee.

Director Ashcroft noted the 2017 evaluations are about to be started with the goal of reporting to the GOC the first part of 2018. The OPEGA reports that will be issued to the GOC in the next couple of months will be conveyed to the Taxation Committee by July 1st. The Taxation Committee, over the interim, will meet and consider the recommendations and that Committee is supposed to issue a report to the Legislature by December 31st.

Director Ashcroft referred Committee members to the December 1, 2016 Taxation Committee's Tax Expenditure Review Report in their notebooks. This Report resulted from the Taxation Committee's expedited reviews in 2016 and that is their report to the Legislature on what they have for recommendations around the thirteen tax expenditures that got Expedited Reviews in 2016. Included in the Report is information that was provided by OPEGA in July 2016 and is an example of the expedited reviews having come full circle, other than whatever the Legislature is going to now take into consideration from the Taxation Committee's recommendation. This coming July the Taxation Committee will have both the

results of the three Tax Expenditure evaluations OPEGA has reported out and the responsibility for conducting expedited reviews on approximately a dozen tax expenditures related to a tax fairness policy.

Director Ashcroft said the dates currently listed in statute regarding when OPEGA is supposed to have the full evaluations completed and reported out has been determined to be unworkable. OPEGA was supposed to have the reports done by December 31st but there was no GOC sitting at that juncture and OPEGA is not allowed under statute, nor is it their preference, to issue a report into the public domain without presenting it publicly. In addition, just the two resources has not been sufficient to complete the work required within the year timeframe and that is why the GOC will not be receiving the reports until March. She will be back before the GOC with suggestions for changing the timing that is currently in statute.

OPEGA's current plans for reporting the 2016 tax expenditure evaluations to the GOC will be:

New Markets Capital Investment Credit	March 10, 2017
Employment Tax Increment Financing	April 14, 2017
Pine Tree Development Zones	April 14, 2017

Director Ashcroft noted that in addition to the tax expenditure reports, OPEGA has other reports being issued to the GOC.

DHHS Licensing and Regulations of Child Care Providers	March 10, 2017
State Lottery	April 28, 2017

The GOC can discuss whether they want two reports issued on the same day.

The Director said the GOC is also responsible for approving the evaluation parameters that OPEGA is going to use in conducting the full tax expenditure evaluations. Those parameters are approved before OPEGA starts any detailed work on the evaluations. The Committee will be receiving the evaluations parameters for the 2017 reviews at the March 24th meeting. The documents will include what OPEGA understands the intent and goals of the program to be. OPEGA is looking for agreement from the GOC and Taxation Committee that it is an appropriate intent and goal to base the evaluation on. The information will include who the intended beneficiary is of the program, what performance metrics OPEGA proposes are most relevant to evaluating the program, in terms of actual quantifiable measures, and the questions that OPEGA is going to try to answer about the particular program. The document frames the scope, standards and basis for OPEGA's evaluation work on each of the programs.

Sen. Katz said OPEGA assesses how a tax expenditure is measuring up against the purpose for which it was passed and as the GOC/OPEGA found out, we don't know what the purpose is because the Legislature never really said. He said the Committee talked about this before. He asked Director Ashcroft if anything has been done to try to encourage future Legislatures to state the purpose when a new tax expenditure is passed so everyone will know what the intention was and have that information to measure against in the future. Director Ashcroft said nothing has been done yet. The GOC has not suggested any legislation to ensure bills introduced include language specifying the intent. That may be something the GOC considers doing when it receives the results of OPEGA's report. She said she has already identified a need to issue a separate report, or memo, to this Committee regarding the evaluation process and what needs to be addressed in order to make those evaluations efficient and effective from OPEGA's perspective. These issues she envisions discussing in that memo cross programs and it is true with every program, not just those OPEGA is currently evaluating. Director Ashcroft said in addition to these three evaluations there will be some vehicle used for saying to the Committee these are issues that need to be addressed and it is the GOC's purview under this process to deal with the issues around the evaluation process itself.

Sen. Gratwick asked if Maine tries to adhere to some of the larger programs that other states have adopted to see if Maine wants to follow, or is Maine going its own way. Director Ashcroft did not think she could

answer the question because they were sort of policy decisions that would come as the Legislature was deciding what tax expenditures to implement in the first place. Sen. Gratwick gave an example of a program adopted by thirty-seven states and the question of whether Maine should become state thirty-eight or is Maine going to still be picking and choosing our own. Director Ashcroft thought there were two places where that might come up. It has been part of OPEGA's objective, on the individual evaluations, to look at whether there are other states that have similar things. That research may provide information about what other states have and could lead to a recommendation that changes to Maine's program should be considered based on what is going on in other states. OPEGA would then look to the policy committees to decide. The GOC has not traditionally been in the mode of making policy decisions about what programs should be here or there, but more about improving what already exists in terms of the way it is implemented in line with what is currently the legislative intent for it. She said it could also come as a recommendation from the Taxation Committee or another policy committee for the Legislature to consider. That is the other avenue through which those kinds of discussions might get raised.

- **Review of Language for GOC-Initiated Bills Related to Evaluation of Economic Development Programs**

- **An Act to Develop A Long-Range Strategic Plan for Economic Development**

Director Ashcroft said another effort the GOC and OPEGA have been involved in over the past two years is to assess what there are for evaluation efforts with regard to economic development investments that the State is making in terms of economic incentive programs and research and development activities as a whole. OPEGA issued a report in 2006 on economic development programs in Maine and observed at that time that there was not really any review of the entire portfolio of investments the State was making with regard to the overall purpose and policy. As a result of the recommendations OPEGA made in that Report, the Department of Economic and Community Development (DECD) put in place an evaluation process that was intended to evaluate the whole portfolio of the different types of investments. Some are part of the Tax Expenditure programs OPEGA is already reviewing and others are direct expenditure programs of various natures that are administered by various agencies across State government. DECD set up a funding mechanism for those evaluations and current statute requires them to be conducted every two years. The rounds of evaluations done since then have been performed by independent contracted evaluators as is required by the statute. There has been a lot of confusion and dissatisfaction with the reported results, not because the evaluators did not do a good job, but because they have not hit the mark in terms of what information and recommendations legislators were looking for. Director Ashcroft said there has also been an issue with having enough funding available through the funding mechanism that was set up to be able to continue to conduct those evaluations on an every two year cycle.

The GOC and OPEGA follows up with what has happened with recommendations from prior reports and have been following these economic development evaluations since they were first set up to try to see if it was going to be an effective solution to the issue OPEGA identified in 2005. They came to the conclusion that it was not an effective solution and since that time the GOC has been engaged in a lot of work trying to decide what the scope of that DECD evaluation should be, how is that meeting, or not meeting, all of the things the Legislature wants to know about the programs and what other pieces should be added. The evaluators and OPEGA also noted that there is no State strategy to evaluate the programs against in terms of how they fit and are they contributing to meeting goals or not.

The GOC, through all of that work, decided to propose change to improve the effectiveness and efficiency of the evaluations of economic development programs and that approach is what is laid out in the legislation the prior GOC voted to introduce.

Rep. DeChant referred to the evaluation of economic development programs that is supposed to happen every two years and asked if it continued to happen every two years. Director Ashcroft said it had with only one hiccup. Rather than three sets of reports there actually have been two rounds of evaluations that have resulted in reports, because there was a problem with a funding mechanism. The current funding mechanism

takes a percentage of monies that are supposed to be dedicated to the programs and puts that aside to be spent on evaluation. She said it is not a very good funding mechanism because the only programs that are getting hit for the assessment are the ones the State actually puts money out for. The research activities that the University conducts are examples as there is a certain percentage of the funds the Legislature would give to those effort that are set aside or paid back to go towards evaluation. This funding mechanism is not working at all with tax expenditure programs that are foregone revenue because there is no money going out the door that can be held back. Director Ashcroft said it is an imperfect mechanism, but it is what is currently in statute. There was a year that not enough money was collected to conduct the evaluation because of an error in statute with the percentage amount that was supposed to be taken for assessment. The statute has been corrected regarding the percentage and the timing of when the evaluations were due was reset at that time.

Rep. DeChant asked how many of the Reports existed. Director Ashcroft said there are two rounds of evaluations, with the latest one resulting in two reports.

Rep. DeChant asked if the Reports were presented to the Taxation Committee. Director Ashcroft said no and that was part of the problem some of the legislation is intended to try and fix. A number of the programs are overseen by the LCRED Committee, there are some in the Agriculture, Conservation and Forestry Committee, and some programs could fall under MRS or the Finance Authority of Maine, Maine Housing, etc. One of the big problems is that there are multiple committees of jurisdiction in the Legislature that have a piece of the pie with regard to economic development.

Rep. DeChant asked if DECD, or the consultants preparing the reports, were going to the various committees or offices, to present their reports. Director Ashcroft said there was one presentation done to the LCRED Committee on the initial report on the latest evaluation. There was not a presentation done for LCRED on the second report and that is another issue that was identified with the effectiveness of the process. When the GOC reviews the legislation regarding this issue at their next meeting, it will show what the Committee decided to introduce to address that.

Sen. Katz said Rep. DeChant raised an important point. Part of the light bulb that went off for the Committee was that whether the State is foregoing tax revenue coming in by giving the tax expenditures, or taking the money in and then paying it back out, it is all affecting the State's finances and ought to be evaluated the same way.

Rep. DeChant asked if the evaluation issued so far are just reports saying this is what we found. Sen. Katz agreed. Director Ashcroft said it has been difficult for the evaluators to make recommendations on whether the State's investments are doing anything because there has been no agreed upon strategy to measure those against and that was another problem the GOC identified and has been working on.

Director Ashcroft said the GOC did finish its work on this issue last session with a vote to introduce two bills that would address, to the degree they had been identified, the various problems. The approach that is being taken between the two bills is what has been outlined as a three prong approach in the document members have in their materials. The legislation the GOC is discussing is now back to the Committee for a language check. The previous Committee had already voted to introduce the bills which will be sent to the Revisor's Office and then will be returned to this Committee for one more language check before they get introduced.

Part one of the approach is to make sure there is a State strategic plan for economic improvement. Through the work of the Committee, and people who came before the Committee, it was learned that responsibility for developing that plan is assigned in statute to the Maine Economic Growth Council (MEGC). MEGC has done a lot of good work and has fulfilled a portion of the responsibilities tasked to it, but it did not have the funding, nor sufficient political authority behind them, to actually develop a plan that would be used statewide. Step one was to clarify and fund MEGC's responsibilities for creating a long-range strategic economic improvement plan for the State. The MEGC is a body established in statute by the Legislature and

consists of both private and public sector members. It is staffed by the Maine Development Foundation (MDF). The MEGC appears to be an appropriate group for trying to accomplish a strategic plan effort that would encompass many different aspects of the State of Maine in a nonpartisan manner.

Rep. Rykerson asked if the goals for economic growth articulated anywhere that it is more money, more jobs, etc. Director Ashcroft thought if you were to ask each Administration they probably would have some working goals that they are pursuing, but OPEGA did not find anywhere that it is set out in a formal long-term vision and strategy for the State as a whole. Sen. Katz said no business would operate without some sort of strategic plan and other states have figured that out. There are many states that have an overall economic development strategy in place that may change over time, but at least it is there to look at to see if what they are doing matches up with those goals.

Sen. Saviello said the report MEGC currently issues regularly assesses whether the State is doing positively or negatively with certain measures of growth the MEGC has established. They say we have improved in this one and gone backwards in this one, but there is nothing in the report that says this is what we are matching that up against. What this legislation says is we want you to keep doing that, but you need to set some goals so if we measure, for example, that our fifth graders are doing an outstanding job, how does that fit into our goal of increasing the fifth graders' education. Director Ashcroft said that was correct and the plan envisioned is more expansive than just what the State might offer for economic development incentives to businesses or fund for research and development activities. The plan is meant to say what does the State need as a whole package to be able to improve the economy and it is intended that it would take into account things like education, infrastructure and things currently seen in the Measures of Growth Report that the MEGC issues.

Rep. Mastraccio said one of the GOC's ultimate goals is that legislators on policy committees would refer to the plan when legislation is before them to see how it fits in with the plan because that is a piece that is missing.

Director Ashcroft referred to the draft legislation in the Committee's notebooks. She said the legislation clarifies what the process should look like for developing a strategic plan, the Legislature's expectations for what should be considered as it is developed, and the kind of a process should the MEGC follow to make sure there is adequate input from all stakeholder groups. It then talks, in detail, about the timing for when MEGC will put out the first strategic plan which is due by December 31, 2018. The plan is to be updated every two years and a full revision of the plan done every four years. All of the MEGC's reports are to be issued in writing to the Governor, the relevant legislative committees and to the entities around the State that have activities and programs that might be encompassed, or impacted, the achievement of the overall plan. These communications are meant to make sure that everybody is aware of the Plan. There is also a component that requires all those entities to consider the plan when they are planning their own efforts, managing their budgets and deciding where they are going to allocate their funds. The MEGC will not have any authority to direct any agencies to do anything in particular, but the GOC has tried to incorporate a process by which there should be a lot of information and education going on regarding the Plan, including what the plan is and a requirement that folks take that into consideration when they are going forward with their individual efforts and activities.

Director Ashcroft explained that MDF and MEGC believe they would need additional funding to do that work. MDF currently gets \$55,000 a year through DECD and the bill requests an additional \$120,000 a year to go to the MEGC. The \$175,000 a year would be to a non-lapsing account as what MEGC would need each year would vary depending on where they were in the Plan cycle. There would also be a one-time appropriation of \$150,000 to hire a consultant to get the first plan done by the due date of December 31, 2018.

Sen. Diamond asked if the \$150,000 in Section 7 of the legislation mostly would be spent during the first year, could it be swept by the Appropriation and Financial Affairs (AFA) Committee if it becomes needed for other purposes. Director Ashcroft thinks the expectation is that the one-time \$150,000 would be getting

spent right away toward getting the first plan done by the 2018 deadline. The other annual appropriation of an additional \$120,000 would be in a non-lapsing account because MEGC expects it will be spending more money in the years they are doing a full revision of the plan than in the years they are doing updates to the plan. They wanted to have a non-lapsing account so they would be able to manage what they need for funds over time.

Sen. Katz said this will be a free standing bill and assuming that it passes will have to go to the AFA Table.

Director Ashcroft said part two of the approach is to task OPEGA with conducting the same kinds of evaluations that are currently being done for tax expenditures for all other economic development investment programs. They are all the programs included in the portfolio that has been reviewed. The DECD evaluations were looking at the whole portfolio at once so there was not enough resources, or time, to get into detail on every individual program. Consequently, it was still leaving the Legislature lacking desired information on the individual programs. There is no way to do that well when you are trying to look at the whole group of programs at once as a portfolio. The GOC felt it made sense for OPEGA to be evaluating all economic development programs individually as is currently happening for the tax expenditure programs. It was decided that we should try to incorporate all the rest of the economic development programs into the same kind of process being used for tax expenditures and to put them on a six year recurring cycle as well.

The GOC talked about a couple of different options for how OPEGA might take on those evaluations. It was estimated OPEGA's work load would grow to about fifty-six evaluations to try to cover in a six year cycle. The last GOC talked about what would happen if OPEGA tried to do that within existing resources, which is two dedicated staff plus Director Ashcroft. That would equate to a cycle of about sixteen to eighteen years when woven in with the tax expenditure work. The GOC thought it worthwhile to try to add more OPEGA staff to try to stick to a six year schedule and still do all the tax expenditures and the additional economic development programs.

Sen. Katz said it would not necessarily be an additional expense because the \$400,000 DECD is spending would not have to be spent. Director Ashcroft said not all of that amount was getting funded with their funding mechanism and she has yet to figure out whether there is really any money there at all to shift to this effort after the cost of the DECD evaluations is covered. Even if there is, it is not much, but said she was still working on how the funding might come together. She thinks that even with two more dedicated staff, for a total of four OPEGA staff, it would be a heavy workload. The Director would be looking for one more additional staff person for the Office as a whole so she can start structuring the responsibilities to make sure that she is spending appropriate time on all of OPEGA's projects, not just tax expenditures and economic development evaluations.

Director Ashcroft said the section of OPEGA's statute that governs the tax expenditure process would be revised to also include the additional economic development programs. The same kind of roles and responsibilities that were discussed about tax expenditures would be in play for these other reviews as well. The exception would be that not all the programs are under the Taxation Committee's jurisdiction so it would have to be decided whether it will be the GOC that is going to work those reports or the joint standing committees of jurisdiction.

Rep. DeChant asked for examples of economic development programs. She also wanted to confirm DECD had spent \$400,00 over the last two rounds of evaluation for the reports that were not seen to be effective. Director Ashcroft said no. Currently, under statute, DECD is required to evaluate research and development activities and then also do a separate evaluation of all other economic development incentive programs. The DECD Commissioner is also required under statute to give an overall report on economic development activities to the Legislature. The last round of DECD evaluations encompassed both research and development activities and economic development incentives. The consultants also did an additional piece that would support the Commissioner's report to the Legislature. That entire effort that extended over a two year period cost approximately \$400,000. The legislation the GOC is working toward here is part three of how to change that evaluation to combine the two evaluations, R&D and economic incentives into one

evaluation and to change the scope of what that one evaluation is supposed to look like and the timing of when it is done.

Rep. DeChant said the GOC is recommending that OPEGA, with the additional staff, combine the R&D evaluations and the economic development incentive evaluations that DECD has been charged to do. Director Ashcroft said the population of individual programs that fall in the category of research and development activities and economic development incentives, the whole pot of programs, would show up as individual program evaluations for OPEGA. OPEGA would be evaluating those programs on a scale that they have not been individually reviewed on before. DECD has been evaluating the whole portfolio of programs together as a group, sort of as here is the State's portfolio of investments in economic development and how is the State's investment portfolio doing. DECD is doing a macro level evaluation of all the programs, but it does not get to the depth of answering the kind of objectives that are laid out on page two of the outline the GOC has for each individual program. The DECD evaluators have tried to catch some information on the individual programs and that is part of the confusion about what the scope of the DECD review is supposed to include. OPEGA would have the same pot of programs, but doing a different evaluation on each individual program. Going forward the DECD would continue reviewing the portfolio of programs as a whole against the State's strategic plan done by MEGC.

Rep. Mastraccio suggested that the link to DECD's reports be provided to the members of the GOC. Director Ashcroft will send a link to DECD's website to members of the Committee.

Sen. Katz said the GOC's goal is to be able to look at programs, whether they are tax expenditures, or actual dollar appropriations, in the same way to see if they are effective or not. For example, if you have a business program to incent people to hire Maine workers, whether it is a \$100,000 tax credit or a \$100,000 appropriation, what is the difference? Currently they are being discussed in very different ways so this is a way of trying to systemize that so money the State is spending can be evaluated the same way.

Director Ashcroft will email the link to the diagram that will illustrate how the results of the individual program reviews that OPEGA would be doing under this proposal will feed information into the macro level evaluation that DECD would do. The DECD evaluations would have the information on how the individual program is functioning when considering the portfolio results.

Rep. DeChant asked how the words, for example, economic development investment is being used. Director Ashcroft said there are definitions in the piece of legislation that the GOC has been working on, but she did not give it to this Committee yet. She gave examples of the other programs that would be economic development investments, like FAME's Loan Program for businesses, and the Department of Labor's workforce development training programs for businesses. There are also grant programs for businesses, and the Maine Technology Institute gives out money through various programs. Those are all economic development programs.

Sen. Katz said the GOC has tried to involve DECD every step of the way in their discussions on the development of the bill and have not had great participation from them. Sen. Libby asked if the GOC was attempting to get high level executives or team members at DECD to participate. Director Ashcroft said the goal is to make sure that whatever is being proposed in the legislation is a workable, reasonable solution for the State and DECD is a primary player in what the GOC is suggesting. Therefore the GOC wanted to make sure they were on the same page about what is needed and what could be done. The GOC/OPEGA has been seeking that kind of input from the Senior Management levels at DECD. Those folks want very much to be cooperative in discussing this with the Committee and, up until a particular point, those discussions were taking place, but since then their hands have been tied as to how much they are allowed to weigh in on what the GOC is proposing.

Rep. Harrington asked how the additional resources MEGC needed were estimated and how the money is going to be spent. Director Ashcroft said MDF was asked to work with the MEGC to provide an estimate of what they thought they would need for resources to accomplish what was set out in the bill and that is where

the estimates came from. The money MEGC currently receives is funneled through DECD and the additional funds would also be appropriated to DECD, but dedicated to the MEGC.

Rep. Pierce asked if the \$150,000 would be a one-time appropriation or will they be asking for more money in the future. Director Ashcroft said this would be a one-time need to get the effort started. Because of the way the biennial budget works, if they do not have an upfront appropriation they will not be able to get started on developing the plan in time to meet the 2018 deadline. Going forward the additional annual appropriation should be sufficient.

Sen. Katz asked if the members of the GOC were comfortable with having Director Ashcroft forward the legislation to the Revisor's Office. The members of the Committee were.

- An Act to Improve Effectiveness and Efficiency of Economic Development Program Evaluations

The GOC will discuss this bill at their next meeting.

• Discuss OPEGA's Work Plan for 2017-2018

Sen. Katz said for today's meeting the Committee will review the topics on the current Work Plan and On Deck List to decide if there is any topic that can be eliminated. The Committee will also talk about the solicitation of new topics and at the meeting on February 17th the Committee will begin developing the Work Plan for OPEGA going forward.

If this Committee wanted to follow the process of past GOCs, Director Ashcroft said they would develop a short list that this Committee wants to seriously consider putting on OPEGA's Work Plan for 2017 and 2018. What typically happens is the topics are put on the list, and OPEGA provides whatever information might be needed for the Committee to make decisions. Those topics are sent out on a ranking sheet to each of the members who then ranks what each of their priorities are for the topics listed. OPEGA brings the cumulative results back to the Committee and then they have a discussion about the topics' scoring results in terms of priority and vote them on to the Work Plan or not. If there are topics the Committee does not think ought to stay on the On Deck List any longer, it would be helpful to vote at this time to remove them.

- Review On Deck List Topics

Sen. Katz asked for general comments as to whether members thought topics on the list should stay on or be taken off.

Rep. Mastraccio went to 1. Amtrak Contract with Brunswick Taxi noting that some members of the last GOC who were not at the meeting voted after the fact and it was added to the On Deck List. She personally does not think the topic is within the GOC's purview and would be in favor of removing it.

Motion: That the Government Oversight Committee remove the Amtrak Contract with Brunswick Taxi from the On Deck List. (Motion by Rep. Pierce, second by Rep. DeChant)

Discussion: Sen. Libby understood there was work currently being done by OPEGA in regard to NNEPRA and its operations. He asked how OPEGA's current work on NNEPRA would be affected by eliminating this topic.

Sen. Katz said Sen. Libby made a good point and suggested that the GOC look at item 4. Downeaster Layover Facility in Brunswick also because it was another NNEPRA related project, both of which were moved on to the On Deck List by the previous GOC.

Director Ashcroft said when the GOC tasked OPEGA with the NNEPRA review they laid out a general scope that covers a similar scope to what they look at in many agencies – procurement, contracting, how

the Board is fulfilling its responsibilities, how plans are developed, etc. Underlying all of that however, the initial impetus for the request was because there was a lot of the angst that was going on in the community of Brunswick around a couple of different issues. The scope of OPEGA's review at that time was to do preliminary research to try to understand those issues and whether there was anything to those issues that should be pursued further. When OPEGA finished its preliminary research and was preparing to come back to the Committee with a recommendation on whether further review should be done, OPEGA felt uncomfortable suggesting particular areas because there were no red flags that showed up in their preliminary research beyond the fact that they had a lot of local folks that were upset, and a member of the Committee was upset and concerned about some of the issues. OPEGA presented an Information Brief to report out to the GOC what they had already learned through preliminary research so the Committee would be in a better position to decide whether they wanted to spend more OPEGA resources reviewing NNEPRA. A public comment period on the NNEPRA Information Brief was held and when that occurred there were a lot of members of the public that came and expressed a lot of concerns to the GOC around several issues. A few of the issues related to the scope of the review OPEGA had ongoing, and for that reason the Committee decided to go forward with the review in these particular areas. Director Ashcroft said a number of the issues fell outside the scope that OPEGA had been pursuing and those are the two NNEPRA topics on the On Deck List. One is about how a contract had been awarded to the Brunswick Taxi Company. The contract is with Amtrak, it is not a NNEPRA contract, so consequently other than OPEGA ascertaining that and what the contract was for, etc., OPEGA would not be doing any further work on the subject in OPEGA's current review because it is not a NNEPRA contract. Should the Committee decide to put it on OPEGA's Work Plan, OPEGA would find a way to weave it into the current NNEPRA review.

Director Ashcroft said with topic 4. Downeaster Layover Facility in Brunswick there was a lot of concern about the decision-making process that resulted in putting that facility in Brunswick including whether there was adequate public input and participation in deciding the need for and location of the facility. Looking at what happened in that situation is also work that would have a different approach than OPEGA's current ongoing review of NNEPRA. For that reason, it was also carved out as a separate topic. Should the Committee decide to put this topic on OPEGA's Work Plan, the Director would put it on as a separate project because of the amount of work and the different scope to it than what OPEGA currently has under review.

Rep. DeChant asked if NNEPRA was under the jurisdiction of the Transportation Committee and, if so, wouldn't that Committee be the one to address questions about their business practices.

Sen. Diamond said yes, but the Transportation Committee, like many policy committees, never get into the minutia of what happens in these departments. In fact, with NNEPRA coming before the Transportation Committee it is a one session budget review and, for the most part, does not get anywhere near what OPEGA would get into, or what the GOC would review. He said technically speaking, yes the Transportation Committee could certainly do that, but practically speaking, it won't happen.

Sen. Katz asked where the NNEPRA review fits now. Director Ashcroft said NNEPRA is on OPEGA's Work Plan and it is technically in progress. The review is currently on hold though while OPEGA finishes the other reviews that are ready to be reported out. The next step on the NNEPRA review would be to develop the specific questions that OPEGA will answer in the areas that the GOC directed them to include in the scope of the review which were: procurement practices, the effectiveness of the Board in terms of their oversight and decision-making role, and the accuracy and validity of the performance measures that NNEPRA reports out. Sen. Katz noted that the NNEPRA review on OPEGA's Work Plan could also be revisited by the 128th GOC.

Rep. Mastraccio informed members of the Committee that this procedure is the beginning of prioritizing reviews and deciding what OPEGA's work will be.

Sen. Libby asked how far along OPEGA was in the NNEPRA Review. Director Ashcroft said OPEGA did extensive preliminary research so what is remaining is to test and verify what they understand to be the practice. They are sixty-five percent through the review, although the additional work on the review has not been planned out yet so she was only very roughly estimating.

Sen. Diamond said during the public presentation of the NNEPRA Information Brief some people gave the GOC really good information that raised a lot of legitimate questions and he thinks some of those are still unanswered. He asked if the GOC could make a special effort to present what they have to the Transportation Committee and suggest to them that they may be interested in reviewing the NNEPRA issues. That might ignite the Transportation Committee's interest to have further discussions with NNEPRA based on what the GOC has found out. Sen. Saviello agreed.

Sen. Gratwick asked if the Committee was maximizing OPEGA's talents. Director Ashcroft said OPEGA's work is directly driven by what the desired results are that the Legislature, as a whole, and the GOC want from OPEGA's efforts. Each topic has different expected positive outcome in terms of information, or recommendations that might be made. OPEGA regularly has more projects put on their Work Plan for a biennium than what they are able to accomplish within the two year window and that is why projects rollover to the next biennium. Often times there are other priority reviews that come up over the course of the two year period that the GOC wants OPEGA to work on and when those get interjected into the process the other reviews get delayed.

Director Ashcroft referred the Committee to the Checklist for Considering Topics for an OPEGA Review in their notebooks noting that it may be helpful when deciding what their vote will be on a particular review. Rep. Mastraccio noted that, for some of the topics the previous GOC discussed, they did not use the Checklist and they should have because she felt some of the topics discussed were driven by individuals. She felt for the NNEPRA review that they were primarily focusing on Brunswick issues and she does not think that is what the GOC is here to do.

Sen. Libby said OPEGA is sixty-five percent complete in the NNEPRA review and he would like to see the conclusion of their work, even if it means eliminating the two NNEPRA topics on the On Deck List. NNEPRA is a public entity and it is worth the Committee's efforts to complete that component of the work.

Rep. Mastraccio said when the NNEPRA Information Brief was presented to the GOC it was with the intent that OPEGA had a lot of information and, therefore, questioned if the Committee wanted to go further. She thinks all the scope questions for the NNEPRA review were answered. Sen. Katz noted that the decision to go forward with the NNEPRA review on OPEGA's Work Plan has already been made unless this GOC decides not to, but it is not, at this time, before the Committee to remove it from OPEGA's Work Plan.

Sen. Katz said he was going to vote against the motion to remove the Brunswick Taxi Contract from the On Deck List because he thought there was enough question about the circumstances surrounding the award of the taxi contract that it merited a further look. He said it was a taxi contract that was awarded without competitive bidding to a company owned by the Town Council's chair, or former chair. He was not making any judgment on any impropriety, but there was enough there that he thought the GOC should not just drop it.

Rep. DeChant said the new members to the GOC were not present at the meeting to hear the conversations regarding the NNEPRA review requests and that insight is very valuable in the sense that on paper the topic does not resonate to her. However, if there was a ground swell and a wake behind it that manifested itself as a suspect conduction of business in public venue, that does rise to the issue of consideration.

Sen. Saviello said he knew that some of the topics were shopped around unsuccessfully in other places so they were brought to the GOC. He did not think the Committee needed to be focused on one community, but focused on the State of Maine.

Rep. Pierce said the taxi contract was awarded by Amtrak not NNEPRA, nor do they get reimbursed by NNEPRA and the Legislature has no purview over Amtrak. Director Ashcroft said it was correct that it was not NNEPRA's contract, but OPEGA does believe, although has not yet confirmed, that NNEPRA reimburses Amtrak for the expenses under Amtrak's taxi contract. OPEGA could potentially end up understanding how these expenses might flow through to NNEPRA, or any other contract by virtue of the work they are planning to continue to do.

Vote: Motion passes - 7 – 5.

Motion: That the Government Oversight Committee remove topic 4. Downeaster Layover Facility in Brunswick from the On Deck List. (Motion by Rep. Pierce, second by Sen. Saviello, motion passes 9-3)

Sen. Saviello asked if it would be appropriate to send a letter informing the Transportation Committee that the GOC took the topic off the On Deck List, but it might be something they may want to look into. Sen. Katz said there were two separate issues and that the overall NNEPRA review is currently still in progress. He asked if any Committee member thought the GOC should do anything further with respect to the Taxi Cab Contract or Brunswick Layover Facility issues.

Motion: That the Government Oversight Committee send a letter to the Transportation Committee informing them of the GOC's action of removing the two NNEPRA topics for review off the On Deck List. (Motion by Sen. Saviello, second by Sen. Diamond, motion passes, unanimous vote, 12-0.)

Director Ashcroft said OPEGA made several suggestions for improvement in the NNEPRA Information Brief regarding public participation, process, etc. that are in part, related to the issue with the Brunswick Layover Facility. She asked if the GOC would be agreeable to referencing those suggestions to the Transportation Committee. The GOC members agreed with the Director's suggestion.

Motion: That the Government Oversight Committee removes from the On Deck List topic 2. Beverage Container Recycling (Bottle Bill). (Motion by Rep. Pierce, second by Sen. Libby)

Discussion: Rep. Pierce said the Environment and Natural Resources (ENR) Committee has eight bottle bills before it this Session and will be dealing with a number of these issues.

Sen. Saviello said the bottle bills currently before the ENR Committee will not address this issue. He said the matter has been bounced around to various legislative committees as to who had jurisdiction over it. He thinks the topic has a variety of issues and the different committees could not get into it because of the complexity of it. The only way to understand it is for someone to review it who has no vested interest. He would like this topic to remain on the On Deck List.

Rep. Sutton said in looking at the Checklist reviewed earlier the Beverage Container Recycling topic does not appear to fit into any of the financial, public or legislative impact areas so she would be in favor of taking it off the List.

Sen. Saviello said about two million dollars a year sits in funds that are all over the place that either the State or the recycling businesses has. There is a lot of money in different areas through the bottle redemption process.

Director Ashcroft noted that at the time the GOC considered putting this topic on the On Deck List for a review she sat in on the public hearings and work sessions for the bottle bills that year and it was her observation that it seemed to be a perennial issue in the Legislature. There are a lot of bills every session

regarding the topic and she agrees that it seems like a convoluted issue to try to figure out. There were a lot of public comments, mostly from those running the redemption centers, complaining about various aspects of the law. That information may not be reflected very well in what is in the Summary for the Bottle Bill on the On Deck List, but said legislative and public impact would be where she saw the greater potential benefit to doing a review.

Rep. Rykerson referred to bullet four in the “General Scope” – “Continued need for current beverage container recycling laws” and thought the issues were more a policy decision and not appropriate for the GOC. Director Ashcroft agreed.

Rep. Pierce asked how much work had been done on this topic and, if it were to be put on OPEGA’s Work Plan, how many OPEGA resources would it take. Director Ashcroft said she would have to go back to revisit whatever it was that OPEGA did for initial research on the topic at the time the GOC was considering it. Rep. Pierce asked when the last time was OPEGA worked on the issue. Director Ashcroft said OPEGA has updated and kept track of what legislation has been cycling through with regard to it, but the topic is not on OPEGA’s Work Plan so the Office has done no work on it other than that.

Sen. Diamond said the Beverage Container Recycling problem has been going on for years and the issues are so widespread, not the least are the concerns about out of State compliance. He supports a review of the topic because it does affect the economies of this industry and maybe more.

Sen. Gratwick agreed and asked if there was some better mechanism than the GOC to look at the larger issue.

Director Ashcroft said it appears there is some interest in the topic but she did not know if it extended to putting it on the short list of what might be added to OPEGA’s Work Plan. Sometimes, in that case, what happens is the Committee asks OPEGA to spend some time gathering particular information before making a decision. In this case, it might also be thinking about redefining the scope of the review. The current Scope is from the 124th GOC and this Committee might have different information on what they know are now the issues.

Sen. Saviello said this review would have to be done by OPEGA if it is going to be done because at the Committee of jurisdiction there is too much emotion in the room. It needs to be done by a non-biased organization that can ask and answer the questions. He said there are millions of dollars involved in the Beverage Container Recycling program and he does not think anybody knows where it all goes.

Vote: Motion failed, 3-8.

Director Ashcroft asked if it would be a more efficient process if she sent out a ranking list for the On Deck topics to the Committee members and ask them to indicate which topics on the On Deck List they are most interested in putting on OPEGA’s Work Plan. The topics that do not rise to that level could be discussed for possibly removing from the list.

Committee members agreed to the above process suggested by the Director.

- Review Current Work Plan

Not discussed.

- Solicitation of New Topics

Sen. Katz said the GOC receives requests for reviews from legislators, so if there is an individual, or constituent, who wants the GOC to consider a topic for an OPEGA review, it has to come through a legislator. He asked Committee members who had a topic they would like considered for the Work Plan

to submit their request by February 3, 2017 to OPEGA so it can be discussed at the February 17th GOC meeting.

REPORT FROM DIRECTOR

• Status of Projects In Progress

Director Ashcroft said both the **New Markets Capital Investment Credit** and **DHHS Licensing and Regulation of Child Care Providers** can be issued at the March 10, 2017 GOC meeting. Sen. Katz said that the public comment periods on both Reports will be at a subsequent meeting and he anticipates that there will be a lot of people attending the meeting for public comments on the New Markets Capital Investment Report.

Committee members agreed to OPEGA presenting the two Reports at the March 10, 2017 GOC meeting.

The **Northern New England Passenger Rail Authority** is on hold until OPEGA gets the other reviews reported out and then the Office will be moving back to fieldwork on that review. OPEGA is planning on releasing the **State Lottery** Report on April 28, 2017. **Employment Tax Increment Financing** and **Pine Tree Development Zones** will be reported out on April 14, 2017.

OPEGA will be starting work on developing the evaluation parameters document Director Ashcroft talked about earlier for the 2017 tax expenditure evaluations and those may be presented to the Committee on March 24, 2017.

Sen. Katz noted that the Committee is scheduled to meet on April 14 which is Good Friday and asked if any member had an objection to having a meeting on that day. No member objected so the Committee will plan to meet on April 14th.

NEXT GOC MEETING DATE

The next GOC meeting is scheduled for Friday, February 17, 2017 at 9:00 a.m. The Committee will be continuing the discussing of what to put on OPEGA's Work Plan, OPEGA's Annual Report for 2016 will be presented and the Committee will review OPEGA's budget.

ADJOURNMENT

Sen. Katz adjourned the Government Oversight Committee meeting at 11:33 a.m. on the motion of Sen. Diamond, second by Sen. Saviello, unanimous.