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REP. ANNE-MARIE MASTRACCIO, HOUSE CHAIR

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REP. PAULA G. SUTTON

MAINE STATE LEGISLATURE  
GOVERNMENT OVERSIGHT COMMITTEE

**MEETING SUMMARY**  
**September 25, 2017**  
**Accepted October 18, 2017**

**CALL TO ORDER**

The Chair, Sen. Katz, called the Government Oversight Committee to order at 1:04 p.m. in the Burton Cross Building.

**ATTENDANCE**

Senators:	Sen. Katz, Sen. Davis, Sen. Diamond, Sen. Gratwick and Sen. Saviello Absent: Sen. Libby
Representatives:	Rep. Mastraccio, Rep. Pierce, Rep. DeChant, Rep. Harrington, Rep. Rykerson and Rep. Sutton
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Jennifer Henderson, Senior Analyst, OPEGA Amy Gagne, Analyst, OPEGA Etta Connors, Adm. Secretary, OPEGA
Legislators:	Sen. Dana Dow, Senate Chair, Taxation Committee Rep. Stephen Stanley, Member, Taxation Committee Sen. Troy Jackson, Senate Democratic Leader
Executive Branch Officers and Staff Providing Information to the Committee:	George Gervais, Commissioner, Department of Economic and Community Development Douglas Ray, Legislative Liaison/Communications Manager, Department of Economic and Community Development Andrea Smith, Director, Tax Incentive Programs, Department of Economic and Community Development

**INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE  
MEMBERS**

The members of the Government Oversight Committee introduced themselves.

## SUMMARY OF THE AUGUST 23, 2017 GOC MEETING

The Summary of the August 23, 2017 meeting was accepted as written.

### NEW BUSINESS

- **OPEGA Report on the Pine Tree Development Zones**

Sen. Katz said at the August 23<sup>rd</sup> meeting OPEGA presented the Report on the Pine Tree Development Zones. Today the Committee is holding the public comment period on the report.

Director Ashcroft said given what has been in the media with regard to OPEGA's Report on the Pine Tree Development Zones (PTDZ), she thought it may be helpful to get everyone on the same page again as far as what it is OPEGA actually said in the Report. OPEGA cannot control how others perceive reports, but she is concerned when there are statements made that make it sound like OPEGA said things it did not say. Sometimes she will address those statements with individual reporters, but this time it got a little farther afield than what she could deal with on an individual basis. She thought it would be helpful to revisit how the GOC/OPEGA got into the review and what OPEGA actually did for work on this review.

OPEGA's general role in the tax expenditure evaluations is to try to meet legislators' desire and need for objective and concrete information on particular programs that they can base policy and budget decisions on. Back in 2016, when OPEGA was setting the parameters for their evaluations, there were several things legislators were ultimately looking for from OPEGA. One was to get beyond the anecdotal information that legislators typically get in public hearings on bills and to try to quantify results for the program to the extent OPEGA could possibly do that. When quantifying the results, legislators wanted to include cost benefit type information that incorporated the big picture, the indirect and direct benefits, whether it was achieving its intent and whether the activity that occurred would have happened absent the program. Legislators wanted a framework for comparing one state program to another in terms of making decisions about which of the programs are being most effective and, therefore, are worthy of more resources. OPEGA was setting out to do that in the PTDZ review. A couple of those objectives require being able to do attribution, which is being able to tell how much of the activity is directly related to this particular program. Some of the data issues talked about in the report are about the challenges in trying to determine what portion of activity was directly and solely attributable to the PTDZ program. The GOC is familiar with the concept of attribution from OPEGA's New Markets Capital Investment Credit report.

Director Ashcroft thought another helpful context piece to revisit is on page 45 of the PTDZ report. It is the evaluation parameters that were approved by the GOC prior to the start of OPEGA's work. The first evaluation parameter was to establish what the intent, purpose and goals of the program were and that is a key foundational piece in terms of the perspective from which OPEGA evaluated the program. The GOC received input from stakeholders on the evaluation parameters that OPEGA had presented before approving them. The intent that was approved for the PTDZ program was "to encourage development in economically distressed communities in Maine in order to provide new employment opportunities, improve existing employment opportunities, improve and broaden the tax base and improve the general economy of the State." The more focused goal of this program that was approved was to provide new qualifying employment opportunity in certain industries in economically distressed communities. Director Ashcroft said that is the basis from which OPEGA sought to answer the questions assigned for the review.

Also included in the Evaluation Parameters on page 45 of the Report are the evaluation objectives and performance measures that laid out what kind of quantitative data OPEGA was going to try to collect for the Committee. Director Ashcroft said whenever OPEGA does one of these evaluations, they start with Objective (b) and (f) and along the way take stock of what there is available for data to help them answer (a), (c) and (h). For the PTDZ review, OPEGA made the decision to stop after completing that portion of

the review for a number of reasons. Basically however it was because she determined that OPEGA resources would be better spent on other tax expenditure reviews given a) the program was sunsetting, b) anybody OPEGA talked to did not seem to have any interest in trying to extend Pine Tree beyond its sunset, and c) that it would have taken OPEGA a lot of work to get and use data that they were comfortable with. OPEGA also decided that it would be helpful for the GOC and Taxation to hear what they did have to say about the design in case there was going to be a program to replace Pine Tree. Director Ashcroft made the decision to stop the review before OPEGA got to any objectives about what the outcomes actually were, or whether or not there was a “but for” for this program, or what the costs benefits were, or what all of the direct and indirect fiscal benefits were for the State. Despite what a number of media articles had said, OPEGA has made no statements about what the PTDZ program has or has not achieved. OPEGA recognizes the program is providing a lot of benefits to a lot businesses and there are likely indirect benefits because of that. If, and when, the GOC would like OPEGA to go the extra lengths to access the outcomes of the PTDZ program, the Office would be happy to do that. She said it is not that it is impossible to get the data, or that there is a void of information that could be made available, but it is all about how much effort and time it would take OPEGA to be able to report that information out to the Committee and be confident they were only talking about activity attributable to Pine Tree Zones. Director Ashcroft said OPEGA’s report did not talk about the outcomes and maybe that should have been stated more clearly. What is in the PTDZ report is an assessment of the design of the program or the degree to which that design would strive strongly toward creating new employment opportunities in economically distressed communities. That was the original agreed upon intent and the benchmark by which the program was assessed. Undoubtedly, there have been other good things that have happened to the economy just by virtue of bringing businesses in. OPEGA did not say the program was not accomplishing anything. What OPEGA did say is the design of the program has a lot of weaknesses in it if what the Legislature is trying to do is make sure they create a lot of good, qualifying, and well paid jobs in areas of the State that are most economically distressed. If the Legislature is going to continue with the PTDZ program beyond its sunset, they may want to take a hard look at what those weaknesses are because they create the risk that the State could be spending money without getting a lot of jobs. The exception there being the portion of PTDZ that is the ETIF. Director Ashcroft thinks that observation got lost a little bit in all the discussion. OPEGA had said the ETIF component was the largest benefit under Pine Tree Zones, and jobs have to be created in order to get that benefit. OPEGA does have a review of ETIF in progress and at some point in the future the GOC will have some outcome information about the ETIF portion of Pine Tree.

Director Ashcroft said, if the Legislature is going to design another program to take the place of PTDZ she thinks the things OPEGA laid out for the Legislature’s consideration are important. OPEGA observed they may have tried to put things into the PTDZ program in the past that were either not implementable or that should be given extra consideration as to how they would design similar provisions going forward.

- **Public Comment Period**

Darcy Ouellette, Twin Rivers Paper Company (She did not provide a copy of her testimony.)

Ms. Ouellette said the Pine Tree Zones program has been substantial to Twin Rivers Paper Company and has helped them invest in equipment and grow as a company. Overall Twin Rivers’ impact to the State of Maine is huge. They have 499 employees in Maine and generate \$12.8 million a year in tax revenue. The average mill wages in Maine are in excess of the average forest manufacturing earnings in the State which overall reduces the dependence on governance, lowers poverty rates, and reduces healthcare costs. The Maine Twin Rivers Mill spends \$214 million per year in labor and benefits, consumables, maintenance, insurance and transportation. She was at the GOC meeting to ask that the Legislature continue the PTDZ program and to continue to invest in Twin Rivers.

Rep. Mastraccio asked Ms. Ouellette if she understood that the program will be sunsetting and that does not mean it is going away now. As long as a business is certified as a Pine Tree Zone it will be able to access those benefits and anybody who signed up through 2018 will still be able to access the benefits.

She thought from Ms. Ouellette's testimony that she thought the program was going to be done away with and nobody has suggested that.

Ms. Ouellette said they were actually notified last week that there was a possibility that the program would go away. Twin Rivers still has three years on the program so that would be substantial to their business.

Sen. Saviello asked if Twin Rivers' pulp mill is in Canada and its paper mill is in the United States. Ms. Ouellette said that was correct. He asked if the 499 jobs and the investments Ms. Ouellette talked about are all in the Maine mill. She said they were. Of those 499 jobs, he asked how many are new jobs related to PTDZ. Ms. Ouellette said all 499 because Fraser Paper had filed bankruptcy and it was no longer going to operate. Sen. Saviello noted that part of the problem is trying to figure out what jobs were created and what jobs are not created. Twin Rivers is assuming that if Maine did not have PTDZ, they would not exist. Ms. Ouellette said she is saying that Twin Rivers was bought out after the bankruptcy and a new company so the 499 employees are new employees of Twin Rivers. If Twin Rivers had not purchased the mill these employees would no longer have jobs.

Sen. Gratwick asked how much money did Twin Rivers receive from the PTDZ program? Ms. Ouellette said approximately \$1.5 million per year. He noted that over the seven years Twin Rivers received about \$10 million. He asked if without the \$10 million they would not have been able to have a viable operation. Ms. Ouellette said Twin Rivers would not have been able to invest and some employees would have been at risk because they would have had to find those funds elsewhere.

Sen. Dana Dow, Senate Chair, Taxation Committee. (He did not provide a copy of his testimony.)

Sen. Dow said he was not a legislator in 2003 when the PTDZ program was created, but he was in 2005 and 2006 when the Legislature changed the program to cover the entire State not just economically depressed areas that really needed it. He thinks the Legislature made that change to help out a paper company in Westbrook. The program was not designed to go into areas that were economically secure and that is why he thinks the program itself was a partial failure. The Legislature wanted to keep the program so they opened it up to areas that maybe didn't need it at the time and he was disappointed when that was done.

Sen. Dow cited from the PTDZ report "Other statutory changes since the program's enactment have also weakened the program's focus on areas of the State with the most significant economic distress, essentially rendering the entire State a Pine Tree Zone. As a result, the program no longer strongly targets economically distressed communities." He said that is what the program was designed for and is why he felt it was a failure when the Legislature started to move it into places that were more economically stronger than other areas of the State.

Sen. Dow addressed programs like the PTDZ program in general and said he looks at the tax base and at what New York and some other states have done. He thinks that Maine's tax structure is what needs changing because PTDZ is designed to pick areas that need help. Maine has, what he considers, an unfair tax disadvantage compared to other New England states, or the country, and that is the major problem. If Maine straightened out its tax base, it would not need as many of the different types of programs. He would like to take the First Congressional District and cut the income tax in half compared to what is being paid now and leave the income tax the way it is for certain areas around the Portland area and reduce the tax for some other areas that are stagnating. **He thinks that is a major problem that we have that this attempts to address. It attempts to address unfair tax burden on businesses by picking certain winners out and letting them benefit.** (He thinks that attempts to address the unfair tax burden on businesses by picking certain winners and letting them benefit.) He was glad to see that Madawaska got some benefit out of the program because that is where the benefit

should be going. If the Legislature is going to continue the PTDZ program they need to refocus it on areas that are economically disadvantaged, but he would much rather see a tax cut so Maine is no longer the 42<sup>nd</sup> highest income tax State in the Nation and 25 or 30<sup>th</sup> poorest.

Sen. Dow questioned if the PTDZ program was needed and thought probably so. Does it need to be redone differently – it most certainly does. The program needs to be targeted where it is needed the most and it needs to have outcomes. He's not sure the program ever expanded the employment base, it may have saved some jobs.

Sen. Diamond asked Sen. Dow whether given the initial report from OPEGA, and the fact that they are approaching the second year of the session, he thought it was possible or had interest for the Taxation Committee to address this issue if the GOC decides to forward the information to that Committee to do something with it this year. Sen. Dow thought a lot of the work before was done in the Labor, Commerce, Research and Development (LCRED) Committee so he thought it ought to be a combination of both LCRED and Taxation Committees. Sen. Diamond asked if Sen. Dow thought there was interest from the Taxation Committee to tackle that. Sen. Dow thought there was.

Rep. Stephen Stanley, member of the Taxation Committee. (He did not provide a copy of his testimony.)

Rep. Stanley is in support of maintaining the PTDZ program. He was a legislator when the program was established and it was created to help businesses in distressed economic rural areas. He said ETIF came to be because at the time the wages were down and ETIF brought wages up, provided health insurance and a pension benefit in the labor market area. What the State has done is change something that might have worked and incorporated it statewide. What happened when that was done is that the rural areas lost the advantage that they had of enticing businesses to go to their areas. He agreed with Sen. Dow regarding needing tax reform for the State of Maine.

Rep. Stanley said there is a bill sitting in Appropriations and Financial Affairs to look at Maine's economic improvement strategy and the Legislature is not doing anything about it so will go another whole year before anything is done. Over that time he will be losing people from where he lives and other small Maine towns will also be losing people. There are programs in place that the Legislature should be reviewing and redoing if necessary, because their original intent and what the intent is today are two different things. The PTDZ program should go back to its original intent of economic depressed areas because that is where the need is and where businesses have to be enticed to locate to.

Sen. Saviello asked if Rep. Stanley was suggesting that the Legislature narrow the program back down in a bill to only be for economically depressed areas. Rep. Stanley said that could be part of the solution, but what he was suggesting was to not make it so that the rural areas are at a disadvantage. He gave the example of Bangor having the same programs as his rural district, and asked where do you think the business would locate Bangor or Millinocket? You have to have programs that will entice businesses to rural areas.

Sen. Davis agreed with Sen. Dow that the State needs tax reform, to spend less and to entice businesses to come to Maine.

Rep. Pierce agreed with the comments of both Rep. Stanley and Sen. Dow. If the Legislature decides to keep the PTDZ program and not let it sunset, revamping of the program for more rural areas would entice more businesses to those areas. He asked if Rep. Stanley thought the Taxation Committee would entertain, as part of this, looking at a comprehensive tax reduction bill for all Mainers as part of the revamping of the PTDZ program.

Sen. Katz said Rep. Pierce's question was a subject important to all legislators, but well beyond the scope of the limited discussion of the PTDZ report. Rep. Pierce thought the question tied in with looking at PTDZ and the tax benefit it gives to businesses in rural areas. Sen. Katz said the Committee was not going to expand the discussion to what an appropriate tax structure for the State of Maine is.

Rep. Stanley thinks the PTDZ program is important and there are other things the State could be doing that would make it better for businesses and also for the workers in Maine. The State needs to create jobs in all of Maine, not just segments and the program did that, and is probably doing it in certain areas. However, when it was established, the intent was to establish jobs in the depressed areas.

Sen. Jackson, Senate Democratic Leader. (He did not provide a copy of his written comments.)

Sen. Jackson said in 2009 it came out that the Fraser Mill was going to file for bankruptcy. For everyone who works in the logging industry in that area, they were always hopeful that one day they would be able to work at the Mill. It is a shining light for that area. The PTDZ program was a help in keeping the Mill going and making sure people felt there was a benefit to living in the St. John Valley and the State played a major role in that. It would be devastating if a business like Twin Rivers went down not just to the town, but for a whole area of the State.

Sen. Jackson said although he thought tax policy could be a big thing in helping the State, he thinks if you talk with, for example, potato growers, they would tell you they think the problem is the competition coming in from Canada that make it so they had no market at all to sell to. He would like to have a lower income tax rate, but if he cannot get a job to make any money, it does not matter what income rate he is paying.

George Gervais, Commissioner, Department of Economic and Community Development. (A copy of his testimony is posted to the GOC/OPEGA website at <http://legislature.maine.gov/uploads/originals/public-comments-on-ptdz-report-as-of-9-26-17-1.pdf> )

Commissioner Gervais commented on some statements made earlier in the meeting. He said there seems to be a belief that the PTDZ program is currently available statewide and it is not. In 2008 or 2009 the program did go statewide and that is when Tier 2 was created. Tier 1 was the original and for rural areas and Tier 2 was created and that encompassed York and Cumberland Counties. When Tier 2 was created it had a sunset of 2013. DECD has not given out any new certifications because it is not lawful to do so in York and Cumberland Counties with a couple of exceptions in areas that have either been added due to statutory changes like Sanford, or in a couple of the other towns where the unemployment rate is 15% higher than what the average is.

Commissioner Gervais said if, for example, the Legislature passed a bill that said in the next calendar year there will be zero income tax then the ETIF benefit that goes back to the company just went from what it is today to zero. That benefit is regulated already by whatever the income tax rate is. Even if the Legislature were to move this program forward and change the date of sunset to something in the future, tackle tax reform and lower the rate, we could sunset the ETIF portion simply by eliminating the income tax so it does not have to be looked at separately.

Rep. DeChant appreciated the Commissioner's advocacy for the PTDZ program. It is her understanding that the original intent was twofold. One is to create jobs and two is to be directed towards economic depressed areas. She understands that through the evolution the geographic part has been loosened and then tightened. She asked, getting back to the original intent of creating jobs, how much money has gone out, how many jobs have been created and what is the cost per job. Commissioner Gervais said Ms. Smith could get those details for the GOC in a few days.

Rep. DeChant asked if Commissioner Gervais could, in his words, explain the inter-relationship of ETIF and PTDZ. Commissioner Gervais said the Employment Tax Increment Financing (ETIF) Program is available to companies at different reimbursement rates. It peaks at 75% if you are applying strictly for ETIF and you are not a PTDZ certified company. If you are a PTDZ certified company, you have automatic entry into the ETIF program at an 80% reimbursement level. The majority of ETIF companies are PTDZ certified so the majority of the companies that run through that program are Pine Tree Zone companies.

Rep. DeChant said, for clarification, most PTDZ are ETIF, but not all ETIF are PTDZ. Commissioner Gervais said all companies who are PTDZ certified have automatic entry into ETIF, but they still have to create at least five new jobs to access the benefit.

Sen. Gratwick said OPEGA found that the current program design does not adequately support achievement of the program's desired outcomes or ensure benefits flow only to businesses that add qualifying jobs. He referred to a statement in the Report DECD distributed at the meeting "When companies sign the PTDZ contract, they are signing an agreement to say that the project would not happen and would not locate in the state of Maine **BUT FOR** the PTDZ incentives." He asked what kind of data the GOC should be getting quittance to.

Commissioner Gervais said the GOC should be looking for data to be collected around the current confidentiality laws from DECD and the Maine Revenue Services (MRS). Should be talking to all the companies who have used this program, both successfully and those who have not been so happy with it, and should be talking to companies outside of the PTDZ certified companies. There are companies the Commissioner has worked with who have not moved forward with PTDZ certification, they have never filed an application because of the "but for" requirement. In their minds, they could not in good faith make that statement because it was not true. DECD does not have data on that because they don't track it. He thinks that is important because if a company has other motives to locate to Maine and it is not the incentives that get them over the hump to make their decision, then access to the program is not for them. The Commissioner thinks that given the cost of doing business in Maine, we will find in most cases having access to a program like this is beneficial and does attract the investment we need to create the jobs.

Sen. Gratwick asked if the "but for" clause is a commonly used concept in the Commissioner's world and is for assessing and measuring success. Commissioner Gervais did not know how common it is, but he knows a feature of the community development block program is that you have to show need and that is another version of the "but for".

Sen. Saviello said OPEGA's report talks about the program's administration being fragmented. There are a number of agencies involved and there is no single entity with statutory authority to oversee or coordinate the PTDZ benefits distributed by others. In addition, there is no single agency with access to utilization data for all program benefits and that statement concerns him. OPEGA cannot access MRS's records to find out whether these tax breaks have actually benefitted somebody. He asked, without including ETIF, how would they address those concerns? Does legislation have to be submitted to make it clear that DECD is in charge of the PTDZ program and everybody needs to report to them so if someone, for example, wants to know if a business has taken advantage of the sales tax benefit through the program, they would be able to go to DECD and a staff person can push a button and the requested information would be there. If the GOC decides to go down this path, putting income tax aside, and dealing with PTDZ, he asked if the Commissioner was available to help put legislation together that would address some of the concerns that are in OPEGA's report. Sen. Saviello said it is a two part question – how do we address the fragmentation and will the Commissioner help the Legislature put legislation together to address the concerns.

Commissioner Gervais said given how skewed the ETIF program has been towards the 80%, or those companies receiving 80%, he considers that portion of the ETIF program to be part of the PTDZ program. The Commissioner said he was willing to help put legislation together. He said what is in OPEGA's report sounds a lot worse than it is and most of the fragmentation is routed in the confidentially issues, and in the way that MRS tracks data which is geared towards how they collect data for tax purposes, not necessarily to run a program like this. Once a company is Pine Tree certified and receives a sales tax exemption certification, DECD no longer gets the data of how much they are getting or what their sales tax exemption number is. He said DECD does not get that information so he could not answer that question. That is a confidential tax record at MRS.

Sen. Diamond said one of the good things about OPEGA's PTDZ report is that it raises flags for all of them to take a look at and raise the discussion. He asked if the Commissioner believed there was a need to make adjustments, or changes, to the PTDZ program or should they just continue on the way they are.

Commissioner Gervais thinks the program is not as flawed as it would seem by reading OPEGA's report. He thinks if you move the sunset date forward things would be fine. He does not think there is fraud going on in this program in any way and he does not think it is being taken advantage of in a way that it shouldn't be. The program is resulting in some good outcomes and could be looked at for other ways to improve the program.

Sen. Diamond thought it was helpful for the GOC to understand if the Commissioner thinks the PTDZ program should just continue, the sunset extended, or there needs to be some changes made before the program continues on.

Commissioner Gervais would move the sunset beyond 2018 and he does not think any other changes to the program are needed. It is not a statewide program now so that concern stopped in 2013. He imagined there was a lot of publicity around it becoming statewide in 2008 or 2009 and no publicity about it sunseting in 2013. That is probably why folks are not aware that that happened. He looks at tax policy overall and PTDZ is self-regulated so the program will adjust as tax policies adjust.

Rep. Sutton said one thing she has noticed as a member of the GOC that often times they lack the ability to gather data in which to be able to make these decisions. A few months ago former Commissioner Rosen was at a GOC meeting and Rep. DeChant asked him basically how do we get transparency in these programs, and how do we know if we are getting a good value. Commissioner Rosen's suggestion basically was to remove these sorts of programs from the tax codes and administer them as a separate stand-alone program. Then to make it known upfront that if a business wants to participate in the programs it is going to be publicly accessible information. You will be able to go back and gather the information needed to make decisions of whether this is a good value and should we continue. Her question to Commissioner Gervais was has he ever considered that sort of concept in the work that he is doing.

Commissioner Gervais said not in the way Rep. Sutton just described it, but it is intriguing. Rep. Sutton thought it was a very profound change in policy and might be worth exploring because you could extract information that they so desperately seem to be unable to gather currently.

Rep. Mastraccio referred to Commissioner Gervais's response letter included in OPEGA's report and thought his response did not address the report. The Commissioner addressed the broader picture and it did introduce tax policy into it, when in fact, what the GOC charged OPEGA to do was to evaluate the PTDZ program. When you have a new Legislature every two years and a program comes up, it is so difficult to explain to people what it is and not be able to point to concrete evaluation data to show it is a good pay back. She said back in 2014 the initial evaluation report that the Legislature received was



not as clear as the final report that came a few months later after the Legislature had already adjourned regarding PTDZ and its payback. She said the figures have not been clear and one of the reasons the Committee moved the program further up in the process of tax expenditure evaluations was because they knew it was sunsetting and knew it would become a question. The Commissioner had said he thought the report title is a little wonky, which she does not find to be true at all because having read the report thinks it adequately explains exactly what OPEGA found. She would like the Commissioner to address if he thinks the program design does support the intended goal of the original legislation and whether it is achieving results. The Commissioner said that the information is confidential and DECD can't get it from MRS either so he knows how difficult and time intensive it is. Rep. Mastraccio asked if it was fair for the public to offer incentive programs like this and businesses should make their information available to the people who are doing the evaluation so that legislators can explain it to the taxpayers.

Commissioner Gervais said Director Ashcroft said herself that OPEGA did not pursue the data necessary to evaluate this program. Therefore, OPEGA's report does not give a result.

Rep. Mastraccio said because OPEGA was doing ETIF, which is the biggest portion of the program, the time that would be needed to investigate PTDZ supersedes the benefit for legislators to be able to say to their taxpayers that the program is something that is of benefit to them. She said the State asks welfare applicants to share every detail and no one says that is confidential and she wanted to know how that is different from tax programs. She understands how important the tax programs are. Her district of Sanford is competing with New Hampshire, but thinks it is too bad the whole State is competing with each other when the program was originally intended for economically distressed areas and probably, with that in mind, was a good program.

Rep. Mastraccio said Commissioner Gervais has not convinced her that there is anything in the report that is incorrect.

Commissioner Gervais said he is disputing what is implied. In OPEGA's PTDZ report there are no conclusions. He said in the Investment Consulting Associates (ICA) January 2016 DECD report there are conclusions and ICA pursued where the data exists and they are working with MRS on their current evaluation. He believes Rep. Mastraccio has been in on the calls to them and knows what is going on. Any issues are another legislative matter regarding getting access to confidential information, which is all in the tax code. He said OPEGA did not reach out, or speak to a single business or user of the program and that is where a lot of the data lies. When we all file our tax returns MRS and the IRS are relying on us to provide the information and that is the same thing we are doing here. ICA, on the State's dime, independently pursues that data and they have come to some conclusions that some people on the GOC have not seen at all because they have not seen ICA's report, although the report is produced every two years.

Rep. Mastraccio said she has shared the ICA report with others and there are many recommendations in the report. She said she is also a member of the LCREED Committee and she said there is a lot of stuff in the report that the Commissioner has not pursued in terms of actual legislation and proposals, so she finds it a little disingenuous to just speak about PTDZ and how OPEGA did not speak with every company. Director Ashcroft did talk with the Chamber of Commerce and explored different avenues and companies. Rep. Mastraccio was satisfied that as far as OPEGA's report went it is accurate.

Rep. DeChant thinks she heard Commissioner Gervais say that it is not an incorrect report it is just an incomplete report. She is anxious to hear from Ms. Smith about how much money went out, how many jobs were created. She can do the math and divide to get what the investment was. She said her question is also on the evaluation part and OPEGA's decision not to pursue it because of the program sunsetting. She asked if she understood correctly that the collection of data, which in her mind is about the investment for jobs, is hard to track because it gets somewhat blurred with ETIF and that the

reporting part is vague, or does not hit the target. Rep. DeChant said if collecting data to do an A + B – C = an evaluation and if you cannot quite get there, why over the past 10 or 13 years somebody has not addressed that.

Commissioner Gervais said he could not answer that question because that is something that needs to be done legislatively, but he knows it has been a topic of conversation for the past six or eight years. Rep. DeChant said she knows DECD cannot make changes on their own, but why didn't they bring the problems to the Legislature's attention. Commissioner Gervais said DECD has been satisfied that they are getting enough data to evaluate the PTDZ program and the results of that are in the ICA report which was not considered when OPEGA did their report. Rep. DeChant said she was going to let that sit because they were not going to agree on that.

Rep. DeChant asked what it took for businesses to be decertified because one of the points in the report was that DECD should notify all entities administering PTDZ benefits whenever a business is decertified. She asked who and what would have to be notified when one is decertified.

Commissioner Gervais said the specific instance that resulted in the recommendation that all entities be notified when a company is decertified came about because DECD was not notifying Emera or Central Maine Power, for example, for the electricity benefits that are only available to companies in the first four years. DECD was not notifying them if a company was decertified. As a result of OPEGA's review, DECD is now doing that. It is not a benefit that is used greatly, but they should have been notified.

Rep. DeChant asked Commissioner Gervais what his answer was to how many businesses have been decertified. He said he had not answered that yet. Commissioner Gervais said if they fail to comply with reporting, if they fail to complete the hiring of one new job and maintain the job throughout the entire period that they are PTDZ certified, those would be among the reasons why they would be decertified.

Rep. Sutton asked if the Commissioner said ICA's report was not taken into account when OPEGA prepared their report? Commissioner Gervais said that was his understanding. Director Ashcroft indicated that was not accurate and she would explain it to the GOC later.

Rep. Rykerson said it does not sound like there is a lot of coordination, but wondered if OPEGA contacted DECD about information and did the Department make themselves available to give that information. Commissioner Gervais answered yes to the two questions.

Sen. Katz said he does not sit on the Taxation or LCRED Committee so before this review he was unfamiliar with the PTDZ program. He did not realize, and maybe other legislators were in the same boat, that this program was even due to sunset. He appreciates the fact that Commissioner Gervais feels strongly that PTDZ is an important program and he has heard from a lot of business advocates the same thing. He was curious as to why then, if it is due to expire in a year and cloture for legislators is four days from now, why haven't legislators been hearing from people that the State really needs to, at a minimum, extend the sunset for this program that is working so well. He said, speaking for himself, he has never heard that.

Commissioner Gervais said from the Administration's point of view the overall pursuit has been tax reform. The PTDZ program is part of that bucket so it does not make sense to pursue different tax benefit programs at the same time you are trying to pursue an overall tax reform package. That is why this was not pursued sooner. Sen. Katz asked if the GOC were not doing this work, would the program just have died in the dead of night. Commissioner Gervais highly doubted that. Sen. Katz asked if that was because the Administration would have presented a bill. Commissioner Gervais said not before now, no they would not have.

Linda Caprara, Maine State Chamber of Commerce, presented the testimony received from Christopher Steele, Investment Consulting Associations. (A copy of his testimony is posted to the GOC/OPEGA website at <http://legislature.maine.gov/uploads/originals/public-comments-on-ptdz-report-as-of-9-26-17-1.pdf> )

Following Ms. Caprara's presentation of Mr. Steele's testimony, she also made comments on behalf of the Maine State Chamber of Commerce. (She did not provide a copy of her testimony.)

Ms. Caprara said in response to Rep. Mastraccio's question said the Chamber was not consulted about the PTDZ report. Rep. Mastraccio said she may have misstated what she said, but what she meant was members of the Chamber of Commerce companies. She was assuming there were stakeholders. Ms. Caprara said that is what she wants to address. The Chamber was not asked specifically about the PTDZ program and she handles tax matters for the Chamber. She did ask Ms. Henderson how many companies OPEGA interviewed for this review and she said OPEGA did not interview any. Ms. Caprara said you have a report with no data, how do you draw those conclusions. She said PTDZ program is important to companies around the State. It did start out as a program for economically distressed areas, but the Legislature expanded the program. There were legislators in the Legislature at the time who wanted to bring the program to their area because they felt strongly they wanted to attract companies to their own municipalities. Ms. Caprara thinks OPEGA's report needs to be really looked at and that the data needs to be collected. She was not so sure what the GOC is talking about doing is going to help them. Companies guard their financial data because if it is exposed it is going to put them at competitive risk in the global economies around the State. She said it does not take a rocket scientist to know that your competitors are out there looking for data. She does not think companies' tax information will get the Committee anywhere, it will expose businesses to potential competitive risk and they are not going to agree to that because why would you put yourself out there for your competitors. Ms. Caprara thinks there is data out there that can be collected and OPEGA's report shows that. It is up to the Legislature to see that the data is collected and what Director Ashcroft has said is OPEGA needs more staff, or money, to do that.

Sen. Katz understands the limitations of the PTDZ report, but asked Ms. Caprara if there was anything in the report that is not accurate from her perspective. Ms. Caprara said there are a lot of things to discuss. She said she would have to sit down with Director Ashcroft about some information not being accurate.

Sen. Katz said the report says the program design does not support the intended goals. Ms. Caprara said it is performance based, you make the investment, you create the jobs you get the benefits. She did not necessarily agree that the design did not support the intended goals.

Sen. Katz said this is criticism of the report and he understands OPEGA stopped at a certain point because of the fact that the program is being sunsetted and did not pursue all of the data. He understands that and the GOC may decide they want OPEGA to complete that process, but he asked in terms of what is actually in OPEGA's PTDZ report, if there are things in the report which are not accurate from Ms. Caprara's perspective. Ms. Caprara said she thinks it meets its design. It was designed to create economic development in addition to jobs and she thinks it is doing that. Sen. Katz thinks the point was a little more subtle that the specific design of the program as opposed to the intent of the program may not be the best and may need some redesign.

Rep. DeChant said by working with the Chamber, Ms. Caprara must have some anecdotal experience, and asked about how much validity she would put in a "but for" letter and its legitimacy. Ms. Caprara thinks a "but for" letter serves its purpose, is important and that there is legitimacy in the letter.

Geoff Baur, IDEXX. (A copy of his testimony is posted to the GOC/OPEGA website at <http://legislature.maine.gov/uploads/originals/public-comments-on-ptdz-report-as-of-9-26-17-1.pdf> )

Sen. Saviello asked, other than ETIF, what in the PTDZ designation was IDEXX's driving factor to make the decision to stay in Maine. Mr. Baur said the most significant benefit for them was the ETIF. IDEXX is fortunate enough, given their size, to do some negotiating on the power side directly so some of those benefits just didn't apply as much.

Jim Detert, Molnlycke Health Care. (He did not provide a copy of his testimony)

Mr. Detert said Molnlycke is a billion and a half dollar Sweden-based medical device company. Partly through the PTDZ program and working with DECD, the Company has expanded significantly in Maine. They now have about 190 employees in their two locations – Wiscasset and Brunswick.

Mr. Detert said Molnlycke is growing and his perspective, as a small business person in the beginning to now part of a large corporation, is that while Maine is a great place to live it is not competitive. He said it is not just the PTDZ program, it is everything the State offers and if you pull out any of those legs off the stool, Maine will not be as competitive. Until there is true tax reform he thinks you have to be very careful about making changes to programs like PTDZ.

Sen. Gratwick said data is needed to be able to make an informed decision. Molnlycke is the perfect example of would it not be amendable to their financial interest to have given more data about their product, taxes, etc. If they had made that data available, would that not have been good for the company's business plans?

Mr. Detert said Molnlycke does provide data. The application process for the various DECD programs range from a lot of information to a ton of information. He said you have to make some real commitments and assessments to get the benefits back. As far as willingness to provide more information, that is not his decision to make. Molnlycke has stakeholders, but he thinks there is quite a bit of information that they already provide as part of the application process. Mr. Detert said he did not know how to answer Sen. Gratwick's question. It is not his right to say they can provide more information or not, but he thinks there is enough information already being provided.

Sen. Gratwick said he was in limbo not knowing how to get the needed information to make decisions. Mr. Detert said Molnlycke reports on the number of employees, and the dollars of investment was made public. He can provide basic information.

Sen. Saviello asked what within PTDZ really made the difference for Molnlycke. Mr. Detert said it was more ETIF. All of their projects have involved significant construction so some of the sales tax benefit in setting that up was important, for sure the income tax because that is money you can put right back into your ROI calculation and your net present value to get a viable projection. It helps a company with the bank financing if they know that money is available for the investment.

Sen. Saviello said that when OPEGA looked at this, as he understands it, they could not get into the sales tax part or query that in such a way that it became visible. He understands confidentiality and does not want to add anymore to the application or maintaining process, but he would like to find a way to use it. He asked if there was a way, as the Legislature moves forward, that they could restructure the program so that information can become more transparent. Sen. Saviello did not expect an answer today, but somehow needs to know what can be done for transparency.

Stuart Jablon, Backyard Farms. (A copy of his testimony is posted to the GOC/OPEGA website at <http://legislature.maine.gov/uploads/originals/public-comments-on-ptdz-report-as-of-9-26-17-1.pdf> )

Joyce Galea, F3 Manufacturing. (She did not provide a copy of her testimony.)

Ms. Galea talked about the PTDZ and ETIF programs and what the program does for a small Maine company. She said ETIF has been the most valuable part. In 2016, they purchased a small company out of Liberty, Maine that employed 14 people and worked out of two small garages. In nine months at the end of 2016, with the help of PTDZ and ETIF, F3 Manufacturing hired 55 employees and ended their year at \$4.5 million in sales. They are on track this year to be at \$11 million. Ms. Galea said that today they have 90 employees and planning to be over 100 at the end of 2017. She said F3's ability to pay higher wages has left their average hourly rate at \$19 an hour and as their hourly rate went up so did their productivity.

Sen. Gratwick asked if more financial transparency would be harmful to F3 Manufacturing. Ms. Galea did not think that would hurt the business.

Jon Fitzgerald, Bath Iron Works Corporation. (A copy of his testimony is posted to the GOC/OPEGA website at <http://legislature.maine.gov/uploads/originals/public-comments-on-ptdz-report-as-of-9-26-17-1.pdf> )

Mr. Fitzgerald said he understands the GOC has a harder question, but said the flexibility and different benefits with the PTDZ program are meaningful for Bath Iron Works (BIW). The GOC's question of how do we justify the expense without knowing exactly what the expense is. He said BIW would have some level of hesitation at sharing certain categories of data. Sales tax they paid on the building construction materials to construct facilities would not be among the things that would worry BIW, but to speak freely about their statistics would not be done in a public hearing. He said the GOC has a hard job, but he did not think it was impossible because, as Mr. Baur said earlier, it is labor, business and government coming together and saying what works for you and your business and the people that you employ. It is in that spirit that he and others are at the public hearing.

Rep. DeChant asked how BIW became aware of the PTDZ program when it was thinking about expanding and whether the administrative part of the program is a labor intensive process.

Mr. Fitzgerald said DECD's website gave him a lot of information. As a company in Maine, they sat on the sidelines and did not participate because of their hiring and investment plans. He said the conversations with DECD were helpful in moving BIW from the category that they were not interested, or it did not fit BIW, etc., to learning more about the program and the flexibility it has. He said in terms of the information required, BIW did not see that as a cursory filing of a form, it was more substantial than that and one that BIW put some thought in to.

Rep. Mastraccio asked Mr. Fitzgerald if he knew the amount of sales tax that BIW did not pay and would be willing to share that. He said he did, but off the top of his head, he was not sure of the exact amount. It is a significant amount, maybe a half a million dollars, but you have to take into account an investment of \$60 million and not all of that was qualified investment for the sales tax relief.

Sen. Katz said Mr. Fitzgerald was the first person to mention the sales tax benefit and asked if he could give an idea of what the requirement was in terms of reporting. He understands you can only take the sales tax exemption on the purchase of certain things. Mr. Fitzgerald said that was correct. Sen. Katz asked, administratively, is that a difficult thing to report on. Mr. Fitzgerald said no and he believes BIW simply produced the documentation that supported the sale and the exemption from that sale. Mr. Fitzgerald saw to it that paperwork was collected with their business, but he is not certain what the Tax Department reported. He said, from that perspective, he would probably not want the receipt from that construction company provided, but to see the bottom line sales and sales tax, speaking for BIW, he does not think they would have a problem with that.

Sen. Gratwick asked how does BIW's business plan take into account the fact that the PTDZ program will sunset in about ten years. He expects we will be having this same exact hearing twelve years from now and if Mr. Fitzgerald would be in a different position at that time. Mr. Fitzgerald said yes, BIW would be in a different position, but how, he can't say. When BIW entered the PTDZ program, they did not enter it thinking they were going to be in the program for a long time. He said 5,509 is their number of qualifying employees and for them to understand exactly how long they were going to stay above that amount of employees depends on a lot of factors, including the nation's ship building budget. BIW looked at it as a two to four year timeframe.

Rep. Pierce asked if the PTDZ program has benefited BIW because of the way it has helped reduce sales tax and other taxes. Mr. Fitzgerald said it did.

James Nimon, Sanford Regional Economic Growth Council. (A copy of his testimony is posted to the GOC/OPEGA website at <http://legislature.maine.gov/uploads/originals/public-comments-on-ptdz-report-as-of-9-26-17-1.pdf> )

Sen. Saviello asked if it would be better if the Legislature restructures the administration of the program and put DECD as the overarching controlling group. Mr. Nimon said that was a great question. In the past, behind closed doors, they had some battles between two departments trying to figure out how to do the right thing, how to make sure they did what they were authorized to do within their own existing statutes and ensure that they did what the Legislature wanted to do. He thinks it would be good that somebody could say I have the final call.

Rep. DeChant asked if Mr. Nimon had recommendations on how to address and/or fix the built-in complication. Mr. Nimon said he would try to pull together a group of people, as the GOC has been trying to do, both companies and the administrators and ask the questions the Committee has been asking. The GOC has heard one company say you can have all the information you want and another company say they would have to think about what would be possible. He does not pretend to be an expert on the confidentiality pieces for DECD and MRS so someone has to ask what is possible and what would a company be willing to give up to ensure that you could make better use of data that is generated. When he compared the numbers from TIF and ETIF he was looking at the ES202 numbers from the Department of Labor (DOL). Companies report to the DOL and the DOL also has confidentially where they have to aggregate information. He said DOL cannot tell you anything, although at BIW it is hard not to know it is them if there is information available because of its size. DOL is pressed, just as MRS is, to keep aggregating it until you don't really know who has provided the information, but you have some idea of overall totals. Mr. Nimon said for him it is a full blown analysis of the confidentiality piece.

Rep. DeChant agreed that the program started out with clear goals and objectives. She is continuing to be frustrated with the comment that the outcomes can be debated and thinks basically the outcome of how many jobs were created is pretty straightforward and not up for much debate. Rep. DeChant asked if Mr. Nimon could help her figure out if the current program results reflect the ones tallied many years ago that his predecessors asked for outcomes. Mr. Nimon said DECD generated annual agency reports. It was the company name, the town they were from, jobs from the previous year, jobs they created, expenditures for capital, training, and wages. He had provided that report to the Legislature annually. He left some open ended questions for companies and had information from 200 companies that commented on the importance of having tax incentives for their growth.

Rep. Mastraccio asked if the biggest benefit for the PTDZ is the expanded ETIF benefit or are there other components that Mr. Nimon thinks are critical. He said it sounded like the lion's share of companies in PTDZ were also benefitting from ETIF and that could be a big chunk of money based on the number of jobs being created.

Rep. Mastraccio asked if Mr. Nimon ever had companies that did not respond to his request for information and what did he do. He said probably a lot did not respond so they probably tried phone calls for the first time and then stopped doing that. Rep. Mastraccio said that never impacted those that are continuing to get benefits from programs like PTDZ. Mr. Nimon asked if Rep. Mastraccio was asking about a mandatory survey. She said if you are trying to evaluate a program, part of the problem is what the reporting requirements are. Mr. Nimon said he did show in the annual report how much TIF companies average wages were and that they were 37% higher. That was data he generated himself by looking at data collected from participating companies.

Rep. Pierce asked Mr. Nimon if Maine would have to meet companies at the airport with a bag of money if there were different tax policies in this State. Mr. Nimon would like to have a discussion about tax reform. Someone said tax incentives are built around balancing inequities in the tax system.

Rep. Sutton said the reporting he talked about in trying to gather the information was a voluntary audit going back over the programs. She asked if the program currently had any auditing in place.

Ms. Smith from DECD came forward to answer Rep. Sutton's question. She said there is a required reporting every year. Businesses are required to submit ETIF reports as well as PTDZ reports so DECD does collect some data as part of those reports and it is required. If companies don't file the reports, DECD does follow-up and she believes they had a handful that did not file this year and requested being decertified from the programs.

Rep. Sutton asked if DECD did random surveys or audits. Ms. Smith said that would not fall to DECD, that would be MRS.

Rep. Mastraccio said DECD gets data but does not verify that the data is actually correct. Ms. Smith said DECD does verify the data because it comes to them, they have to verify where the company is, that the location of where they are requesting reimbursement from is a certifiable location, they have to show they are above their base line, they have to provide information as to the employees' positions, their wages, any type of benefits, and they have to certify they have access to health and retirement so DECD verifies that information when it comes in as part of a company's report every year.

Peter DelGreco, Maine & Co. (A copy of his testimony is posted to the GOC/OPEGA website at <http://legislature.maine.gov/uploads/originals/public-comments-on-ptdz-report-as-of-9-26-17-1.pdf>)

Sen. Saviello asked if there should be a clear owner of the PTDZ program. Mr. DelGreco thinks it would make more sense to have one administrative group as the lead and that seems to be the trend across the country, but he cannot say it is universally the trend. If there is a clear mission, and clear group assigned to deliver that mission, that would be his bias.

Sen. Diamond asked, looking at the PTDZ report and looking at the design weaknesses that Mr. DelGreco just referenced in his testimony, if he thought the program was in need of repair. Should the Legislature make adjustments or should they just extend the sunset and let the program go on. Mr. DelGreco said the question is not as easy to answer because of the current political climate. As it has been described to him, the Legislature is entering into a short session in an election year and what he has been told is that crafting a new program is not feasible. What he thinks is important is that on January 1, 2019 we are going to have a new governor and do we want that new governor to not have the best tool available or do you want to have a tool that is in place that can serve as a backstop while a new administration works with the incoming Legislature to develop what their priorities are going to be. He would extend this program with the ability to remove it as new programs are put into place. The idea of January 2019 without a comprehensive economic development program scares him.

Sen. Diamond said one could argue that this governor and administration may want to have a significant say in how this proceeds forward. In order to do that, as heard from Sen. Dow and Rep. Stanley, the Taxation Committee is willing to tackle this and he asked if Mr. DelGreco thought there is a need to make repairs, adjustments or just let the program go on. Mr. DelGreco thinks you let the program go on for the short term understanding that over the long term we should work to improve, not only the PTDZ program, but every program. The PTDZ program was created in 2004 by Governor Baldacci at the time augmenting programs that were existing during the King administration. We are now in 2017 and shame on us if we cannot improve it. Of course you can improve any program that was built in 2004.

Rep. Rykerson said Mr. DelGreco mentioned the OPEGA analysis uncovered some design issues that may exist in an academic setting and asked what that meant. Mr. DelGreco said that means to his knowledge, at least with the clients he has worked with and from talking with people at DECD, some of the design flaws, such as the potential abuse of the sales tax exemption, to his knowledge has never happened. What he thinks happened is they sat, they looked at it, and said there is an issue that somebody could potentially exploit. There is no evidence that he is aware of, and if there is, he is happy to be corrected, but he does not believe a business has ever misused that.

Rep. Mastraccio said the State doesn't have a long range economic development strategy for the State. OPEGA's report of the PTDZ program is only a small part of the picture and she needs to see where that fits in with a long range strategy. She asked why absent a strategy, would the Legislature not let the program sunset and then hopefully the bill that now sits on the Appropriations Table will allow that strategy to go forward and then look at the PTDZ program in that context. They will still be able to continue to enroll companies through the end of 2018. Mr. DelGreco said that was correct, but in 2019 you will have no way to put companies into the program. Rep. Mastraccio said that would give a lot of companies an incentive to get their business together and get it done not knowing what would happen. The sunset would compel the Legislature and its partners to sit down and develop a strategy and find out where that actually fits in because it is a program that probably needs some tweaking. For her the PTDZ program is part of a bigger context, so is difficult for her to say let's extend the program another ten years.

Mr. DelGreco said the GOC knows how the Legislature works. If they think a program expiring in 2019 would compel the Legislature to action, that is not the experience he has seen as an outsider of that actually happening. It sounds a lot like let's do repeal without replace. He thinks everyone can agree that has been something that does not work and people are not necessarily interested in doing. He will go through OPEGA's PTDZ report and will talk about places where he thinks there are opportunities for doing things better. Or maybe where there have been mistakes that were made in the report of an issue that exists in theory but, because of the way businesses work and the way we have seen in practice, might not be a true concern. He said the other comment Rep. Mastraccio made is, if the program is going to expire, that will encourage people to get their act together. He said in his business' world where they are talking to companies that are looking to select their next location for their new investment, that is an argument that does not make sense. If anything it sends the wrong message, it demonstrates to them that we are living in world where they were investing in a State that is unstable and unsure of what they are doing next. That is a dangerous message to be sending outside the State.

Sen. Gratwick had a request, through the GOC Chairs, to take Mr. DelGreco up on his offer to make some of those suggestions for the Committee because it sounds like he has some perspective, information and data that is not available through OPEGA's report. He would like to hear more detail of what Mr. DelGreco's proposals would be and he would like the information in writing. Sen. Katz said Mr. DelGreco's offer to help will be passed on to the Taxation Committee.



Rep. Mastraccio said this evaluation was to ask the question of does this economic development incentive benefit the people of Maine, not does it benefit the company. Somebody came up with figures for Massachusetts of \$145 million for 800 jobs which is \$181,000 a job. If Maine came back with a report and evaluation like that, we may say that is an awful lot for a job. She asked Mr. DelGreco's opinion, looking at it from the perspective of the company, did he agree that the report OPEGA was doing was for the Legislature and was to evaluate the value of the program for the people of Maine and for the tax payers. Mr. DelGreco said he is supposed to say yes, but he can't. He said he got frustrated reading OPEGA's PTDZ report primarily because he knew the people who are most involved in PTDZ programs were not contacted about it. He did not know how a report like this could be delivered to a group like the GOC to make policy decisions without speaking to the most important stakeholders and thinks you are doing a little bit of disservice if you make policy decisions without having the corresponding data to back it up.

Rep. Mastraccio said she understands that Mr. DelGreco wants every tool he can have to be able to sell Maine so people will come here. She wants that to happen also, but what is being done is evaluating one of the programs and looking at it from a different perspective.

Douglas Ray, DECD, read the testimony of Danielle Snow, Grand Rounds. (A copy of her testimony is posted to the GOC/OPEGA website at <http://legislature.maine.gov/uploads/originals/public-comments-on-ptdz-report-as-of-9-26-17-1.pdf>)

Sen. Saviello read the testimony received from Kevin Jack, Polycor. (A copy of his testimony is posted to the GOC/OPEGA website at <http://legislature.maine.gov/uploads/originals/public-comments-on-ptdz-report-as-of-9-26-17-1.pdf>)

Steve Levesque, Midcoast Regional Redevelopment Authority. (A copy of his testimony is posted to the GOC/OPEGA website at <http://legislature.maine.gov/uploads/originals/public-comments-on-ptdz-report-as-of-9-26-17-1.pdf>)

Sen. Davis said Mr. Levesque alluded to what other places do and said they heard a lot about the Twin Rivers Mill in Madawaska and he was curious what they do. Mr. Levesque said Twin Rivers' competition is Canada. Canada does a lot of subsidies, corporate give-a-ways and pay for a lot of the training. Health care is not an issue in Canada because that is picked up and the Crown controls a lot of the land and they do not charge the same market values that Maine has to do. Maine competes with European, Ukraine, South America and Mexico companies.

Sen. Davis has been told over the years that the Canadians have a tremendous advantage and that the business incentives that Maine gives is minuscule by comparison. Mr. Levesque said they are modest. Where he thinks Maine is competitive, is if a company needs to have an operation in the northeast. Maine can compete favorable with Pennsylvania, New Jersey, Massachusetts and New York, particularly if you are selling to the US, and especially to the US government, because they are going to want you to have a facility in the United States. Sen. Davis did not think Maine was competing very well with other States.

Sarah Austin, Maine Center for Economic Policy. (A copy of her testimony is posted to the GOC/OPEGA website at <http://legislature.maine.gov/uploads/originals/public-comments-on-ptdz-report-as-of-9-26-17-1.pdf>)

Sen. Saviello noted that the PTDZ expansion is over and is back to the rural areas. In her report it indicates that 67% of the PTDZ was in areas where we wanted it. Ms. Austin said that was correct. Her comments are that, plus the fact that the ETIF, which is about half of the PTDZ program, the bump in benefit is very small compared to the other areas of where people are still receiving it.

The GOC thanked all those who testified on OPEGA's PTDZ Report.

The Chair, Sen. Katz, closed the public comment period on the Pine Tree Development Zones Report at 4:50 p.m.

- **Committee Work Session**
- **Committee Vote**

Director Ashcroft felt there were a number of comments brought up during the public comment session that deserved an explanation and response from OPEGA. She thought the Committee should take action to move the Report to the Taxation Committee. Whether OPEGA continues to come back to answer questions from the GOC, or not, that information can continue to be passed on to the Taxation Committee. She knows that Committee is planning on meeting shortly and they are intending to have the PTDZ Report as part of their workload. The GOC can decide whether they want to continue the discussion and, if they do, can continue with a work session at the next GOC meeting, but take a vote at this meeting to forward the Report and public comments to the Taxation Committee.

Sen. Diamond said if the GOC wanted to forward the PTDZ Report and related information on to the Taxation Committee he would make a motion. Committee members did.

**Motion:** That the Government Oversight Committee endorses OPEGA's Pine Tree Development Zones Report and moves to forward the Report to the Taxation Committee. (Motion by Sen. Diamond, second by Rep. Pierce, passed unanimous vote 12-0.) (Sen. Libby voted on the motion in the allowed time frame in accordance with the GOC's Rules.)

Sen. Katz noted that Director Ashcroft said she wanted an opportunity to address the public comments regarding the PTDZ Report.

Rep. Rykerson asked if the ETIF Report was going to be presented during the next Session. Director Ashcroft said OPEGA was hoping to have the ETIF Report completed by June 2018, but as reported before, a lot of it has had to do with figuring out how OPEGA was going to use the data. OPEGA will have to do some in-house work that they were not anticipating and that will take a little bit longer.

Rep. Mastraccio thought it was fair to give OPEGA an opportunity to respond to public comments while it is still fresh in the GOC members' minds.

Sen. Saviello said he would like to see OPEGA's comments in writing so he would have the opportunity to read them. Director Ashcroft said she would rather not have the onus of putting OPEGA's comments in writing because some of it is already stated in the Report and it is a revisiting of what was said. Perhaps she could do that quickly and just remind the Committee of what it is that is in the Report that the Committee may want to take another look at.

Sen. Davis agreed with Sen. Saviello. Director Ashcroft said the things she has on her list to explain to the GOC are the ICA Report and how OPEGA did, or did not, take that into consideration. There is a lot of misunderstanding about the data challenges that OPEGA tried to express in the Report in terms of data existing but not being at a level of detail that was needed or that was not easily attributable to just the Pine Tree program, some data not existing at all, and some data being confidential. OPEGA does have access to the confidential data, access is not the question, it is more about how it can be used and reported. She noted that there were some other technical things that are explained in Table 4 of the Report that related to data. The reason OPEGA did not speak to any businesses and stakeholders is because OPEGA decided not to pursue any conclusions about the actual outcomes of the PTDZ program. Seeking information from stakeholders is a process OPEGA uses in answering those questions. Given that there were over 200 businesses, had OPEGA even wanted to try to get

information from them all or try to select a sample of folks they felt was completely representative of the entire population to speak to, that would be a very time and labor intensive process which was one of the reasons OPEGA decided not to go further at this time.

Director Ashcroft referred to the Biennial Pine Tree Zone Report that DECD puts out and was distributed to the Legislature last Spring. The Report does include job numbers and payroll, but does not have how much the State paid so the GOC will not be able to get the cost per job figure. She said OPEGA would caution that the reason OPEGA was not comfortable reporting these numbers in its report is because the work has not been done yet to figure out how much of what is reported is actually related to the PTDZ program. The GOC heard a number of the businesses describe, during the public comments, about how the benefits under Pine Tree Zones are part of a package of State programs that they use. Director Ashcroft noted that is the crux of OPEGA's problem. It is not that the data is not reported, it is the level of resources OPEGA thought they would have to spend to try to get it into the type of analysis they wanted to do. OPEGA will answer some of those issues for the GOC in writing and/or be ready to discuss them at the next meeting.

## UNFINISHED BUSINESS

- **Committee Discussion Regarding Procedure for the Inquiry into the Casino Referendum in York County**

Sen. Katz said there was interest by the GOC in an OPEGA review of the entire citizens' initiative process and in making that decision the Committee decided to look at the York County Casino referendum. He wanted to make sure that there was no confusion about the inquiry of the casino referendum in York County. It is not an OPEGA review. The GOC has not tasked OPEGA with doing that nor has the GOC asked OPEGA to begin that kind of formal and deep dive process that a review entails. The GOC asked OPEGA to help the Committee in its' effort, and for their October meeting, to at least receive all the information which appears to be publicly available about the entire referendum process that has gone on up to this point in time, as well as issues affecting the campaign and to invite a number of people to come to the GOC's October meeting to say whatever they want to about the subject and to also answer questions from members of the Committee.

Sen. Katz said the GOC asked OPEGA at its August 23<sup>rd</sup> meeting to gather whatever material was available in the public domain regarding the referendum and to do some fact finding. That is what Director Ashcroft will describe to the Committee. Sen. Katz said then the Committee will invite a number of people to the October meeting so as to cast some light on what has been going on with this particular proposal. The GOC will consider that and Rep. Pierce has a request he would like to present at the end of the meeting. Following what is learned from OPEGA about this particular referendum, causes the Committee members to have an interest in further exploring the citizen's referendum process in general and changes that might be made to better fulfill the intent of both the constitution and the statutes regarding the referendum process.

Sen. Katz will ask Director Ashcroft to describe the documents prepared by OPEGA regarding the York County Casino Referendum. Following that, the Chairs of the GOC will be asking members for permission to send out letters to certain people inviting their attendance at the October meeting.

Director Ashcroft said OPEGA pulled together all the information that is in the public domain with regard to the York County Casino ballot initiative and the current referendum campaign that is underway. That included all information OPEGA could glean from media articles, from the work of the Ethics Commission who has an investigation in progress, from the Secretary of State's Office, from the Attorney General's Office, and from the Veterans and Legal Affairs Committee. OPEGA also did limited internet research on a couple of company and organization names and what they did.

Director Ashcroft said the information in the documents prepared by OPEGA regarding the York County Referendum has not been verified as fact by OPEGA, but is a pulling together of what others have reported in the media, and also from what they have seen in documents obtained from the Ethics Commission, Secretary of State's Office, etc.

Director Ashcroft summarized the three documents prepared by OPEGA that included: a narrative Summary of Entities Purportedly Connected to the York County Casino Referendum, an illustration of relationships among Entities Involved in the York County Casino Ballot Initiative and Referendum Efforts and a narrative Chronological Summary of Events Relevant to the York County Casino Referendum. (The three documents are attached to the Meeting Summary.)

Sen. Katz said the intent is to have the meeting on October 18 to which the GOC Chairs will be inviting a number of people to attend. He said if members have suggestions about who to invite to the meeting, please contact the Chairs.

Rep. Pierce said he will not be available on October 18<sup>th</sup> and asked if the GOC meeting could be changed to another day. Following Committee discussion the October 18<sup>th</sup> meeting was rescheduled to October 19<sup>th</sup>. (The Chairs subsequently reverted the October meeting back to October 18<sup>th</sup> date after checking availability of Committee members.)

Sen. Katz asked if there was consensus from the Committee members for the Chairs to send out letter inviting people to the October meeting. Committee members agreed to the Chairs sending out letters.

Rep. Pierce said after the Committee's last discussion regarding the York County Referendum he drafted some questions regarding the referendum process. He would like to have Committee members review his draft and if they would like to add additional questions, or have deletions, he would welcome any comments.

Director Ashcroft noted that OPEGA is not investigating the referendum and said using certain words causes misunderstandings with the press as to what the GOC is actually doing. She suggested to Rep. Pierce that he may want to change the word investigate in his draft letter.

Sen. Katz clarified that the GOC has not tasked OPEGA with an investigation or review. OPEGA is providing some background work for the GOC. The Committee will be holding a public meeting to discuss the whole issue on October 18<sup>th</sup>.

Rep. Sutton said, other than the word "investigate", she agreed with Rep. Pierce's concerns and the questions in his draft letter regarding the referendum process.

- **Children's Licensing and Investigation Services Report**

- **Review of the Written Report Back the GOC Received From Children's Licensing Dated August 22, 2017**
- **Continued Committee Work Session**

Director Ashcroft said she did not want to keep delaying Children's Licensing and Investigation Services but given the time of day, it could be added to the October meeting.

Sen. Katz asked if the members of the Committee wanted to reschedule the above topic to the October meeting. The members agreed.

## **REPORT FROM DIRECTOR**

### **Status of Projects in Progress**

Director Ashcroft said OPEGA is continuing with the **Beverage Container Redemption Program** review. OPEGA is planning on possibly having a Project Direction Recommendation Statement for **Temporary Assistance for Needy Families** at the October 18 meeting. OPEGA is working on all the in progress tax expenditure reviews and began working on the special project given to OPEGA by statute for **Design Evaluation for Major Business Headquarters Expansion Credit**.

### **NEXT GOC MEETING DATE**

The next Government Oversight Committee meeting is scheduled for October 18, 2017 at 9:00 a.m.

### **ANNOUNCEMENTS AND REMARKS**

Sen. Saviello said there was a review of DHHS that talked about a number of deaths of severely disabled individuals between 2013 and 2015. He said what struck him was the comment in the news about the eleven that died in Florida during the hurricane when there were contacts trying to be made that were never fulfilled. He talked with Sen. Gratwick briefly, because he knows that the Health and Human Services Committee sent a letter to DHHS and asked for responses about the results of the review. He is being told that the responses were inadequate. Sen. Saviello said his homework assignment to himself is to find out exactly what happened, but he believes the GOC may want to use their subpoena power to bring people to a GOC meeting to testify under oath as to what happened and why it happened. If the Health and Human Services Committee is investigating further, the GOC should stay out of it, but if not, and the GOC can be of assistance he would like the Committee do that.

### **ADJOURNMENT**

The Chair, Sen. Katz, adjourned the Government Oversight Committee meeting at 5:42 p.m. on the motion of Sen. Davis, second by Rep. Pierce, unanimous.

# Summary of Entities Purportedly Connected to the York County Casino Referendum

September 25, 2017

Prepared by the Legislature's Office of Program Evaluation and Government Accountability (OPEGA) based on information from:

- media articles;
- the Joint Standing Committee on Veteran's and Legal Affairs;
- the Maine Commission on Governmental Ethics and Election Practices;
- the Offices of the Secretary of State and Attorney General; and
- limited internet research.

For a chronological summary of relevant events these entities are associated with, see OPEGA's *Chronological Summary of Events Relevant to the York County Casino Referendum*. For a visual illustration of the interrelationships between the entities described in this summary, see OPEGA's *Entities Involved in the York County Casino Ballot Initiative and Referendum Efforts*.

## Entities involved in efforts to get casino initiative on the ballot

- **Horseracing Jobs Fairness (HJF):** The ballot question committee established in 2015 for the initial southern Maine casino initiative. Associated individuals/entities include:
  - **Lisa Scott:** Miami-based sister of Shawn Scott. HJF's principal officer. From December 2015 to April 2017, HJF reported Lisa Scott as the sole funder of initiative to the tune of \$4.3 million dollars. In April 2017, Ms. Scott amended campaign finance reports to show that she had received the money from other entities and she registered three additional ballot questions committees - "Lisa Scott," Miami Development Concepts, and International Development Concepts. Ms. Scott is the principal officer for Miami Development Concepts and International Development Concepts. She is also sole owner of the limited liability companies associated with those committees. Ms. Scott's records have been subpoenaed by the Maine Ethics Commission.
  - **Cheryl Timberlake:** An Augusta-based lobbyist who has served as HJF's treasurer and "registered agent." Ms. Timberlake has been subpoenaed by the Maine Ethics Commission to provide specified records.
  - **Bruce Merrill:** Portland-based attorney representing "casino proponents." First appeared in news articles about campaign backers appealing the first failed petition attempt in April 2016. In subsequent media, referred to as "Lisa Scott's attorney." Appeared at 6/9/2017 Ethics Commission Meeting representing HJF, Lisa Scott, International Development Concepts LLC, Miami Development Concepts LLC and Cheryl Timberlake as treasurer for HJF.
- **Miami Development Concepts (MDC):** Ballot question committee registered by Lisa Scott in April 2017 after the Maine Ethics Commission began probing into HJF finances. MDC's initial campaign financed report showed funds received by Capital Seven, LLC and Regent Able Associate, Co. which were then passed along to HJF.
  - **Lisa Scott:** Principal officer of the ballot question committee and sole owner of the limited liability corporation of the same name.
  - **Capital Seven, LLC:** Funder of MDC ballot question committee.
  - **Regent Able Associate, Co:** Funder of MDC ballot question committee.

- **International Development Concepts:** Ballot question committee registered by Lisa Scott in April 2017 after the Maine Ethics Commission began probing into finances of the HJF committee. International Development Concepts' initial financial filings show funds received by Capital Seven, LLC that were then passed along to HJF.
  - **Lisa Scott:** Principal officer of the ballot question committee and sole owner of the limited liability corporation of the same name.
  - **Capital Seven, LLC:** Funder of IDC ballot question committee.
  
- **“Lisa Scott” Ballot Question Committee:** Ballot question committee registered by Lisa Scott in April 2017 after the Maine Ethics Commission began probing into finances of the HJF committee. “Lisa Scott” ballot question committee’s initial campaign finance report showed funds received by Capital Seven, LLC that were then passed along to HJF.
  - **Lisa Scott:** Principal officer of the ballot question committee.
  - **Capital Seven, LLC:** Funder of “Lisa Scott” ballot question committee.
  
- **Capital Seven, LLC:** Las Vegas company formerly, and potentially presently, owned by Shawn Scott. Amended campaign finance reports by Lisa Scott showed Capital Seven as a financial backer of HJF through multiple other ballot question committees. Capital Seven was the Shawn Scott-associated company involved in the purchase and sale of the Bangor Historic Track in 2002 - 2003. The legislation associated with the current casino initiative is worded in a way that only Capital Seven, LLC would be able to obtain a license to operate a casino in York County. Michael Sherry, spokesman for the recently formed political action committee (PAC) Progress for Maine, disclosed Capital Seven as a backer of the PAC and said that David A. Wilson and Shawn Scott are principals in the company. Capital Seven’s records have been subpoenaed by the Maine Ethics Commission.
  - **Shawn Scott:** Brother of Lisa Scott. Mr. Scott was behind the 2003 campaign to allow slot machines in Bangor. Mr. Scott, through his company Capital Seven, LLC, sold Bangor Raceway to Penn National for \$51 million after that gaming legislation passed. Mr. Scott is described by the Progress for Maine PAC spokesman as a partner in the Progress for Maine PAC, and current principal in Capital Seven, LLC and Atlantic and Pacific Realty Capital.
  - **David A. Wilson:** Described by Progress for Maine PAC spokesman as a partner in the PAC and a current principal in both Capital Seven, LLC and Atlantic and Pacific Realty Capital. Mr. Wilson founded American General, Corp. which is now headed by Michelle Wilson and which has made in-kind contributions to the Progress for Maine PAC. Mr. Wilson also founded a PAC (Good Morals for Maine) in 2003 that funded full page ads to oppose the approval of a racino in municipalities near Scarborough. The Maine Harness Racing Commission’s 2003 investigative report on Bangor Historic Track, Inc.<sup>1</sup> states that “...employees of Mr. Scott apparently registered ‘Good Morals for Maine...’” This implies that Mr. Wilson was an employee of Shawn Scott. Mr. Wilson is also President of Koa Overseas Consultants, Ltd. reported to be associated with Atlantic and Pacific Realty Capital.

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<sup>1</sup> The Maine Harness Racing Commission investigated the suitability of Bangor Historic Track, Inc. in conjunction with its application for a racino license. The Commission said the suitability investigation was necessitated by the new ownership structure involving Shawn Scott and Capital Seven, LLC.

- **Alexis Fallon:** Tax attorney specializing in U.S. possessions (Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands). The phone numbers listed on Ms. Fallon’s website both have Massachusetts area codes. Ms. Fallon represents Capital Seven LLC and Regent Able Associate Co. She informed the Maine Ethics Commission on 6/9/17 that she is the tax attorney for the Scott family enterprises and that she has represented them for about 14 years.
- **Regent Able Associate, Co.:** Toyko-based company shown in amended campaign finance reports as having provided money to HJF via MDC. As of 8/30/17, the Maine Ethics Commission has been unable to subpoena the company due to a lack of valid address for service. The company also gave money to the unsuccessful 2016 Massachusetts referendum bid for casino development.
  - **Alexis Fallon:** Tax attorney representing Regent Able Associate, Co.
- **Bridge Capital:** Company based in the Mariana Islands. The company’s website describes it as an “international banking and asset management company specializing in high-yield distressed debt acquisition and structuring, equity and debt placement, investment management and real estate secured lending.” Bridge Capital’s records have been subpoenaed by the Maine Ethics Commission.
  - **Dan Riley:** Portland-based lobbyist and attorney with Norman, Hanson & DeTroy LLC who claimed to be representing Bridge Capital when he appeared before the Veteran’s and Legal Affairs (VLA) Committee at a hearing in March 2017. Mr. Riley later stated in a letter to the VLA Committee that he had misunderstood who had hired him, and that he was actually representing Universal Capital. Mr. Riley said that his misunderstanding had occurred because the individuals he was corresponding with about testifying at the hearing were the same as those he had corresponded with previously in what he thought were dealings with Bridge Capital. He explained he had incorrectly assumed Bridge Capital was the parent company of Universal Capital. In his letter to VLA, he clarified that his firm had not acted for Bridge Capital with regard to the casino initiative and he had no knowledge of any Bridge Capital involvement in the initiative. He also stated his firm had no knowledge of the actual ownership of membership interests in Universal Capital.
  - **Shawn Scott:** Vice Chairman and Director of Business Development for Bridge Capital.
  - **John Baldwin:** Principal and CEO of Bridge Capital. Other than being linked to Shawn Scott and Bridge Capital, Mr. Baldwin is not mentioned as being involved in the York County casino referendum.
- **Universal Capital:** Company of unknown ownership. Universal Capital’s representative Dan Riley stated in his letter to VLA that in January 2016 his law firm began working on the potential acquisition of Scarborough Downs for client Universal Capital. He said the law firm later began discussing the possibility of working with Universal Capital on the campaign being conducted by HJF and finally entered into an engagement with Universal Capital to do so on April 13, 2017.
  - **Dan Riley:** Portland-based lobbyist and attorney representing Universal Capital.



- **Olympic Consulting:** Lewiston-based firm paid by HJF to collect signatures for the ballot initiatives.
  - **Stavros Mendros:** Lewiston-based, former Maine legislator and political consultant who runs Olympic Consulting. Mr. Mendros is a notary public and was described by media as having notarized the majority of casino petitions in the initial effort.

### Entities involved in the campaign to pass the referendum

- **Progress for Maine (Company):** Company incorporated in Maine in July 2017 by Rumiko Yoneyama.
  - **Rumiko Yoneyama:** Registered agent for Progress for Maine (company). Also, general counsel for American General Corp., the company that has made in-kind contributions to the Progress for Maine PAC.
- **Progress for Maine PAC:** Political action committee founded by Atlantic and Pacific Realty Capital, a New York company. In August 2017, the PAC was registered in support of the York County casino referendum campaign. PAC Spokesman, Michael Sherry, identified David A. Wilson and Shawn Scott as partners in the PAC. Campaign filings show Michelle Wilson, head of American General Corp., to be a decision-maker for the PAC.
  - **Michael Sherry:** Spokesman for Progress for Maine PAC.
  - **Michelle Wilson:** Decision-maker for Progress for Maine PAC. Head of American General, Corp.
  - **Shawn Scott:** Partner in Progress for Maine PAC.
  - **David A. Wilson:** Partner in Progress for Maine PAC.
  - **Charlene Cushing:** Farmington-based harness racer. Listed as an officer in the Progress for Maine PAC.
  - **American General Corp.:** Funder of Progress for Maine PAC.
  - **Atlantic and Pacific Realty Capital:** Founder of Progress for Maine PAC.
- **Atlantic and Pacific Realty Capital:** A New York company listed as founding the Progress for Maine PAC. The spokesman for Progress for Maine PAC stated that David A. Wilson and Shawn Scott are principals in the company.
  - **Shawn Scott:** Company principal.
  - **David A. Wilson:** Company principal.
- **American General Corp.:** A California company founded by David A. Wilson and headed by Michelle Wilson that has made about \$11,000 in-kind contributions to the Progress for Maine PAC.
  - **Michelle Wilson:** President of American General Corp.
  - **David A. Wilson:** Founder of American General Corp.
  - **Rumiko Yoneyama:** General Counsel for American General Corp.

- **Koa Overseas Consultants, Ltd.:** Firm that operates in China and does consulting associated with the American EB-5 visa program. Reported as affiliated with Atlantic and Pacific Realty Capital, which founded the Progress for Maine PAC.
  - **David A. Wilson:** President of Koa Overseas Consultants, Ltd.
  
- **Capital Seven, LLC:** Las Vegas company formerly, and potentially presently, owned by Shawn Scott identified by the Progress for Maine PAC spokesman as being a backer of the PAC. Additionally, the legislation associated with the current casino referendum initiative is worded in a way that only Capital Seven, LLC would be able to obtain a license to operate a casino in York County. Capital Seven was the Shawn Scott-associated company involved in the purchase and sale of the Bangor Historic Track in 2002 - 2003.
  - **Shawn Scott:** Capital Seven principal.
  - **David A. Wilson:** Capital Seven principal.
  
- **Goddard Gunster Firm:** D.C.-based consulting firm that worked on the Brexit<sup>2</sup> campaign. Hired by the Progress for Maine PAC and paid approximately \$96,000 as of the last campaign filing.
  - **Gerry Gunster:** CEO of Goddard Gunster Firm
  - **Dwayne Bickford:** Former executive director for the Maine Republican Party. Partner at Goddard Gunster Firm.
  
- **Filler & Associates, P.A.:** Portland-based firm retained by the Progress for Maine PAC for CPA services.
  
- **Amplified Strategies:** Washington State-based campaign consultants paid approximately \$25,000 by the Progress for Maine PAC.
  
- **O'Neill and Associates:** Boston-based firm paid approximately \$58,000 by the Progress for Maine PAC for campaign consulting.
  
- **Public Opinion Strategies:** Virginia-based firm paid approximately \$59,000 by the Progress for Maine PAC for campaign consulting.
  
- **Rodriguez Strategies:** California-based firm paid approximately \$62,500 by the Progress for Maine PAC for campaign consulting.

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<sup>2</sup> Brexit was the nickname of a successful 2016 referendum effort in the United Kingdom for that country's exit from the European Union.

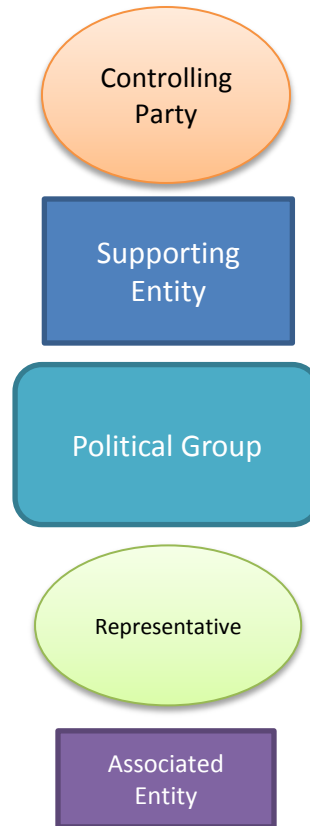
**Entities purportedly formerly or presently associated with organizations or individuals involved in the York County ballot initiative and/or referendum campaign**

- **Hoolae Paoa:** Shawn Scott business associate. Previously served as vice president of the Bangor Historic Track and was the CEO of Capital Seven, LLC at the time of the 2003 citizen-initiated referendum to allow slot machines at commercial racetracks.
- **Sanum Investments, Ltd.:** A Macau (a special administrative region of China) company run by Bridge Capital and used to invest in a casino in Laos. Subject of 2013 federal court ruling in Nevada. Japanese lawyer Toko Kobayashi was listed as Sanum's director in the lawsuit.
- **Toko Kobayashi:** Japanese lawyer listed as the director of Sanum Investments, Ltd (a Bridge Capital company) in a 2013 federal court ruling in Nevada. Mr. Kobayashi also gave money directly to an unsuccessful 2016 Massachusetts referendum bid for casino development. He was listed by Regent Able Associate Co., which also gave money to the 2016 MA bid, as a Regent Able developer.
- **Robert Wessels:** An associate of David A. Wilson. Mr. Wessels led a planned real estate project for a Bridge Capital affiliate that is in foreclosure for a second time. Mr. Wessels was also shown in a 2013 federal court ruling in Nevada to be associated with Sanum Investments, Ltd. Mr. Wessels was reported to be the managing director of a company looking to build a resort in Macau.
- **David Nealley:** Bangor city councilor in 2003, allegedly paid by Shawn Scott to help with the 2003 "racino" referendum. Mr. Nealley was also hired as a casino advocate by those involved with the 2016 MA referendum bid.
- **Eugene McCain:** Developer behind the 2016 MA campaign to open a slots parlor near Suffolk Downs racetrack. Mr. McCain initially denied that Shawn Scott was involved in financing the campaign though financial documents showed Mr. Scott to have been a major funder. Mr. McCain was reported to have had previous business ties with Mr. Scott and Hoolae Paoa.

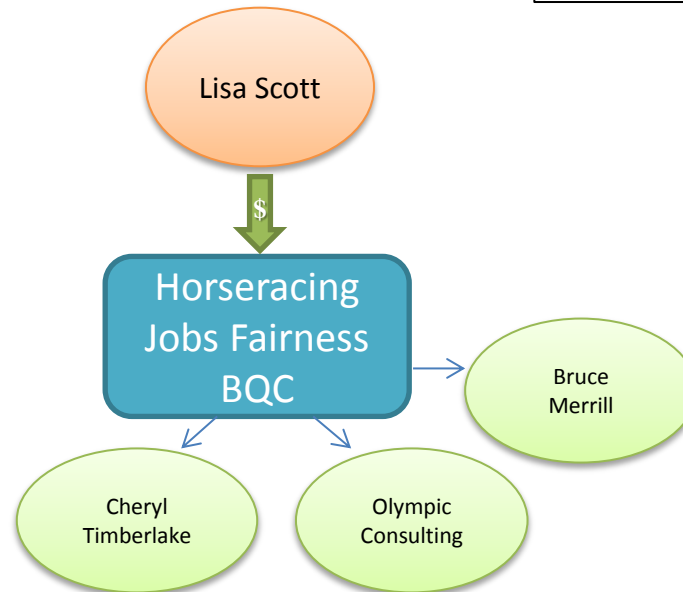
# Entities Involved in the York County Casino Ballot Initiative and Referendum Efforts

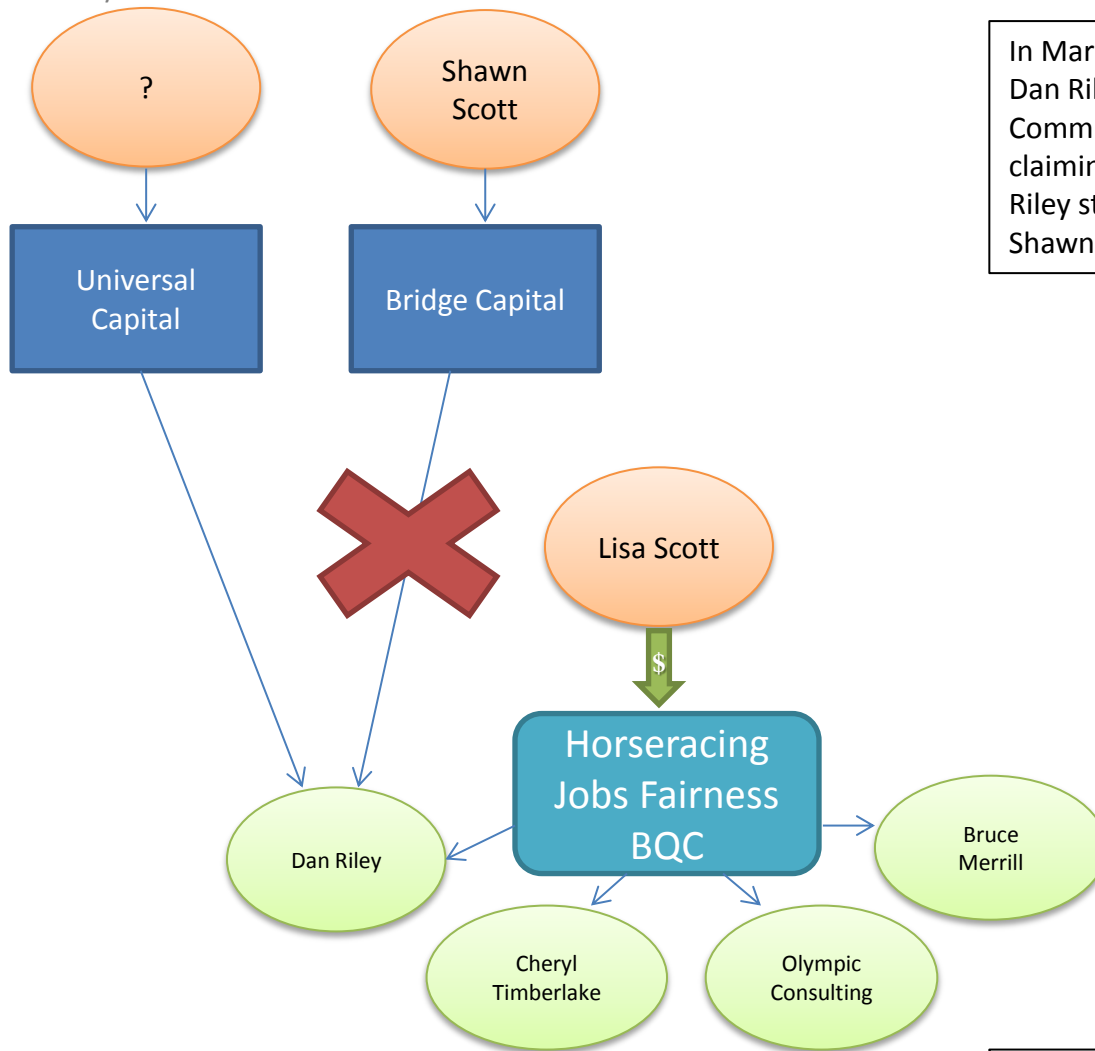
## GRAPHICS KEY

- Controlling Party (principal, owner, decision-maker)
- Supporting Entity (funder, backer)
- Political Action Committee or Ballot Question Committee
- Entity employed by ballot initiative or referendum efforts (employee, representative, consultant)
- Entity with unknown ties



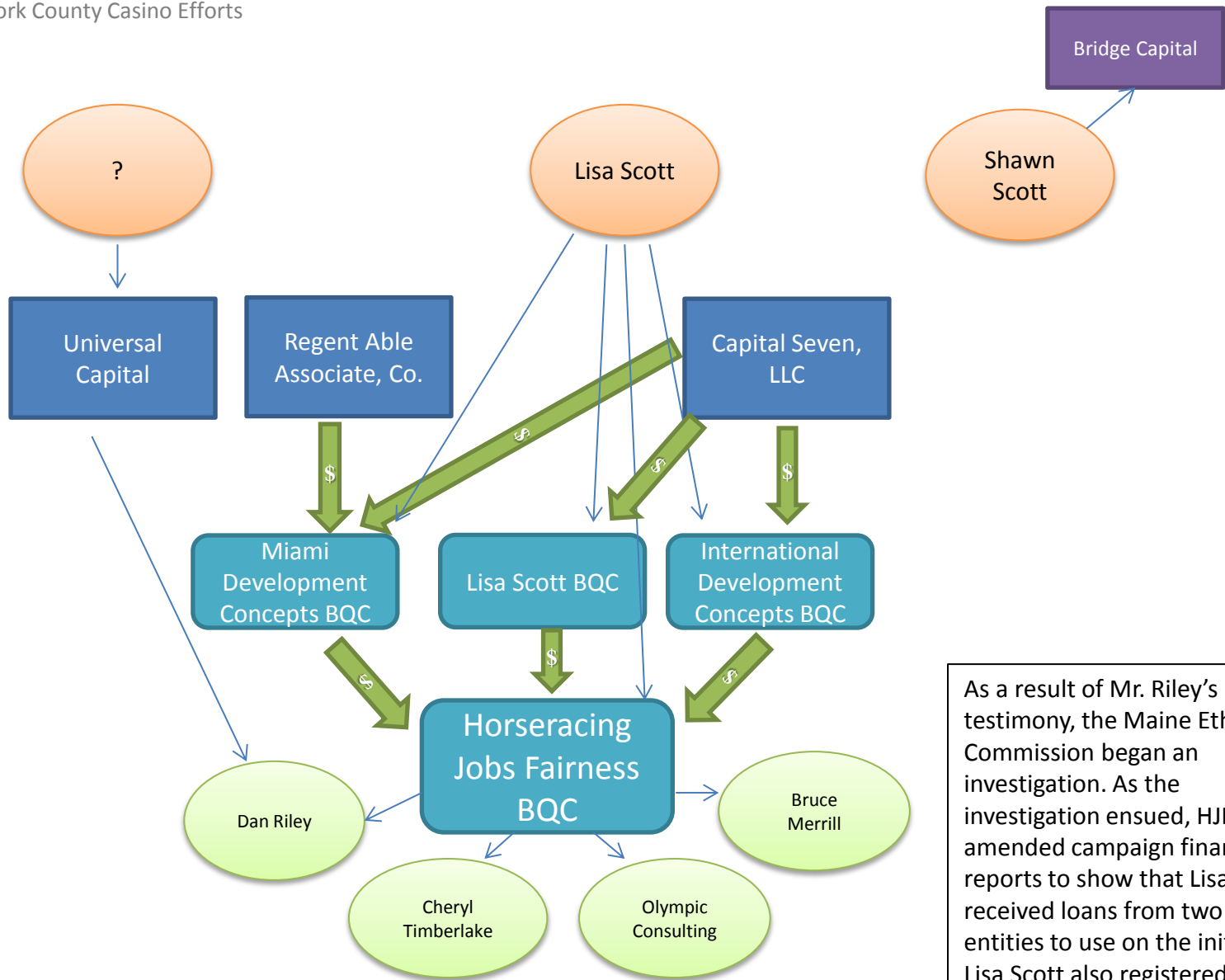
From late 2015 through March 2017, HJF claimed that the casino referendum “An act to allow slot machines or a casino in York County” was solely funded by Lisa Scott to the tune of \$4.3 million. Lisa Scott also served as HJF’s principal officer.





In March 2017, Portland-based attorney Dan Riley appeared before the VLA Committee at a hearing on the initiative claiming to represent Bridge Capital. Mr. Riley stated Bridge Capital was owned by Shawn Scott.

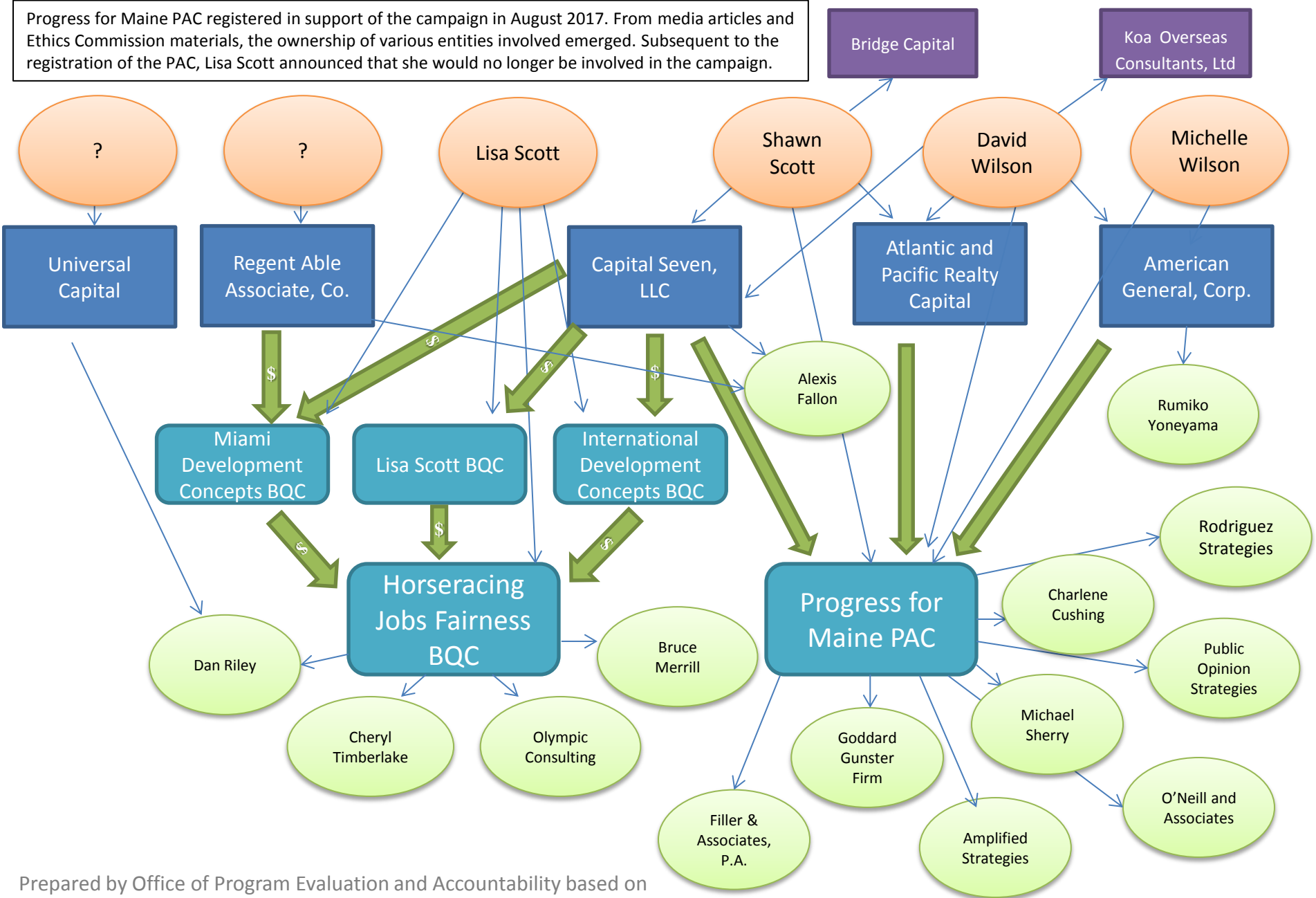
Riley later said that he was mistaken and was not hired by Bridge Capital, but instead by Universal Capital, which was of unknown ownership. His firm had an agreement with Universal Capital to work with them on the campaign being conducted by HJF.



As a result of Mr. Riley’s testimony, the Maine Ethics Commission began an investigation. As the investigation ensued, HJF amended campaign finance reports to show that Lisa Scott received loans from two entities to use on the initiative. Lisa Scott also registered three additional ballot question committees through which those funds had flowed.

Entities Involved in York County Casino Efforts

Progress for Maine PAC registered in support of the campaign in August 2017. From media articles and Ethics Commission materials, the ownership of various entities involved emerged. Subsequent to the registration of the PAC, Lisa Scott announced that she would no longer be involved in the campaign.



Prepared by Office of Program Evaluation and Accountability based on information gathered from media articles, legislative committees, and State agencies.



## Chronological Summary of Events Relevant to the York County Casino Referendum

September 25, 2017

Prepared by the Legislature's Office of Program Evaluation and Government Accountability (OPEGA) based on information gathered from:

- media articles;
- the Joint Standing Committee on Veteran's and Legal Affairs;
- the Maine Commission on Governmental Ethics and Election Practices;
- the Offices of the Secretary of State and Attorney General; and
- limited internet research.

For description of the relevant entities mentioned in this summary and their interrelationships, see OPEGA's *Summary of Entities Purportedly Connected to the York County Casino Referendum*. For a visual illustration of the interrelationships between the entities described in this summary, see OPEGA's *Entities Involved in the York County Casino Ballot Initiative and Referendum Efforts*.

### 2002 – 2004: “Racino” referendum and licensure of Bangor Historic Track

#### June 2002 – June 2003

- June 2002 – Capital One LLC negotiated a purchase and sale agreement with the Bangor Historic Track (BHT) stockholders to buy BHT. Capital One LLC designated Capital Seven LLC as its nominee to purchase BHT stock. Shawn Scott was the owner of Capital Seven LLC.
- December 2002 – Capital Seven LLC exercised an option agreement to purchase 49.86% of the shares of BHT, making Shawn Scott (as owner of Capital Seven LLC) the largest stockholder in BHT.
- February-June 2003 – Shawn Scott/Capital Seven LLC makes further partial payments to BHT stockholders, bringing the amount paid to 96% of the total purchase price for BHT.

#### November – December 2003

- November 4 – Maine voters approved the operation of slot machines at commercial racetracks as proposed by a citizen-initiated referendum (**Yes: 272,294/No: 242,490**). The approved legislation authorized the operation of slot machines at commercial harness racing tracks, to be known as “racinos”. There were two commercial tracks in Maine, one in Bangor (BHT) and one in Scarborough (Scarborough Downs). One of the criteria for licensure was local approval via municipal referendum in the town or city where the commercial track was located. The City of Bangor voted to approve a racino but the voters in Scarborough did not.
  - Shawn Scott, having purchased BHT through Capital Seven LLC, was behind the successful referendum initiative.
  - The owner of the Scarborough racetrack tried to move its operations to another municipality (Saco or Westbrook) that would approve it. These initiatives were actively opposed by an associate or employee of Shawn Scott and the opposition campaign was purportedly funded by Capital Seven LLC.
  - Voters were also asked to consider another citizen-initiated proposal on the ballot that November for a larger-scale casino to be operated in Sanford. The proposal would have authorized the Penobscot and Passamaquoddy to operate the casino via changes to the Maine Indian Claims Settlement. It did not win the approval of voters (**Yes: 170,500/No: 346,583**).

- December 8 – The Maine Harness Racing Commission’s Executive Director published the results of a suitability investigation of BHT<sup>1</sup>, necessitated by its new ownership structure involving Shawn Scott and Capital Seven LLC. The report raised concerns about BHT’s suitability for licensure, given the following issues that arose during the investigation:
  - Capital Seven LLC, owned by Shawn Scott, paid 96% of the purchase price for BHT but Mr. Scott continued to maintain that Capital Seven owned less than 50% of BHT.
  - Mr. Scott and his associated companies did not provide many of the documents requested during the investigation, which frustrated the attempts to verify Mr. Scott’s net worth claims. A similar lack of cooperation was reported in similar investigations conducted by the New York Racing and Wagering Board and the Louisiana State Police.
  - The CEO of Capital Seven and VP of BHT, Hoolae Paoa, had a history of criminal convictions from 1978 to 1997.
  - Mr. Scott and his associated companies had been involved in 37 lawsuits between 1992 and 2000 in four states, along with 13 liens, four tax liens and one bankruptcy.
  - Mr. Scott owned or held ownership interests in dozens of companies that demonstrated sloppy, if not irresponsible, financial management and accounting practices over several years.
  - A business associate of Mr. Scott appeared to exercise a degree of managerial and financial control over Mr. Scott’s companies and business dealings, although it was noted that this aspect of the investigation had not been fully developed.
- Late December – Maine Harness Racing Commission held a hearing to consider suitability of BHT to be granted a license to operate harness racing and slot machines. The hearing did not conclude in December and was scheduled to carry over to January 8, 2004.

## 2004

- January 8 – Shawn Scott and Penn National Gaming jointly announced that Penn National would assume ownership of BHT.
- January 9 – Maine Harness Racing Commission granted a racing license to BHT, conditional on a full stock transfer of BHT from Shawn Scott/Capital Seven LLC to Penn National.
- February – Capital Seven LLC sold BHT to Penn National Gaming for reportedly \$51 million.
- Second Regular Session of the 121<sup>st</sup> Legislature – The Legislature enacted LD 1820 (PL 2003, chapter 687) establishing the Gambling Control Board within the Department of Public Safety. The legislation also created a licensing and regulatory structure to govern the operation of slot machines, and later table games, that is still in place today.

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<sup>1</sup> Suitability Report by Henry W. Jackson Regarding Bangor Historic Track, Inc. issued on December 8, 2003 by Henry W. Jackson, Executive Director, Maine Harness Racing Commission.

## General history of casino legislation in Maine

### 2004 - 2016

- Five citizen initiatives proposing casino-style gambling successfully made it to ballots for voter consideration between 2004 and 2016. Only the proposal on the 2010 ballot was approved by voters and resulted in the Oxford Casino.
  - 2007 – An Act to Authorize a Commercial Track and Slot Machines in Washington County (*Passamaquoddy track with racino*) (Yes: 130,164/**No: 142,458**)
  - 2008 – An Act to Allow a Casino in Oxford County (*Evergreen Mountain Enterprises*) (Yes: 333,685/**No: 389,251**)
  - 2010 – An Act to Allow a Casino in Oxford County (*BlackBear Entertainment*) (**Yes: 284,934**/No: 280,211)
  - 2011 – An Act Regarding a Slot Machine Facility (*Lewiston Casino*) (Yes: 143,127/**No: 248,467**)
  - 2011 – An Act to Amend the Laws Governing the Deadline and Municipal Approval of a Second Racino and to Allow a Tribal Racino in Washington County (*Biddeford or Scarborough Downs and Passamaquoddy racino in Calais*) (Yes: 176,718/**No: 215,115**)
- Approximately 32 bills have come before the Legislature’s Joint Standing Committee on Veterans and Legal Affairs (VLA) to authorize video lottery terminals, slot machines, table games or some combination. Only one of these proposals, LD 1418 from the 125<sup>th</sup> Legislature, was enacted authorizing the operation of table games at Hollywood Slots/Casino.
- The 126<sup>th</sup> Legislature passed LD 1856 Resolve, to Conduct a Market Analysis to Examine the Feasibility of Expanded Gaming in Maine which was enacted as Resolve 2013, chapter 111. That law resulted in a study conducted by WhiteSand Gaming which was presented VLA on September 9, 2014. The report stated that a market exists for expanded gaming in the State. It recommended a competitive bidding process for the operation of one resort-casino in southern Maine and suggests that a smaller scale facility is feasible in Northern Maine close to a border crossing location.

### 2015 – 2017: York County casino initiative

#### 2015

- December 8 – Maine Secretary of State (SoS) approved the citizen initiative for circulation.
- December 14 – Horseracing Jobs Fairness LLC formed in Delaware.
- December 16 – Horseracing Jobs Fairness registered as a ballot question committee (HJF) and filed an initial campaign finance report. HJF identified Lisa Scott as its Principal Officer and Cheryl Timberlake as the Treasurer.

#### 2016

- January 14 – HJF filed its January 2016 quarterly campaign finance report showing total contributions to date of \$108,000 from a single contributor, Lisa Scott of Miami, FL.
- February 1 – Citizen initiative petitions submitted to SoS for consideration.

## Chronological Summary of Events Relevant to the York County Casino Referendum

- March 2 – SoS determined the initiative did not qualify for the 2016 ballot due to an insufficient number of valid signatures. A number of signatures were invalidated due to signatories not being registered voters and duplicate signatures.
- March 9 – Miami Development Concepts LLC (MDC) formed in Florida.<sup>2</sup>
- March 11 – Petitioners requested the Superior Court review the SoS's decision.
- April 7 – Superior Court affirmed the SoS's decision that the initiative did not qualify for the 2016 ballot.
- April 7 – HJF filed April 2016 quarterly campaign finance report, which showed that HJF received \$2,955,365 during January 2016 from a single contributor, Lisa Scott.
- October 3 – HJF filed October 2016 quarterly campaign finance report, which showed that HJF received \$3,505,865 in calendar year 2016 from a single contributor, Lisa Scott.
- November 8 – Massachusetts electorate rejected proposed legislation to permit a slot facility at the Suffolk Downs race track in Revere, Massachusetts. The campaign had been funded in part by Bridge Capital LLC and Regent Able Associate Co.<sup>3</sup>
- December 22 – Citizen initiative petitions submitted to Maine SoS for consideration for the second time.

### January to March 2017

- January 12 – HJF filed its campaign finance report, which showed that HJF received \$4,063,965 in funding for calendar year 2016. All contributions in all campaign finance reports filed thus far are shown as being solely from Lisa Scott.
- January 23 – SoS determined the initiative qualifies for the 2017 ballot.
- January 26 – Massachusetts Office of Campaign and Political Finance (OCPF) issued a press release that the Horse Racing Jobs and Education Ballot Question Committee (the committee behind the unsuccessful Massachusetts initiative) has agreed to a \$125,000 civil forfeiture to resolve campaign finance issues related to the 2016 state election. OCPF concluded that the committee violated several sections of Massachusetts campaign finance law including: receiving contributions made in a manner intended to disguise the true source of the funds, broadcasting television advertisements that did not contain required disclosures, and failing to disclose campaign finance activity in a timely or accurate manner. A chart showing the flow of funds into the Massachusetts committee as prepared by OCPF is appended and shows contributions from Bridge Capital LLC and Regent Able Associate Co.

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<sup>2</sup> In April 2017, HJF amended campaign finance reports filed with the Ethics Commission to reflect that it has received funding from Miami Development Concepts LLC.

<sup>3</sup> Shawn Scott has been reported as being an owner and/or officer of Bridge Capital LLC, a company based in Saipan in the Northern Mariana Islands. HJF amended finance reports to show that Regent Able Associate Co. provided funds to HJF through Miami Development Concepts. The company is based in Tokyo, Japan.

- March 29 –
  - Veterans and Legal Affairs Committee (VLA) held a public hearing on the casino initiative bill (LD 719). Attorney and lobbyist Daniel Riley was the only person to testify in support of the initiative. Mr. Riley stated that he had, in the early hours that morning, been asked to attend and testify on behalf of his client, Bridge Capital LLC. Mr. Riley informed the Committee that Bridge Capital had been involved in gathering signatures for the ballot initiative. Only the Christian Civic League testified against the bill and the Maine Harness Horseman’s Association testified neither for nor against.
  - Executive Director of the Commission on Governmental Ethics and Election Practices (the Ethics Commission), having become aware of Mr. Riley’s testimony to VLA on the involvement of Bridge Capital LLC, wrote to the HJF’s Treasurer, Cheryl Timberlake, requesting a meeting to discuss whether the campaign finance reporting has been accurate and complete.

## April 2017

- April 6 – Senator Mason and Representative Luchini, Chairs of VLA, submitted a request that the Ethics Commission investigate HJF in light of the reported involvement of Bridge Capital LLC. In particular, they expressed concerns about Bridge Capital’s “checkered history with the casino industry” including Bridge Capital’s involvement in a similar failed referendum in Massachusetts.
- April 6 – Cheryl Timberlake, HJF’s Treasurer, and Bruce M. Merrill Esq, HJF’s attorney, met with Ethics Commission staff regarding HJF’s financial reporting and sources of funds to support the casino initiative.
- April 7 – HJF filed its April 2017 quarterly campaign finance report, which showed 2017 contributions of \$15,453 from Lisa Scott.
- April 10 – Ethics Commission Executive Director wrote to Mr. Riley requesting information about Bridge Capital’s involvement in the casino initiative campaign and its relationship with HJF.
- April 20 – HJF amended eight of its ten campaign finance reports to reflect that a portion of its funds came from Miami Develop Concepts LLC (MDC) and International Development Concepts LLC (IDC), rather than solely from Lisa Scott as previously indicated. Lisa Scott is the owner of MDC and IDC. A chart of the flow of funds based on the new reports, as prepared by Ethics Commission staff, is appended.
- April 24 -
  - Mr. Riley responded to the Ethics Commission Executive Director’s request by clarifying that he mistakenly identified Bridge Capital LLC as his client, when his actual client was Universal Capital Holdings LLC.
  - Lisa Scott registered “Lisa Scott”, MDC and IDC as ballot question committees and filed initial campaign finance reports for them indicating that the funds given to HJF originated as loans from Capital Seven LLC of Nevada<sup>4</sup> and Regent Able Associate Co.

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<sup>4</sup> Capital Seven LLC is reportedly owned by Shawn Scott and, under the language of the initiative bill, the only entity that would be eligible to apply for a casino license in York County.

- April 29 - Mr. Riley wrote to VLA to correct his testimony to state that his client was not in fact Bridge Capital LLC, but was instead Universal Capital Holdings LLC. He stated that his testimony that he was representing Bridge Capital LLC was based on a “miscommunication” and “an incorrect assumption” that Bridge Capital was the parent company of Universal Capital Holdings LLC, for whom his firm had previously been working on the potential acquisition of Scarborough Downs. He stated that his firm does not and has not acted for Bridge Capital LLC concerning the proposed legislation, nor did they have any knowledge regarding Bridge Capital’s involvement, or not, in the initiative. They had assumed that Universal Capital was a subsidiary of Bridge Capital, however, they have no knowledge of the actual ownership or membership interests in Universal Capital LLC.

### **May to September 2017**

- May 4 –Ethics Commission staff reported that Bruce Merrill, attorney for HJF, confirmed in a meeting with them that Capital Seven LLC is the single business entity that would qualify to apply for a casino license under the proposed legislation.
- June 9 – At its meeting, the Ethics Commission heard from: Representative Luchini (reaffirming a request for investigation), Bruce Merrill (attorney for HJF, Lisa Scott, IDC, MDC and Cheryl Timberlake in her capacity as Treasurer of HJF), Alex Fallon (tax attorney representing Capital Seven LLC and Regent Able Associate Co), and Avery Day (attorney for Cheryl Timberlake in her personal capacity). The Commission found there were sufficient grounds to conduct further investigation of Lisa Scott, MDC, IDC, Regent Able Associate Co, Capital Seven LLC, Universal Capital LLC, Bridge Capital LLC and HJF in respect to campaign financing of the casino ballot initiative. Commission staff were directed to conduct an investigation. The investigation was to include the financing of HJF from December 2015 to April 2017, in particular:
  - whether the campaign finance reports filed by the four ballot question committees (HJF, Lisa Scott, IDC and MDC) were accurate and filed on time;
  - whether the reports misidentified contributors or contained any material misrepresentations;
  - whether Capital Seven LLC and Regent Able Associate Co received contributions that required those entities to register as ballot question committees and file campaign finance reports;
  - whether all campaign financial activity to initiate or influence the York County casino initiative has been disclosed in campaign finance reports now on file with the Commission.<sup>5</sup>
- June 13 – Ethics Commission issued subpoenas to Lisa Scott and Cheryl Timberlake to provide specified documents. Cheryl Timberlake’s attorney accepted service of her subpoena.
- June 15 – Ethics Commission issued subpoenas to Bridge Capital LLC and Capital Seven LLC to provide documents.

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<sup>5</sup> According to statute (21-A M.R.S. §1056-B) a person not defined as a political action committee that receives contributions or makes expenditures (other than by contribution to a PAC or BQC) in excess of \$5,000 for the purpose of initiating or influencing a ballot question is required to register with the Commission as a BQC and file campaign finance reports. The purpose of the publicly disclosed campaign finance reports is so that Maine voters, the Maine Legislature and others are aware of who is providing the resources to sponsor an initiative.

## Chronological Summary of Events Relevant to the York County Casino Referendum

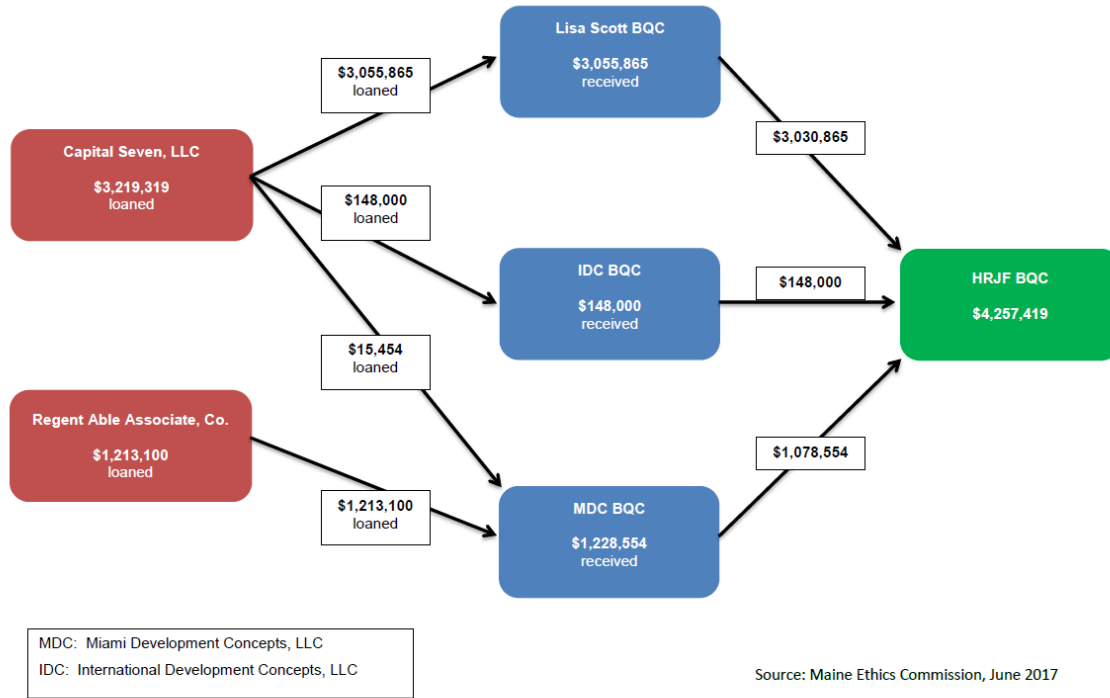
- July 14 – At its meeting, the Ethics Commission heard from attorneys for Cheryl Timberlake and Lisa Scott regarding objections to subpoenas to provide documentation. The Commission passed a motion to modify the subpoena to Cheryl Timberlake to require documents and a privilege log (in the event that privilege is asserted) by July 31. The Commission passed a motion to modify the subpoena to Lisa Scott to state that any objections to the documents requested should be provided to the Commission by August 4 and that the documents be provided by September 1.
- July 27 – Cheryl Timberlake’s attorney provided the Ethics Commission with records in accordance with her subpoena.
- July 28 – Bridge Capital LLC accepted service of subpoena through counsel.
- August 7 – A new political action committee (PAC), Progress for Maine, registered in support of the ballot initiative. The press reported that those behind this PAC (David A. Wilson and Michelle Wilson, based in California) have business links with Shawn Scott. It is understood that this PAC, rather than HJF, will fund the campaign through the election.
- August 10 –
  - At its meeting, the Ethics Commission heard from Lisa Scott’s attorney with respect to her objections to the subpoena to provide documents. The Commission passed a motion to modify the subpoena to Lisa Scott to allow information to be withheld that is covered by privilege and that a privilege log shall be provided with the documents.
  - Capital Seven LLC accepted service of subpoena through counsel.
- August 25 – Bridge Capital LLC and Capital Seven LLC filed objections to the subpoenas through their respective attorneys.
- August 30 – At its meeting, the Ethics Commission heard from the attorneys representing Bridge Capital LLC and Capital Seven LLC about the objections filed in response to the subpoenas. The Commission passed a motion to modify the subpoena to these entities to allow information to be withheld that is covered by privilege and that a privilege log shall be provided with the documents and noted that the documents are to be provided by September 15.
- August 30 – Press reported that Lisa Scott had announced that she will no longer be involved in the campaign.
- September 1 – Lisa Scott, through her attorney, provided 7,500 documents to the Ethics Commission in accordance with the subpoena.
- September 15 – Capital Seven LLC and Bridge Capital LLC provided documents to the Ethics Commission in accordance with their subpoenas.

### **Future dates of significance**

- September 28 – Ethics Commission scheduled meeting. The Commission may consider next steps for the investigation.
- October 31 – Ethics Commission scheduled meeting.
- November 7 – Election

**Flowchart of source of funds for HJF BQC as prepared by Maine Ethics Commission**

**Source of Funds for Horseracing Jobs Fairness BQC  
(Reported as of 4/27/2017)**





**Flowchart of source of funds to Horse Racing Jobs and Education Ballot Question Committee as prepared by Massachusetts OCPF**

from Massachusetts OCPF

