



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

MEMBERS:

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

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
April 14, 2023

Call to Order

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

ATTENDANCE

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

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

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

Introduction of Committee Members

The members of the Committee introduced themselves.

New Business

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

- **Meeting Summary**

The March 24, 2023, Meeting Summary was accepted as written.

(A copy of this document can be found here: <https://legislature.maine.gov/doc/10021>)

- **Tax Expenditure Review Parameters:**

(A copy of the proposed Parameters for the next four Tax Expenditures can be found here:

<https://legislature.maine.gov/doc/9922>)

(A copy of the statutes for the next four Tax Expenditures can be found here:

<https://legislature.maine.gov/doc/9880>)

Sen. Hickman introduced OPEGA Analyst Jen Henderson to answer questions for the Committee about the proposed Parameters for the next four Tax Expenditure Reviews: The Ship Building Facility Investment Credit, the Major Business Headquarters Expansion Credit, the Major Food Processing and Manufacturing Facility Expansion Credit and the Paper Manufacturing Facility Investment Credit.

Rep. Mastraccio asked Ms. Henderson if she would go through the recommended changes.

Ms. Henderson explained the parameters and the evaluation process.

(A copy of the memo explaining the process to approve Tax Expenditure Parameters can be found here:

<https://legislature.maine.gov/doc/9992>)

Sen. Keim asked for the Public Comments from the previous meeting.

Ms. Henderson directed her on where to find them in the binders.

(A copy of the Summarization of the 3.24.23 Tax Parameters Public Comments can be found here:

<https://legislature.maine.gov/doc/9946>)

(A copy of all the 3.24.23 Tax Parameters Public Comments can be found here:

<https://legislature.maine.gov/doc/9993>)

Rep. Mastraccio appreciated that where appropriate the comments from the public were incorporated into the parameters.

Motion: *To approve the parameters as amended with the changes recommended by OPEGA for all four Tax Credits*

(Motioned by Rep. Mastraccio, seconded by Sen. Keim)

Discussion:

Rep. Arata asked for clarification on what the changes were to the parameters.

Sen. Hickman explained that only one of the four had recommended changes: the Major Business Headquarters Expansion.

Sen. Bennett asked about proposed measures, six eight and nine and wanted to understand those better.

Ms. Henderson explained that the performance measures in the parameters are the required measures to assess.

She stated that if there are other measures that occur that speak to the objectives set in the parameters while

performing the evaluation, that data would be attempted to be collected with additional analysis as well. If it fell into the things that speak to the objectives and the purpose, it might be pursued but unless it is specified in the parameters it would not be thought of as required.

Sen. Bennett stated that number eight might be something that he would like to see added to the parameters because it is about big global markets for capital an trying to understand the companies that are benefiting from these tax credits. He shared that there is public concern about whether or not the credits are needed.

Proposed amendment from Sen. Tipping to above Motion: To include performance measures six, eight and nine to the parameters

Rep. Mastraccio stated that she was hesitant to add a lot of things that might be difficult to obtain. She suggested that they may not be relevant or easily obtainable for these evaluations. She asked Ms. Henderson if adding those performance measures to the parameters would take too much time.

Ms. Henderson answered that she did not know for sure as it was not data that the office has attempted to get in the past, but suggested that they can spend a limited amount of time trying to obtain the data and update the Committee on if it is readily available or not.

Rep. Mastraccio approved the above proposed amendment to her original motion.

Sen. Bennett stated that in his private sector work he does a lot of this kind of analysis and suggested that if the staff needed assistance he might be able to guide them to resources. He explained that it was all very available information for public companies and it is well researched with credible sources for this information.

Sen. Timberlake stated that he would be voting against the pending motion if the addition was included. He would rather wait for the Analysts to come back and say if the information is readily available or not.

Motion: *To approve the parameters as amended with the changes recommended by OPEGA for all four Tax Credits*

(Motioned by Rep. Mastraccio, seconded by Sen. Keim) (Motion passed with 10 yes, 2 no) (Rep. Millett later voted within the timeframe permitted by the GOC rules)

(A copy of the approved SHIP Parameters can be found here: <https://legislature.maine.gov/doc/10002>)

(A copy of the approved PAPER Parameters can be found here: <https://legislature.maine.gov/doc/10001>)

(A copy of the approved FOOD Parameters can be found here: <https://legislature.maine.gov/doc/10000>)

(A copy of the approved MBHE Parameters can be found here: <https://legislature.maine.gov/doc/9999>)

- **DHHS Customer Call Wait Times – Senator Tipping Letter**

Sen. Tipping explained his letter, stating that the Department of Health and Human Services Call Center Wait Times have regularly been several hours for many people, and with the recent sunseting of some federal benefits there has been an increased difficulty getting ahold of someone through the call center. He stated that he understood that the Health and Human Services Committee has a lot on their plate at the moment and might not be able to do oversight on this.

Rep. Mastraccio stated that the letter sent from the committee to the HCIFS Committee regarding CoverMe led to good discussion and stated that the GOC should be receiving a letter back about that issue, explaining that the process worked. She understood that the HHS Committee is very busy but this may be something that they would at least like to look at and maybe send back to us at that point. She preferred that the Committee of oversight be given a chance to deal with the issue before requesting an OPEGA review.

Sen. Tipping said he would be in support of that idea.

Sen. Timberlake asked that this could include Child Protective calls as well, he stated that this was an issue that should be dealt with sooner rather than later.

Sen. Tipping answered that his intention would be to include all DHHS calls.

Sen. Hickman asked what Director Schleck would suggest in lieu of referring the issue to the Health and Human Services Committee.

Director Schleck recommended that a letter be drafted for the Chairs, with a series of questions for the agency in terms of: what their metrics are for call response, what their staffing is for call response, what processes are done for quality assurance or review to make sure that the metrics are being met. He suggested that they would request answers or potentially could have someone before the Committee with the responses and the Committee could ask follow up questions.

Rep. Fay suggested a hybrid of the ideas but would prefer whatever option the Committee thought would be the most expedient to receive answers.

Sen. Bennett restated that his CoverME letter was referred to the HCIFS Committee and that HCIFS had already requested and received a briefing on the issue during the normal course of business.

Rep. Mastraccio reiterated that having a joint request like what Director Schleck suggested would be an excellent way to start.

Sen. Tipping stated that he would be happy to go with whatever process that will get it addressed quickly. He noted that many committees are facing a lot of pressure on the scheduling side so it is difficult to do anything and he reminded that HHS has had more bills referred to them than any other committee this year.

Sen. Timberlake stated that he was most interested in finding the solution.

Rep. Fay suggested sending a letter to the HHS Committee to see if they send anything back before the next meeting to wait for any potential collaboration and continue with a GOC based letter if not.

Director Schleck stated that the GOC could write the letter and check in with the HHS Committee stating the date it will be sent on, and see if they would like to sign on and if not, it would go forward from just the GOC. He suggested it would be a respectful way of inviting them to join, while still pushing forward because of the urgent matters.

Sen. Keim believed that DHHS would come back and say that there is not enough staff and thought that with that outcome in mind they should be asking what are the next steps to address the situation.

Sen. Hickman suggested that the Chairs would make sure that the Committee could all review the letter before sending it.

Rep. Arata stated that she would like to know if people are still working from home due to COVID-19 and what sort of factors are contributing to the problem. She added that she wondered if it is lack of staffing or training or if it is quality of staff.

Motion: To draft a letter from the Chairs to DHHS with a list of question appropriate to elicit responses and let the Chairs of the HHS Committee know and invite them to sign on before sending

Amendment to the motion (suggested by Sen. Keim): To have the letter be from both the Chairs and Leads.

Rep. Mastraccio approved the amendment to her original motion.

Vote passed by unanimous yes. (Rep. Millett later voted in the time permitted by the GOC rules)

- **Public Comment - OPEGA Report on Maine's Visual Media Incentives**

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

- **Curtis Picard, Retail Association of Maine, representing Entertainment Software Association** (pg 1 of Public Comment) – Mr. Picard read the letter from Entertainment Software Association to the Committee.

Sen. Hickman asked Mr. Picard about smart phone game sponsorships including one about golf.

Mr. Picard stated that there are ways to earn sponsorships and clothing and other prizes as you get better experienced.

Sen. Hickman asked if game development could cost as much money to create as a blockbuster film.

Mr. Picard used the new Hogwarts game as an example of one that broke records for its release.

Rep. O'Neil asked what the goal was for them to participate in the credit.

Mr. Picard answered that they are under Maine's program but there are a lot of questions as to the reach and effectiveness of Maine's Program. He explained that they have always been included but wanted to make sure that video games are always part of the conversation.

Rep. O'Neil wondered what the benefit is to Maine. Do the games feature Maine as a landscape? She asked if this credit is supporting people and families here in Maine or if it could be paying someone who lives out of state but their company could find a way to make a production that overall costs the certain amount and then get ten percent of his salary paid for.

Mr. Picard answered that the video game industry is predominantly located in California and has been for a long time but over the last few years he shared there has been a migration from California to a number of east coast states, particularly specializing in sound or video graphics. The industry feels that Maine could offer similar opportunities for those types of jobs as they are more permanent jobs as opposed to a film production that only comes for a certain period of time and leaves.

Rep. Fay stated that she was curious about how many people living and working in Maine are currently engaged in various pieces of the video game industry.

Mr. Picard answered that there are three production companies based in Maine and two colleges/universities are starting to get into game development degree programs, sharing that there has been substantial growth in the eSports industry. He explained that eSports is competitive video gaming and one of the recent competitions had greater viewership than the World Series, the NHL Playoffs and some other sporting event combined.

- **Ian Hawkes, screenwriter and director from Portland Maine** – (testimony starts at 1:08 of the video stream: <https://legislature.maine.gov/Audio/#220?event=88134&startDate=2023-04-14T09:30:00-04:00>)

Rep. Mastraccio asked what Mr. Hawkes would do differently or suggest as changes to the credit to make it stronger.

Mr. Hawkes stated that he had not read through it closely enough to give a detailed response, but stated that when making an independent production, every dollar counts. If they get a higher percentage back on every dollar spent in Maine, people even just outside of Maine would come and film here for that. He used L.L. Bean as an example of a Maine based business and thought it would be important to look at if it is incentivizing them to keep production of their media here in Maine.

Rep. Fay asked what Mr. Hawkes thought the goal of the Tax Credit could be.

Mr. Hawkes stated that the goal would be to make it feel like you can live as a full-time media creator in Maine. He suggested that if there is not enough work that feels local, people will have to leave Maine.

Sen. Bennett asked if he had any qualitative information about the size of the ecosystem that he works in here in Maine or relative jurisdictions including New Hampshire and Vermont.

Mr. Hawkes answered that he could not speak to that in a quantitative way but shared that he does most of his work in Portland and that there are a handful of production companies that are working consistently but that they do about 60-70 percent of their work in Film and Photography and do odd jobs here and there.

Sen. Bennett asked about the capital required to enter the field and how that has changed in terms of the needs for production versus labor.

Mr. Hawkes answered that he thought it was a positive change stating that basically no movies are filmed in Los Angeles because it is too expensive. He suggested that Maine could be one of the places that makes it easier to access equipment and technology, making it easier to film. He shared that the money spent on a set is mostly going to labor costs. He shared that he had never heard of an independent production that is less than seventy or eighty thousand dollars.

Rep. O'Neil asked if Mr. Hawkes could look at the credit and see what kind of things would provide a benefit to Maine and quantify for the Committee what that would look like, considering factors like ability for people to do remote work, significance of the duration of the period of time people spend in Maine while they are working. She wanted to make sure it is beneficial for Maine. She asked him to consider the significance of cost of production and quantifying the amount of money that would be spent here, and the location of the employees.

Mr. Hawkes answered that the goal should be to support productions that are predominantly filming in Maine or feature Maine locations.

Sen. Hickman asked what Mr. Hawkes learned in Utah that could apply in Maine.

Mr. Hawkes answered that the incentive did a great job of helping bring a lot of shows into town. He stated that the only real issue was that it became so popular for people to come film movies in Utah that it started to eat up so much of the incentive and the funds that local productions were having a hard time actually accessing it. He suggested making sure there is enough film fund set aside for local productions. He stated that it is great to have out-of-state productions but taking a specific notice of the people who are trying to raise money for films in Maine and how can they be supported so that when the film is profitable the money returns to Maine, is preferred.

Sen. Tipping stated that he thought having a creative economy would help young people stay in Maine. He stated that this credit is targeted for one specific medium and asked if there were broader things that should be thought about in helping keep the business.

Mr. Hawkes answered that he finds it very unlikely that he would ever be able to fully support himself this one way and stated that he would most likely be doing a majority of video advertising while also doing film work. He stated that Maine should be looking at if there were opportunities for young people in Maine to get work in areas that are adjacent to the arts.

Sen. Hickman suggested Mr. Hawkes could come back to the Committee with some guidelines for them to consider.

Mr. Hawkes agreed to try to do that for the Committee.

- **Louise Rosen, documentary specialist from Brunswick Maine, a board member of the Maine Film Association** – (testimony starts at 1:32 of the video stream: <https://legislature.maine.gov/Audio/#220?event=88134&startDate=2023-04-14T09:30:00-04:00>)

Sen. Hickman asked if Ms. Rosen would be able to help write the amendment to LD 1075.

Ms. Rosen stated that there are drafts already under way because in the past, the media making community has not had much involvement in the creation and the drafting of the legislation and is hoping that can change with more engagement with the community.

Rep. Mastraccio noted that the Public Hearing for that LD had been the day prior and asked if the Tax Committee had also moved into a work session.

Ms. Rosen answered that it was being held over.

Rep. Mastraccio encouraged the idea of the legislators working with organizations to create better legislation.

Ms. Rosen added that the Mid Maine Technical Center in Waterville has high level equipment available and people are studying there and learning and going to gain more knowledge. She stated that media making is an essential part of business today.

The GOC was recessed and a meeting of the subcommittee of members appointed to make decisions in GOC v. Lambrew was convened.

- **Executive Session of the Chairs and Leads**

Sen. Hickman explained that the subcommittee of members who were appointed to make decisions in the ongoing litigation GOC v. Lambrew, which is now on Appeal to the Maine Supreme Judicial Court, are the GOC Chairs, Sen. Hickman and Rep. Fay and the GOC Leads, Sen. Keim and Rep. Arata.

Motion: To proceed to executive session according to 1 MRS §4056 (A) and (E).

(Motioned by Sen. Keim, Seconded by Rep. Arata, unanimous yes of the four subcommittee members)

EXECUTIVE SESSION

Upon returning to public session of the subcommittee, Sen. Hickman stated that the subcommittee of the GOC appointed to make decisions for the Committee in GOC v. Lambrew formally determined that the Committee will seek to retain other counsel to represent it in this matter and that current counsel will be discharged once new counsel has entered an appearance with the court.

- **OPEGA Report Presentation: Report on OCFS Case File Review (Maddox Williams)**

(A copy of the Report can be found here: <https://legislature.maine.gov/doc/9997>)

OPEGA Director Peter Schleck read the Report to the Government Oversight Committee.

Rep. Mastraccio asked for clarification about whether when a family or children are in different places, if they have one case worker that is involved with all the children or are there multiple case workers.

Director Schleck answered that there is generally a primary case worker on an individual case but they have the benefit of a supervisor to consult with who often has many years of experience as well as a regional administrator. He clarified that there was generally only one primary caseworker up to this point.

Sen. Hickman asked about when it is not okay to assess the best interest of the child and if those provisions were in statute.

Director Schleck answered yes.

Rep. Mastraccio asked if under current law could the judge have required that a transition between family members not happen immediately, rather, at a later date.

Director Schleck answered that it appeared that the judge did not feel legally empowered to do that.

Sen. Timberlake asked if it was common in cases that the decisions go back and forth between being qualified or unqualified to have care.

Director Schleck answered that in this case, there is limited authority to come into situations on a case by case, very fact specific basis and make a quick determination as soon as reasonably possible that there is a safe or unsafe condition and then respond accordingly. The case workers of OCFS are required first to demonstrate that all other options have been used to try to treat the situation in the home. And then when there is a removal, the clock starts running on reunification. It is generally the policy that children are better being assisted in the context of the home, unless that's not possible.

Sen. Timberlake asked if all these decisions were made by the same caseworker.

Director Schleck reiterated that there was one primary caseworker going into 2021.

Sen. Duson was interested in knowing if the series of events involved the same attorneys, GAL, and judge throughout the time.

Director Schleck said yes except there were different judges at different times, but the rest of the team stayed pretty constant.

Sen. Keim asked for clarification on whether the Central Intake screened the report and entered the names wrong regarding the April 2021 report.

Director Schleck stated that it appeared that the referent did not have the correct names but that the case worker understood and identified who the correct four were.

Sen. Duson paraphrased to confirm her understanding that investigation is the process of figuring out what happened, the service case is the longer-term process of whatever requirements have been put in place by the judicial process or the department and provision of services.

Director Schleck confirmed this was correct.

Rep. Mastraccio asked for a graphic that showed the timeline; that it might be helpful when the Committee comes back to discuss this further.

Director Schleck confirmed the office would work on that.

Sen. Hickman asked when is neglect considered abuse.

Director Schleck deferred to Director Landry from OCFS to fully answer that question, but gave a couple examples of neglect that he understood may be considered abuse.

Sen. Timberlake asked Director Schleck what he thought about why the Department missed evidence of physical abuse.

Director Schleck clarified that there was no one that they interviewed that saw the mother as a threat of violence against the children. There was no actionable evidence of a treat of violence. Director Schleck did refer to early reports (in 2017) suggesting this, but they were not substantiated.

Sen. Duson stated that the work the Committee needs to do with the Department in creating better prevention methods is what "gets" her in the room. She stated that if the Committee does not do that piece of work, she could not figure out the value in dragging all of these details of these tragedies of these families out in the public. She stated if the they do not follow through with the policy discussion and how they can support the system they are just making a spectacle of someone else's tragedy.

Rep. Arata brought up a situation of the mother being suspended from transportation services because of an altercation and wondered if that was a violent situation.

Director Schleck answered that it did not demonstrate a physical violent threat scenario to the children. But it did help cause the case worker and the GAL and others to be concerned enough to want a mental health evaluation of the mother, and which they were later satisfied with for purposes of reuniting.

Sen. Hickman asked if Mr. Trefethen was convicted of domestic violence assault based on a report from Ms. Trefethen that she had been pushed.

Director Schleck stated that he would need to double check on that.

Rep. Arata asked if Ms. Trefethen committed any acts of violence against any of her children.

Director Schleck answered that there were some indications in the records that she would get into altercations with Mr. Trefethen but not to the children. (Director Schleck earlier referred to media reports concerning subsequent testimony in the criminal proceeding, which was not known to the case workers at the time, but there was a missed opportunity to potentially obtain it).

Sen. Hickman invited Director Landry of OCFS to come forward and walk through the Department memorandum regarding Maddox Williams.

(A copy of the original memo can be found at the end of the OPEGA Report)

(A copy of the updated memo can be found here: <https://legislature.maine.gov/doc/10032>)

Rep. Fay asked that Director Landry keep the Committee up to date as things keep progressing in their process of enhancing documentation. She also asked for a refresh on what the budget initiative is regarding DHHS.

Director Landry stated that he would get that information to her.

Rep. O'Neil asked if Director Landry could speak about what the contents of the Statewide Safety and Wellbeing Plan are.

Director Landry stated that prevention is something that is always preferred versus intervention or treatment. He explained that they start from the premise that child safety can best be enhanced when families are supported and strengthened by improving services in a non-stigmatizing fashion so that families are comfortable asking for help.

Rep. O'Neil asked for granular details of the improvements that might be taken.

Director Landry stated that they work with the communities and stakeholders to have discussions around the plan. He noted risk factors like substance use disorder, or protective factors such as quality education, quality childcare, and focusing on how to build those and mitigate the risk factors.

Rep. Mastraccio stated that substance use disorder seemed to be noticed at the hospital in both of the (Goding and Williams) cases and noted that there are some newer programs that address substance use disorder in prenatal and postnatal situations. She asked if Director Landry could tell the Committee about what is being done around that sort of prevention.

Director Landry shared that whenever they receive a substance exposed infant report or a report from the hospital, one of the key factors is if those were prescribed or unprescribed medications. There is a Plan of Safe Care that is federally mandated and can be started prenatally done by a PCP or OBGYN to develop a plan of safe care for that child. He noted that safe sleep education and assistance postnatally for postpartum care are additional aspects.

Director's Report

Director Schleck updated that the office is underway with the review elements previously discussed and approved about the Fire Marshal and with regards to the Maine Veterans Homes. He reminded that OPEGA was also working on the review of the Reunification function of Child Protective Services as well as the other two Child Protective Case File Reviews (which are still subject to waiting for some events before completion).

Unfinished Business

None.

Next GOC meeting date and planning

The next GOC Meeting will be held on April 28, 2023 at 9:30 AM.

Adjourn

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