



SEN. CRAIG V. HICKMAN, SENATE CHAIR  
REP. ANNE-MARIE MASTRACCIO, HOUSE CHAIR

MEMBERS:

SEN. MIKE TIPPING  
SEN. JILL C. DUSON  
SEN. JEFF TIMBERLAKE  
SEN. RICK BENNETT  
SEN. BRADLEE T. FARRIN  
REP. ANN HIGGINS MATLACK  
REP. ADAM R. LEE  
REP. MICHAEL H. LEMELIN  
REP. CHAD R. PERKINS  
REP. JOHN M. EDER

MAINE STATE LEGISLATURE  
GOVERNMENT OVERSIGHT COMMITTEE

**MEETING SUMMARY**  
**April 25, 2025**

**Call to Order**

The Chair, Senator Hickman, called the Government Oversight Committee to order at approximately 9:32 a.m.

**ATTENDANCE**

Senators:	Senator Hickman, Senator Bennett, Senator Duson, Sen. Farrin, Senator Tipping (attended via Zoom), and Senator Timberlake
Representatives:	Representative Mastraccio, Representative Eder, Rep. Lee, Representative Lemelin, Representative Matlack, and Representative Perkins
Legislative Staff:	Peter Schleck, Director, OPEGA Jennifer Greiner, OPEGA Administrative Secretary/GOC Clerk
Others:	Bobbi Johnson, Director, Office of Child and Family Services (OCFS) John Feeney, Chief Operating Officer, OCFS Brenda Kielty, Public Access Ombudsman, Office of the Attorney General

**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: [April 25, 2025, GOC Meeting](#))

## **Meeting Summary – April 11, 2025**

(A copy of this Meeting Summary can be found here: [April 11, 2025, GOC Meeting Summary](#))

The Committee accepted and approved this meeting summary.

## **DHHS Child Care Payments for Foster Children**

Sen. Hickman invited OCFS Director Bobbi Johnson to discuss with the Committee the matter of timeliness of DHHS child care payments for foster children, noting this is a matter recently assigned by the Committee to OPEGA for an in-depth review.

Director Johnson introduced herself and introduced John Feeney, Chief Operating Officer of OCFS.

Director Johnson began by stating she appreciates the Committee's attention to this topic, adding it has been a topic that has come to the attention of the leadership of OCFS over the last few years. Director Johnson stated her office has made an effort to understand the process and look at strategies to streamline the process of payments to resource parents and other providers.

Director Johnson then went over a relevant memo she sent to the Health and Human Services Committee. That memo may be found here: [Memo from Director Bobbi Johnson](#)

Rep. Mastraccio asked if the child care providers send invoices in different ways, at different times, and if that makes it challenging for the current system of processing payments.

Director Johnson agreed that irregular invoicing by providers is a challenge.

Sen. Hickman asked what the average timeline is for an incorrect invoice received by the Department to be corrected for processing.

Mr. Feeney stated it is hard to say how long it takes for an incorrect invoice to be corrected for processing.

Director Johnson added most providers are very responsive when the Department reaches out regarding incorrect information on an invoice, however there are some providers that can take months to resolve an incorrect invoice to the Department.

Sen. Timberlake asked Director Johnson how long the process takes from the time an invoice is submitted to a payment being issued.

Director Johnson stated there is no timeline or data kept on when an invoice is received by the Department. Director Johnson also stated that when an invoice is received through a district email inbox, invoices are processed much more quickly, however she did not have specific timeframes in which this happens.

Sen. Timberlake asked Director Johnson if an invoice is submitted through a district email inbox, once the invoice is submitted then how long does it take to process the payment.

Director Johnson stated that on average, if an invoice is received through a district email inbox, the invoice should be entered into Katadhin within a few days. Once an invoice is in Katadhin, the invoice is paid within 15 days 99% of the time. Director Johnson added that so long as the district email inbox is being monitored, an invoice submitted to the email should be paid within 15 – 18 days.

Sen. Timberlake stated he has heard the number before, 99% of invoices are paid in 15 days, but he has a hard time with that number as within the last three weeks he has had 4 different child care providers contact him about invoices submitted taking over 30-45 days to receive payment. Sen. Timberlake asked if there is a caseworker problem, where invoices are getting held up somewhere and not entered into the system timely, stating he just wants to identify what the problem with the system is and how to fix it.

Mr. Feeney stated any delay in payments depends on what the individual issue is. Mr. Feeney added that an example could be a new provider not yet established as a vendor, stating vendor forms can take up to 3 months for approval through the state controller's office. Mr. Feeney stated problems with invoices need to be looked at individually to learn what is happening with that particular case.

Sen. Farrin asked Director Johnson if they had any data regarding how many emails they received through the district email inbox for invoices, including how effective this step is and what is the response time from when an email is received.

Mr. Feeney stated they do not have data regarding response times for emails received through the district email inbox.

Sen. Farrin stated he believes it would be helpful to have data to see if the steps the office has taken are addressing some of the concerns. Sen. Farrin then asked when the Central Office Child Care Pilot was established.

Mr. Feeney stated the Pilot was established around 2018 and went through late 2021 or early 2022.

Sen. Farrin asked for Director Johnson and Mr. Feeney's thoughts on the Pilot program, which ended due to other initiatives as it was a process OCFS put in place that seemed to be working, however now there are concerns and issues regarding late payments.

Director Johnson stated she does think the Pilot program was successful, noting that during the pilot they were only able to serve half of the state with this process due to capacity restraints. However, having one point of contact helped streamline the process. Director Johnson stated this is one strategy they are currently discussing, bringing back the Central Office Child Care pilot and using it for the whole state.

Rep. Mastraccio stated that it seems to her, if everything is correct on an invoice, the process to payment goes fairly quickly, however it may be helpful to have a specific date where everyone submitted their invoices. Rep. Mastraccio also agrees with Sen. Farrin regarding having one person be the contract person to handle all questions regarding invoices. Rep. Mastraccio also stated she would be interested to find out if

it is a small percentage of providers that are having difficulty with submitting correct invoices, suggesting a tutorial for vendors may be helpful.

Sen. Duson asked, in order to have context of the 99% invoices that are paid within 15 days, how many invoices are being processed.

Mr. Feeney stated that in one week they processed just under 800 invoices.

Sen. Duson asked if there was any kind of audit alert in the system that automatically flags invoices that are not paid within the range of standard operating procedures so they can identify a part of the invoice that is regularly a problem for vendors to fill out correctly.

Mr. Feeney stated there is no automatic audit built into the system to capture the type of data Sen. Duson asked about, however they can spot trends over time by speaking with vendors.

Sen. Duson asked to confirm if the system can identify that the payment was processed within 15 to 18 days, or how is this percentage known by the office.

Mr. Feeney stated one of the fields that has to be entered is the date the invoice is uploaded into Katadhin, and then there is a payment date in Advantage, which is where the actual payment is issued from, stating they are able to compare the two dates. Mr. Feeney noted that the system does not show if an invoice is rejected due to clerical errors.

Sen. Duson asked if the current system captures if an invoice is rejected.

Mr. Feeney stated the system does not capture if an invoice is rejected, however when an invoice is corrected and reentered, the system will capture the date it is reentered and starts the clock over again.

Sen. Duson stated the current system seems to make it very difficult to do a system audit and proactively identify trends or problems in the payment system.

Director Johnson added that as of now, OCFS has not been tracking what happens at the district level with how many times an invoice is received and needs correction before it is submitted for payment in the system, however believes it would be helpful to track this data, again noting that once a correct invoice is put into Katadhin, 99% of the time it is getting paid within two weeks.

Sen. Hickman asked if Director Johnson could identify the number of invoices that would fall into the 1% category of not being paid within two weeks of being entered into Katadhin.

Director Johnson stated she did not have the data of the 1% of delayed payment with her but would be able to provide data for the invoices that are entered into Katadhin to the Committee.

Sen. Timberlake stated he is concerned about the numbers and how is it known that 99% of invoices are paid within two weeks without the data. Sen. Timberlake also stated he does not understand why there is not one or two people whose job is to process invoices.

Sen. Duson stated her goal is to understand how OCFS understands there is a problem with payments, adding it appears OCFS cannot automatically identify the number of invoices received with errors that have to be corrected before they can be entered into Katadhin to be processed for payment. Sen. Duson asked what the department is doing to identify trends that show problems with certain parts of a form, invoice or payment issues other than waiting for a provider to complain.

Sen. Farrin stated he is concerned that an invoice sent by a provider can be sitting on a staff member's desk for days due to various reasons which can delay payment substantially, especially if the invoice needs to be corrected. Sen. Farrin added that a provider needs to be aware that if they are submitting an invoice directly to a case worker, payment can be delayed, sometimes for months. Sen. Farrin suggested there should be a preferred way for providers to submit invoices, though he acknowledges some providers may not be able to submit an invoice the preferred way.

Sen. Hickman stated that, in talking with some providers, there can be a fatigue around asking OCFS when a payment is coming, and he even has some providers question why they contract with the state if they are not going to be paid in a timely manner.

Rep. Perkins asked if vendors are paid electronically or by check or both methods.

Mr. Feeney stated payments to vendors are paid via both methods, electronically or by check.

Rep. Perkins asked if most of the vendors stay the same over time, or will there be an invoice from a vendor one month but not heard from again for a while.

Mr. Feeney stated it really depends on the placement of the child in foster care, adding there are some child care providers that take foster children on a regular basis, but there are some child care providers that have foster children sporadically.

Rep. Perkins asked if there was a way to look at data each month to track vendors to identify potential problems.

Mr. Feeney stated that district offices have working relationships with providers, and understand billing patterns of vendors so that if a vendor does not send in a typical invoice the staff will reach out to the vendor.

Rep. Matlack asked how old the Katadhin system is, when it was designed, and does it need to be updated, because apparently it is not functioning.

Director Johnson stated the Katadhin system was launched in 2021, and is regularly updated when there are issues identified, however OCFS uses two different payment systems to process invoices received, the Katadhin system and Advantage.

Rep. Matlack asked if the systems used are consecutive systems.

Mr. Feeney stated that Katadhin creates a file weekly which it sends to Advantage, which is the state's payment system. Advantage processes the file and the payment goes out the next week.

Sen. Timberlake asked why there were two different payment systems.

Mr. Feeney stated Advantage is the state system that issues all payments. OCFS processes the invoices in Katadhin.

Sen. Hickman asked why two systems were needed, if there is one system that issues all state payments why is Katadhin used to process the invoices.

Director Johnson stated that different offices have different systems that are used to manage multiple things, and OCFS has Katadhin, which is what the staff uses to enter invoices, adding that before Katadhin, OCFS used a different system.

Sen. Hickman asked how the Central Office Child Care Pilot was initiated, by agency or through the Legislature, and why was it not kept in place, or requested to be reinstated when it ended.

Director Johnson stated the Pilot was established by the OCFS, during a time when the office had a hard time identifying child care providers that would accept the market rate and pay and accept foster care children, especially in the southern half of the state. The Central Office Child Care Pilot was established to help with some of these issues initially, adding there was success with this program. Director Johnson stated OCFS did not have the capacity to expand the program to the whole state, and saw the need for the Pilot decrease.

Sen. Hickman asked for clarification on what was meant by not having the capacity to expand the program to the whole state.

Director Johnson stated it would have taken two staff members to cover the whole state with this program and they did not have the staff to do the Pilot statewide.

Sen. Hickman asked when the Pilot program ended.

Mr. Feeney stated the pilot program ended in late 2021 or early 2022.

Sen. Timberlake asked what the process and timeline is for day-to-day operations, asking if it was a different process or system.

Mr. Feeney stated any invoices that are tied to contracts are processed through the Division of Contract Management, DCM, adding invoices are sent to DCM for processing and then sent to the office for payment approval, and once approval is given, DCM issues the payment through Advantage.

Sen. Timberlake, referencing a letter which he, Sen. Bennet, and Sen. Farrin sent to the Committee Feb. 14, 2025 regarding a FOAA request to OCFS, (that letter may be found here: [Letter to GOC](#)), asked how OCFS arrived at the FOAA request costing \$250,000 and taking four years to complete.

Mr. Feeney stated he produced the cost and time estimate for that FOAA request with the help of their financial analysts. Mr. Feeney stated the part of the FOAA request regarding payments would be easy to

produce in Advantage. However, the part of the request for invoices would be much more complicated, involving Docuware, which is a big repository. The process to obtain invoices, redact confidential information, and review the documents would take about 7.4 minutes per invoice, and over the two-year scope of the request, there are 86,000 invoices to process with an estimated time of 10,000 hours of work involved to complete the FOAA request.

Rep. Perkins asked why vendors are not able to go into the system to create their invoice, streamlining the process instead of having someone in OCFS manually scan in invoices.

Mr. Feeney stated they have had conversations about what it would take to have the system be able to do what Rep. Perkins suggested, adding it would cost approximately \$500,000 to \$700,000 to implement.

Rep. Perkins stated updating the system could in the long run be cost effective. Rep. Perkins asked if the Katadhin system was a nationwide system or developed here in Maine.

Director Johnson stated the Katadhin system was customized for Maine with Deloitte and Salesforce as the vendors and implemented in 2021, adding other states have similar systems or are building similar systems.

Rep. Perkins asked if there was any large change for vendors submitting invoices with the implementations of Katadhin.

Director Johnson stated the system for vendors is similar as it was to the prior system.

Rep. Perkins asked for data for the last 10 years of the numbers of children in state care, children receiving child care services through child welfare and licensed child care programs to compare with the data presented today to see if there has been a change in the numbers.

Sen. Tipping asked for more information about the invoices that would need to be redacted for the FOAA request, specifically is the information that needs to be redacted in the same place on all the invoices.

Mr. Feeney stated the information that needs to be redacted on an invoice would be the child's name, child's "A" number, the vendor's "EIN", and providers SS#.

Sen. Tipping asked if the information on the invoice is in a specific field in the same place on every invoice.

Mr. Feeney stated some providers provide their own invoice, while some use an invoice from when the Central Office Child Care Pilot was in place.

Sen. Tipping stated redaction could be done simply in batches if the data that needs to be redacted is located in the same place on all or most invoices, by running them through a program. Sen. Tipping asked if this was explored for the FOAA request.

Mr. Feeney stated running the invoices in batches through a program was not considered, adding he is not sure that could be done in the system.

Sen. Tipping asked for samples of invoices so the Committee could see what they look like from different vendors.

Sen. Hickman asked where Docuware comes into the process of invoices.

Mr. Feeney stated invoices are submitted to a district email inbox, then a staff member has to print the invoice or scan it into a file, the file then gets loaded into Docuware, and entered into Katadhin. Mr. Feeney stated the service center which approves the invoice goes into Docuware to pull up the invoice for verification and approval for payment. Mr. Feeney added Docuware is a state system, essentially a big repository that holds all documents that need to be retained.

Sen. Farrin asked if the state is late on payments, is the state subject to penalties or interest.

Mr. Feeney stated he is not 100% certain but he believes the state can be subject to penalties or interest on late payments.

Sen. Farrin stated it would be good to know the root cause of late payments if providers and vendors could seek damages, penalties or interest payments, on late payments.

Sen. Timberlake asked Mr. Feeney if he thought the cost and response time for the FOAA request, \$250,000 and four years, is fair to the taxpayers of Maine. Sen. Timberlake also asked if a discussion should have happened with the requestor of the FOAA about what information could be provided in an efficient way.

Mr. Feeney stated he was sure a conversation did happen with the requestor about other options for getting the information.

Sen. Farrin asked, in regards to OCFS exploring the long-term strategy of moving children in foster care to the Child Care Affordability Program (CCAP), if this was strictly for invoicing and payment or a bigger change in the department.

Director Johnson stated OCFS is currently researching, moving children to CCAP, adding it is a program that is federally and state funded, and there are certain eligibility requirements that have to be met by providers. Director Johnson stated they are looking into if resource parents would also have to meet those eligibility requirements, and overall researching the ability to move children into CCAP. Director Johnson added that CCAP has standardized invoices and standardized payment processes.

Sen. Farrin asked if there was a timeline or schedule for the research, meetings and other discussions into moving children into CCAP that can be shared.

Director Johnson stated she could look into the timeline and get back to the Committee.

Sen. Hickman asked, regarding the invoice form still used by some providers from the Pilot program, if the department, with guidance, could ask all providers to use the same invoice form for better processing of invoices.



Mr. Feeney stated they could try to suggest that to the vendors, however vendors tend to stick with their existing methods.

Sen. Hickman stated he understands human behavior, however he believes that as they had success with the Pilot program and the invoice form from that program, it would be good to highly recommend a standardized invoice form to vendors.

Director Johnson stated they could recommend the standardized form, adding she has been taking notes and this conversation today has been very helpful. Director Johnson stated that they do try hard not to put too many expectations on providers that could decrease the number of vendors providing child care to foster children.

Rep. Perkins suggested implementing anything that would make the process easier for providers, encouraged standardizing the process of payments and making it more user friendly, stating this would eliminate a lot of problems and potentially add more providers.

Sen. Timberlake stated he thinks using a standardized form for invoicing should be mandatory and does not understand why the department has not done this.

Director Johnson stated part of the reason for not requiring a particular invoice is providers are serving different populations of children, some children in child welfare custody, some through the Child Care Affordability Program, and some private pay families. Director Johnson stated they can look at the CCAP billing for and see if that is something that could be standardized for children in child welfare custody.

Sen. Timberlake asked if it could be done that one invoice form could be used for both CCAP and child welfare vendors.

Director Johnson stated that CCAP requires invoices to be submitted a certain way, but OCFS has not asked providers to submit invoices differently than they handle their private pay families.

Sen. Hickman asked if OCFS did ask providers to submit invoices in a specific way with a specific form, how would providers respond.

Director Johnson stated she is not sure how providers would respond to a transition to a standardized invoice form, though she would expect some providers to struggle with it, but some who would be okay with it.

Sen. Hickman asked if OCFS could establish a pilot program to test out a standardized invoice form with some providers who have a good working relationship with OCFS to try it out and see what the feedback is.

Director Johnson stated she has some providers they could explore doing a pilot test with.

Sen. Farrin voiced a concern of requiring a standard invoice form, noting some providers may not be able to transition to a new process due to various reasons, adding we do not want to drive any providers away due to this.

Rep. Mastraccio agrees with Sen. Farrin's concern, stating there will always be people who will want to continue to submit invoices the same way they have been. Rep. Mastraccio also stated it will be important to look at the data of the 1% of invoices who are not being paid timely to find out why.

Sen. Hickman thanked Director Johnson and Mr. Feeney for coming before the Committee today to discuss ideas and he looks forward to the follow up information that has been requested.

Sen. Hickman put the Committee at ease at approximately 10:52am.

## **Public Access Ombudsman**

Sen. Hickman called the Committee back to order at approximately 10:59am.

Sen. Hickman welcomed Public Access Ombudsman Brenda Kielty of the Office of the Attorney General, Ms. Kielty kindly agreed to render an advisory opinion for the OPEGA Director concerning a Freedom of Access request by a news organization for records concerning the child care payments for foster children which the Committee has just been discussing with OCFS Director Johnson. Sen. Hickman stated the Committee appreciates Ms. Kielty's willingness to meet with the Committee to share her perspectives including whether the DHHS response to the requestor, including especially as to time and cost, fits within the bounds of expected FOAA compliance.

Ms. Kielty stated her understanding of today's meeting was to try and give some guidance on how to analyze whether an estimate is reasonable or not, and then look at this particular unique estimate and discuss the factors she noted.

Ms. Kielty stated the FOAA statute requires an agency provide an estimate both of cost and time for production, and it has to be a good faith non-binding estimate, but what it does not have to be is fair.

Ms. Kielty stated the non-binding aspect is due to the estimate process itself which includes variables that can change as more information is gained, therefore there can be a situation where an estimate is either too high or too low.

Ms. Kielty stated the FOAA statute also provides a fee schedule that an agency can bill at for the activities the statute allows them to bill, which includes the search, retrieval, compiling, review, redacting, and the conversion of records.

Ms. Kielty stated it is important to keep in mind that responding to a FOAA is a process, which is not complete at the time the estimate is being prepared.

Ms. Kielty stated that, although not a step in the process, she considers the retention of records foundational to the FOAA success, adding the FOAA statute does not state anything about specific systems, databases, or repositories that must be used. Ms. Kielty stated access to records, and the right to access records is meaningless if you cannot get the records or the systems that exist are so cumbersome it becomes an impossibility to gain the information.

Ms. Kielty stated the FOAA process itself starts with the search, adding the agency needs to apply a systematic due diligence approach to their searches. Ms. Kielty also stated in the search process, the agency is going to clarify the request, knowing the scope and target of the request because the production needs to match it. Ms. Kielty stated the agency needs to know what they are looking for and if they need to expand or narrow their search to meet the target of the request.

Ms. Kielty stated the second part of the FOAA process is the assembling of the records, stating the agency needs to go through the records to filter out non-responsive records or duplicates so there is a clean subset of records.

Ms. Kielty stated the third step of the FOAA process is the review, noting that even in the best of circumstances a review is likely if there is any sort of confidentiality that might apply to the records. The agency needs to identify and understand what the confidentiality provisions are, how complex are they, as well as can this be done in-house or does it have to go to attorneys for review. Ms. Kielty stated typically the review stage is the longest stage of the process.

Ms. Kielty stated the final step of the FOAA process is access, which is how are the records being given to the requestor, in what format is the requestor looking for, and how will large files be transferred.

Ms. Kielty stated the best estimate will forecast a range that is close to the actual time and cost, so that any changes that need to be made will have an incremental affect.

Ms. Kielty also stressed that every FOAA is unique, however using a consistent methodology and approach is imperative.

Ms. Kielty stated another thing to keep in mind is, while the FOAA statute says there has to be an estimate it does not mandate how an agency develops the estimate. Ms. Kielty stated she does training on a certain style of methodology that is very similar to the legal discovery process, being sure there is a solid methodology in place.

Ms. Kielty stated there are six variables that impact the amount of the estimate:

1. The Scope, how big is the request.
2. The Specificity of the content area.
3. The Timeframe.
4. The Skill level of the searcher.
5. The Volume of production.
6. The Production format.

Sen. Hickman asked Ms. Kielty when her office receives a FOAA complaint, what is the process of handling that complaint.

Ms. Kielty stated she would first ask the requestor for all the communication and information that they have regarding their request to review, then she would reach out to the agency and request their communication and any additional information regarding the request to put together a timeline of the communication looking for any gaps and address those gaps with specific questions. Ms. Kielty stated there may be some disputed facts, but her role is to resolve the situation so that the parties can move forward.

Sen. Hickman asked Ms. Kielty if she makes recommendations to the committee of oversight about ways to improve the statutes involving FOAA.

Ms. Kielty states she makes recommendations through the Right to Know Advisory Committee, as well as bringing agenda items to that committee to begin discussions. Ms. Kielty also makes recommendations in her annual report to the Judiciary Committee.

Sen. Hickman asked Ms. Kielty if she has an opinion about what should be required by agencies to be able to respond more efficiently to FOAA requests.

Ms. Kielty stated the advance of technology, including AI--which she states is being used to generate mass FOAA requests to the government particularly on the commercial requestor side—suggests the government side has not figured out how AI could help or hurt the process. Ms. Kielty stated technology is an enormous part of FOAA, particularly in maintaining records.

Rep. Perkins asked Ms. Kielty what the options are for someone requesting information that should take minutes to retrieve electronically, but due to lack of skill level of the person holding the records, could take days or longer to retrieve manually.

Ms. Kielty stated the statute does not require an agency to have the most current automated system, and this is not technically a FOAA violation. Ms. Kielty added we should be forward thinking about making our records systems manageable so there is not an enormous burden on the requestor. Ms. Kielty stated this means allocating resources for technology. Ms. Kielty stated there will never be fewer FOAA requests, and more records are created all the time.

Sen. Tipping stated he has submitted FOAA requests and has been told that an electronic data base cannot be requested in a FOAA, adding that the FOAA statute seems to be written for physical documents, and asked Ms. Kielty her opinion.

Ms. Kielty stated she would need to think about Sen. Tipping's question as she has not seen a request for an actual data base, only the data that is in a data base. Ms. Kielty stated the statute says "copy or inspect" the information and was written when information was in the form of physical documents and you could go to an office and be handed physical records, noting the statute could benefit from updating to meet today's information formats.

Rep. Matlack stated she knows of a town which hired a surveyor to do work for the town, and the town received a FOAA request for the surveyor's work product and raw data from a competitor, which was a concern for the town as they had paid for the survey and someone else wanted to benefit from it. Rep. Matlack asked if this situation would fall under FOAA.

Ms. Kielty stated she would need more information on the situation Rep. Matlack brought up, however, she added that she knows commercial vendors use FOAA for financial gain, particularly at the local level. Ms. Kielty stated that the FOAA statute does not categorize requestors; each is treated the same. Ms. Kielty added that this issue has been discussed with the advisory committee and will need to be addressed as it is so prevalent.

Rep. Lee stated that the Judiciary Committee, which he is on, frequently has bills regarding FOAA before it, trying to deprioritize commercial and out of state requests, adding they have run into some Constitutional questions with these types of bills. Rep. Lee asked Ms. Kielty for some input on this.

Ms. Kielty stated she believes the problem is more practical, for example, a small-town office would need to verify a request is from out of state or that it is a commercial request, and how much of a burden would be put on a town clerk to try to sort this out.

Ms. Kielty added that it is important to keep in mind that the FOAA statute applies not just to large state agencies but small-town offices with limited resources, and this must be considered in any discussion of a solution to the current FOAA statute.

Ms. Kielty next addressed the specific FOAA request and response, that it would take 4 years and cost \$250,000 to fulfill the request

Ms. Kielty stated, on this specific FOAA, she wanted to speak about what the problem is, adding anytime you get an estimate of this amount, it's a problem even if it is compliant with the statute, and even if it is in good faith because it is a barrier to access of information.

Ms. Kielty stated she went back to what DHHS called their FOAA 886, which was the beginning of this request in September of 2024, where the requestor asked for the record of invoices received and payments for child care services for children in DHHS custody in a two-year timeframe, as well as the spreadsheet used to track these.

Ms. Kielty stated there was a response from the Department that stated they could generate a ledger of payments quickly at no cost, but the individual invoices were going to be time consuming and DHHS asked the requestor if there was a desire to modify their request, noting this is the clarifying process the statute requires. Ms. Kielty stated this was good standard operating procedure. Ms. Kielty stated the requestor accepted the ledger from DHHS.

Ms. Kielty next discussed DHHS FOAA 1028, the FOAA in question now, which was submitted on November 27, 2024, and was the same as the initial request for the record of invoices received and payments sent, and this was when the time and cost estimate was produced by DHHS.

Ms. Kielty stated the DHHS database is a real problem because a manual access process pulling up each invoice individually, copying and scanning is so cumbersome. Ms. Kielty noted the agency did a small sample study, with the right agency staff performing the task, which was a good example of methodical approach to the estimate.

Ms. Kielty stated she believes the Docuware repository is a real problem, unless there is a hidden way to go in and run reports to pull information that DHHS has not revealed, the method described to obtain the information requested appears to be the only way it can be done. Ms. Kielty stated that while it is not a FOAA violation to have a difficult and cumbersome repository in place, the result is that it makes FOAA inaccessible because it is just too expensive.

Ms. Kielty stated that she did not find any evidence of DHHS intentionally inflating the cost, nor was it a haphazard estimate with no methodology, nor was there any evidence of bad faith by the Department in their estimate.

Rep. Mastraccio asked Ms. Kielty how do we fix the problem.

Ms. Kielty stated the State needs to prioritize and decide to spend money on technology and systems state wide, as well as putting people in place so the information can be accessed, suggesting dedicated staff in agencies to respond to FOAA requests.

Rep. Mastraccio asked Ms. Kielty if other states had similar struggles, and do other states have their own Freedom of Access laws.

Ms. Kielty stated every state has their own Freedom of Access laws, noting they are all different. Ms. Kielty also stated updating technology is a budget issue and also a prioritizing issue.

Rep. Mastraccio asked Ms. Kielty if she thinks the general public is aware that government moves slowly, and information is not easily accessed.

Ms. Kielty stated there are widespread expectations that everything done in government is going to be accessible quickly, however it is not the case.

Sen. Tipping asked Ms. Kielty, as part of her review of the FOAA request, did she explore the possibility of automation of downloading and redaction of the documents.

Ms. Kielty stated she did not specifically look into the possibility Sen. Tipping asked about; her review was of the information and system the department had at the time they made the estimate.

Sen. Tipping asked why wouldn't it be looked into, stating there is a lot of good software or a script could be written easily to redact documents all at once, so why wouldn't looking into this be part of the process of the review of the FOAA request.

Ms. Kielty stated in this review she was asked to look into the estimate at the point in time it was made, however questions regarding looking into the possibility of automation in the system to DHHS, or whether they are considering some other options of ways to improve their data base should be directed to the Department. Ms. Kielty stated she doesn't mean that she would never look into something like this, however in this instance she was asked specifically to look at the estimate response and what the agency had to work with at the time it was made.

Sen. Bennett asked Ms. Kielty if she has been consulted when agencies purchase new software systems, to make sure FOAA is built in and the accessibility of information is available in the system.

Ms. Kielty stated she is on the archives advisory board and deals with record retention and repositories all the time. Ms. Kielty added that there has been a working group with OIT, archives, other stakeholders, which she was a part of, which was involved in the upgrading of Office 365 for the state of Maine, putting in more functionality including ways that record retention is automatic in features.

Sen. Bennett asked how her input was received.

Ms. Kielty stated the people she has worked with are respectful of government accountability and efficiency.

Sen. Timberlake stated that no one would pay \$250,000 for information from a FOAA, and asked Ms. Kielty what we need to do to make the information available.

Ms. Kielty stated the best thing that could have happened is this conversation with the GOC because the Committee is able to look at this issue in a broad sense. Ms. Kielty added this is a real problem. Ms. Kielty also stated there is, in statute, an option of a waiver of fees for FOAA requests, however she is not suggesting that is appropriate for this instance.

Sen. Timberlake asked what does the Committee do with what they have learned during this discussion, and how does the legislature fix this problem so people have open access to government.

Ms. Kielty stated one thing that could be done would be to ask the Right to Know Advisory Committee to do a study or take up a specific provision or proposal on fees, however keeping in mind that any changes, for example making FOAA free, have consequences such as more FOAA requests from commercial vendors who make money off the information they receive.

Rep. Mastraccio stated when confidentiality issues are involved in a FOAA request it is challenging, noting this specific request involved records of children and she does not want any chance of confidential information getting into the wrong hands.

Ms. Kielty stated it is a challenge for agencies, they have an obligation to provide access to public records but an equally important obligation to protect confidential information.

Rep. Lee stated that in this specific FOAA request issue, it is a system's issue for the most part.

Ms. Kielty stated she could not find evidence of artificial inflation of the cost estimate in this FOAA request.

Rep. Lee stated he believes one of the issues with this FOAA is not prioritizing the Freedom of Access when making some of the financial decisions at the agency level in deciding whether or not to update systems, stating it should be a consideration when deciding what systems to have.

Ms. Kielty agreed with Rep. Lee's statement.

## **Maine Veterans' Homes - Select Financial Operations**

Sen. Hickman next invited back OPEGA Director Peter Scheck and opened the Work Session on OPEGA's report, Maine Veterans' Homes: Select Financial Operations". Sen. Hickman asked the Committee whether it had any further questions, or wished to engage in any further discussion on the matter.

The Committee had no further questions or discussion on this matter.

### **Motion and Committee Vote**

Sen. Hickman asked if there was a motion on the report.

Rep. Mastraccio moved a motion to Endorse the Report, and the motion was seconded by Rep. Matlack.

The motion was approved unanimously by all Committee Members who voted (Nine members were present for the vote, one member cast a vote by absentee, and two members were absent).

Sen. Hickman closed the Work Session.

### **OPEGA Director's Report**

Next, Sen. Hickman invited Director Schleck to present his Director's Report to the Committee.

#### **Annual Work Plan**

Director Schleck first presented the Committee with OPEGA's annual work plan, which may be found here: [2024-2025 Work Plan for OPEGA Evaluations and Related Work](#)

Director Schleck stated, in statute, it is required that the OPEGA Director submit an OPEGA Work Plan at least once a year. Director Schleck explained to the Committee the Work Plan reflects discussions to date with the Committee, however it can be updated or added to at any time by the Committee, noting the OPEGA Work Plan is a constantly evolving product.

Director Schleck also added there is still some information coming back to the Committee on the Home Energy Assistance Program, which is planned for the May 9<sup>th</sup> meeting.

Director Schleck also noted the Committee will be scheduling a tour of Riverview Psychiatric Center, and after that the Committee may or may not want to pursue this matter further, also.

#### **Update on Relevant Legislation**

Director Schleck next presented to the Committee Legislation Tracking that OPEGA put together for the Committee which includes bills involving the GOC, bills related to current GOC/OPEGA Work, bills relating to State Audit, bills related to Procurement, bills that contain a reference to OPEGA, and bills related to past OPEGA report topics. This document may be found here: [132<sup>nd</sup> GOC Legislation Tracking](#)

Director Schleck also noted OPEGA will be very carefully going over the memo presented today from the Director of OCFS, noting he is mindful of the Committee's skepticism of some of the statements in the memo, stating the full accounting of the OPEGA Evaluation of Timeliness of payments by DHHS for Foster Children in Child Care does not end at DHHS, adding it also goes to Department of Administrative and Financial Services. Director Schleck stated that when OCFS says 99% of payments are paid within two



weeks there is more to the life cycle of an invoice and OPEGA will work through all the information to build out a map or timeline for the Committee in the future report on this matter.

Director Schleck stated OPEGA will continue to update the Legislation Tracking document to present it to the Committee each time it meets.

Rep. Mastraccio stated she would be very interested in seeing the Legislation Tracking at the end of the session to be able to see where all the bills end up.

Director Schleck stated he would be happy to update the tracking document and present it to the Committee at the end of session.

### **Meeting Dates and Planning**

Director Schleck informed the Committee that, at the Chair's request, extended an invitation to the State Auditor, which has been accepted, to appear at the next GOC meeting to discuss the Single Audit.

Director Schleck stated at the next meeting he also expects the Maine Housing representatives to come back to the Committee to present additional information which was requested.

Director Schleck stated the OPEGA Tax Team will also be presenting an update at the next meeting.

Director Schleck stated, subject to the Chairs, he will be seeking to provide the Committee at the next meeting with a general overview, especially for the new members, of the history of the work that has been done by this Committee on Child Protective Services.

Director Schleck stated the next GOC Meeting is scheduled for May 9<sup>th</sup>.

Director Schleck added the meeting previously scheduled for May 23<sup>rd</sup> was dispensed with, with the Committee's blessing as it is the Friday before Memorial Day weekend.

### **Adjourn**

Rep. Mastraccio adjourned the Government Oversight Committee, without objection, at approximately 12:05 pm.