



SEN. ROGER J. KATZ, SENATE CHAIR  
REP. ANNE-MARIE MASTRACCIO, HOUSE CHAIR

MEMBERS:

SEN. NATHAN L. LIBBY  
SEN. PAUL T. DAVIS, SR.  
SEN. BILL DIAMOND  
SEN. GEOFFREY M. GRATWICK  
SEN. THOMAS B. SAVIELLO  
REP. JEFFREY K. PIERCE  
REP. JENNIFER L. DECHANT  
REP. MATTHEW A. HARRINGTON  
REP. DEANE RYKERSON  
REP. PAULA G. SUTTON

MAINE STATE LEGISLATURE  
GOVERNMENT OVERSIGHT COMMITTEE

**MEETING SUMMARY**  
**August 9, 2018**  
**Accepted As Written**

**CALL TO ORDER**

The Chair, Sen. Katz, called the Government Oversight Committee meeting to order at 9:17 a.m. in the Burton Cross Building.

**ATTENDANCE**

Senators: Sen. Katz, Sen. Libby, Sen. Diamond, Sen. Gratwick, and Sen. Saviello  
Joining the meeting in progress: Sen. Davis

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

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA  
Scott Farwell, Senior Analyst, OPEGA  
Amy Gagne, Analyst, OPEGA  
Etta Connors, Adm. Secretary, OPEGA

**INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS**

The members of the Government Oversight Committee introduced themselves.

**NEW BUSINESS**

- OPEGA Report on Temporary Assistance for Needy Families Program (TANF)
- Committee Work Session

Sen. Katz said the GOC has received the Report on TANF and had the public comment period. Today is the work session on the Report and eventually the Committee's vote on the Report.

Director Ashcroft said the GOC sent a request for Bethany Hamm, Director, Office of Family Independence, to be with the Committee today to answer some questions they had about TANF following the public comment period. She said Ms. Hamm is not at today's meeting, but has sent written responses with regard to the areas the Committee had questions about. OPEGA is providing that information to the Committee this morning because it was not received until late yesterday. She thinks the goal is to determine whether the Committee wants to take for further action with regard to OPEGA's recommendations or from what they heard during the public comment period and also, at some point, to take a vote on whether or not to endorse the Report.

Sen. Katz suggested the Committee take a few minutes to review Ms. Hamm's letter.

Sen. Diamond said he appreciated Ms. Hamm's information, but he would much rather have her at the meeting. It is more productive to have a two-way conversation so he thinks it would be not the best use of time to go through the work session with only a one-sided discussion. He suggested that the Committee consider issuing a subpoena to ask Ms. Hamm to come to a meeting so there can be a thorough discussion.

Sen. Gratwick agreed and said the Committee is not there to be adversarial, but the lack of people coming to the Committee's meetings breeds suspicion. The GOC should also decide if there are other people they would like to have at a meeting to discuss TANF.

**Motion:** That the Government Oversight Committee issue a subpoena to Bethany Hamm, Director, Office of Family Independence, to come to the next meeting to discuss TANF issues. (Motion by Sen. Diamond, second by Sen. Saviello)

**Discussion:** Sen. Katz thinks the members of the GOC are sad that they are discussing having to subpoena Ms. Hamm. He thinks Committee members have done their best and have succeeded at treating people fairly in asking questions in pursuit of doing their job. He did not feel that the Committee has treated anyone unfairly that have come before them. If others feel different, they ought to talk about it as a group because people who come before the GOC should be treated with respect and he believes they have done that.

Sen. Saviello agreed. He noted the great dialogue Committee members had with Commissioner Hamilton when he was at the GOC meeting. He said he has been proud to serve on this Committee and in how members act, question and participate in Committee matters. He thinks in the future, when the GOC writes a letter to the Governor requesting that a State employee come before the Committee, that they include in that letter that if their request is refused the GOC will be issuing a subpoena to have the person appear before them. He thinks the Executive Branch's process regarding State employees being at legislative meetings is ridiculous and the Committee cannot get their work done. They are not trying to do a witch hunt, they are just trying to find the information.

Rep. DeChant thinks everything the Committee has been doing takes two steps. Not only is it a one-sided consideration, but it takes two steps to get the conversation going. She referred to the mandated subpoena experience, for example, when Commissioner Hamilton was subpoenaed. She said if her recollection was clear, she agreed that at that meeting it was not antagonizing, from anyone's body language, intonation, response or conversation. As the Committee members may recall there was not a line of questioning that was close to jeopardizing any criminal investigation. She said it is a shame that the subpoena process is just slowing down the process. Perhaps that is the intent.

Rep. Mastraccio agreed with the previous Committee members' comments. She thinks the GOC has done a good job at acting in a bi-partisan or non-partisan way. They are looking at the issues, are trying to find the answers and not just come up with anything. She said the Committee is trying to do their job and every time they ask someone to come to a meeting they are making that request with the expectation that they will come without a subpoena, but if a subpoena is necessary, the Committee should issue them. Rep. Mastraccio was in favor of issuing the subpoena, but was sad that the Committee had to do it in the past.

Sen. Diamond said there is a reason the GOC has subpoena power and the expectation is that this Committee uses that power with respect, and uses it only when they need to. He thinks this issue is as important as the others they have used the subpoena power on in the past.

Sen. Gratwick said he was in agreement with the pending motion, but asked if the Committee could subpoena just one person or several people from DHHS. He wants to make sure that the next time the GOC meets to discuss TANF everyone is at the meeting.

Director Ashcroft said it might help for the Committee to have a firm understanding of what exactly it is they are seeking to do, or understand, with regard to asking people to participate at a meeting. She recalled they were on various ends of the spectrum in terms of whether they were talking about wanting to go with a further review or evaluation of matters related to TANF or if they are just seeking to further understand some of the information they have had in the Report and want to hear from the Department specifically about that. She thinks that makes a difference as to what kind of information they would be trying to glean from here. There was talk about wanting to understand what had happened, for example, to the folks who were no longer on TANF. That strikes her as an evaluation in and of itself. If that is the kind of conversation the GOC wants to have, then what is it they need to have for information to decide whether or not you want to task OPEGA or someone to do that review. That is a little different than saying the Committee has some additional questions about how they are making decisions about TANF funding or the programs we are choosing to spend it on. It might be helpful to be a little bit clearer about what they are considering that they are wanting the Department's input on.

Rep. Rykerson said he would like to find out more about how the federal regulations for TANF have been interpreted in Maine and how we got there. The intent is broad enough so that they could be interpreted a number of different ways. He would like to find out the process of how Maine got to the interpretation that they have come up with.

Sen. Gratwick said he has a list of 12 questions that he would like to have answered. He suggested members think about handing in their written questions within a determined time to Director Ashcroft and the Chairs. Then the Chairs, working with the Director, will decide what other people should come before the Committee.

Sen. Katz said the Committee was scheduled to meet today and invited Ms. Hamm to the meeting. If she had been able to come, that is where the GOC would be and if they subpoena her for the next meeting they will be back in exactly the same spot then. There may be some concern, or further inquiries, the Committee may want to do based upon their conversation with Ms. Hamm, so perhaps it might be best to put the TANF work session on pause until she does appear at the next meeting and then they can have a more informed discussion about what they want to do after that.

Rep. Mastraccio agreed with Sen. Katz and said perhaps Ms. Hamm can answer Sen. Gratwick's questions. She did not want to change the process or start issuing blanket subpoenas for people they think they might want to talk to. As a Committee they have not decided where they want to go for their work on TANF and that might be clearer to them after their next meeting and discussion with Ms. Hamm.

**Vote:** The above motion passed 9-1. (Sen. Davis voted on the motion when he arrived at the meeting in accordance with Committee Rules.)

Director Ashcroft said a framework is needed when issuing a subpoena as to what the discussion will be. She asked if the GOC wanted her to use the same framework as what was used in the initial letter which is:

- Hardship extensions and exemptions from the 60-month lifetime limit;
- ASPIRE-TANF program and Fedcap's operation of that program;
- TANF work participation rate requirements; and
- Process for identifying and determining uses for TANF funds.

Members of the Committee agreed.

- **Committee Vote**

Not Taken.

## **SUMMARIES OF THE JUNE 28 AND JULY 10, 2018 GOC MEETINGS**

The Meeting Summaries of June 28 and July 10, 2018 were accepted as written.

### **UNFINISHED BUSINESS**

- **OPEGA Report on the Child Protection System: A Study of How the System Functioned in Two Cases of Child Death by Abuse in the Home**

- Continue Committee Work Session

Sen. Katz summarized where the Committee is at this point with their work on OPEGA's Report on the Child Protection System. The DHHS Commissioner appeared before the GOC and had suggested that the Governor's Office was working on legislation in this arena and that the Legislature should be seeing that bill soon. The Governor made some statements suggesting he was not going to submit the legislation until the current legislative session in which we are in adjourned *sine die* and then he was going to call an additional special session to deal specifically with child protective issues. Yesterday, the Governor issued a radio address in which he said that he was going to be submitting the legislation, in more than one bill, in the current special session and indications are that may be forthcoming as early as next week. There will be questions about which committee or committees that proposed legislation will go to.

Sen. Katz said given the fact that they expect the Governor's legislation to come as early as next week, don't know at this time what is going to be in it and don't know what role, if any, the GOC will have in regard to that legislation, he did not think there was a great deal they could be doing at this meeting. The Committee will be meeting on August 20<sup>th</sup> and should have a much clearer picture by then about what the legislation covers or doesn't cover and could make more knowledgeable decisions about what the GOC wanted OPEGA to continue to work on.

Sen. Katz asked if any Committee members had objection to waiting for the August 20<sup>th</sup> meeting to discuss the Child Protection System. Committee members agreed to wait until August 20<sup>th</sup>.

Rep. Sutton said she has information that would be helpful to the GOC regarding Title 22 and asked if she should distribute the information now or wait for the next meeting. Sen. Katz said she could share it at this meeting, but not knowing what the Committee's work will be pending the Governor's bill, she might want to wait. Rep. Sutton said she will wait to distribute the information she has. Sen. Katz asked that she email her information to Committee members.

Sen. Diamond thought it important that it be considered that the GOC get the Governor's bills because it sounds like there may be more than one bill, and if that is the case, he suspects there may be more than one committee involved. He said each GOC member has such an extensive background in all of these areas so it seems to him that trying to push the bills off to 3 or 4 other committees would be cumbersome and would be difficult for the GOC to transfer all of their separate knowledge off to another committee or committees.

Sen. Saviello supported Sen. Diamond's suggestion and reminded everyone that this Committee has subpoena power and that might be required as the bills work their way through the process.

Sen. Katz noted that the Presiding Officers will be making the decision of what legislative committees will be hearing the Governor's bills. He said the GOC chairs will weigh in on that subject with the Presiding Officers. As stated by several of the GOC members, this Committee has been dealing with the matter for some months and has a good view of the entire field and would have the ability to invite other joint standing committees to come and join the GOC with respect to their particular piece of the legislation. He said the GOC is the only committee with subpoena powers and to get the best possible legislation that power may have to get exercised. He said there are other factors to be considered by the deciders as well.

## ANNOUNCEMENTS AND REMARKS

None

## REPORT FROM DIRECTOR

### • Status of Projects in Progress

Director Ashcroft said the next GOC meeting is August 20<sup>th</sup> and at that meeting OPEGA is planning to present the Report on **Sale of Timber From Public Lands**. They had originally also planned to report out the **Employment Tax Increment Financing** review, but will not be doing that presentation on the 20<sup>th</sup>. OPEGA thinks they need to take some extra time to make sure that their results are laid out in a way that cannot be misinterpreted so need a little extra time on that report. The GOC will have another work session on **Child Protective Systems** and **TANF** at the August 20<sup>th</sup> meeting. OPEGA is in progress with the review of **ReEmployME System** with the Department of Labor. They are in progress with the Special Project and engaging with DHHS in gathering information from frontline workers. They have been designing the methodology to do that work and will be reviewing their approach to it with DHHS and seeing how soon that can be underway. OPEGA is also gathering information about the initiatives DHHS had put in process to see how they might be matching up with the areas of concern or improvement that OPEGA noted out of the two cases they reviewed. **The Tax Expenditure Evaluation on BETE and BETR** is in progress and OPEGA is moving from preliminary research into fieldwork and the **Maine Citizen Initiative Process** is waiting for OPEGA resources to be freed up to reengage with the work on that review.

## NEXT GOC MEETING DATE

The next GOC meeting is scheduled for August 20, 2018 at 9:00 a.m.

The Committee discussed meeting dates for September and decided to meet September 19 and 27 at 9:00 a.m.

Sen. Saviello said at the August 20 meeting OPEGA will be reporting out their review of the Sale of Timber From Public Lands review which means that the public hearing will be held in September. If the Committee feels they want more information from the Bureau Director, State Forester and others he expects that would be through the exercise of writing a letter to the Governor. If there was a refusal, he asked if the Committee could put folks on alert that the GOC is going to want to talk to them about the review. In that letter could we make some kind of statement about if they don't come to the meeting to participate in the discussion then the Committee will subpoena them? He thinks, for fear of losing their job that is the only way the Committee is going to get foresters at the meeting. He asked procedurally how did the GOC make all this happen within the months' time.

Director Ashcroft said the most expeditious thing to do would be to receive OPEGA's report presentation on the 20<sup>th</sup>. Once the Committee heard that they may decide then if there are particular people the Committee would like to have come speak with them. If so, a letter could be sent inviting them to be there. The GOC has in the past also taken the step of doing a contingent vote on a subpoena whereby on the 20<sup>th</sup> you could choose to vote to subpoena if a refusal to appear was received. A date for a response back is included in the request letter in enough time so the subpoena can be issued for the September 19<sup>th</sup> or 27<sup>th</sup> meeting. The Committee could do both the Public Committee Period and Work Session the same meeting.

## **ADJOURNMENT**

The Chair, Sen. Katz, adjourned the Government Oversight Committee at 9:53 a.m. on the motion of Sen. Diamond, second by Sen. Saviello, unanimous vote.