

MAINE STATE LEGISLATURE

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OPEGA
ANNUAL
REPORT



Office of Program Evaluation and Government Accountability

Annual Reports 2019 and 2020

a report to the
Government Oversight Committee and the Legislature
from the
**Office of Program Evaluation & Government Accountability
of the Maine State Legislature**

March
2021

GOVERNMENT OVERSIGHT COMMITTEE OF THE 130TH LEGISLATURE

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Senator Donna Bailey
Senator Richard Bennett
Senator Jeffrey Timberlake
Senator Eloise Vitelli

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Requests for OPEGA reviews are considered by the Government Oversight Committee in accordance with a standard process. Requests must be made in writing and must be initiated or sponsored by a legislator. Individual legislators or citizens should review the process and FAQ that are posted on OPEGA's website at <http://legislature.maine.gov/opega/request-for-a-review>. There is also a form there to help facilitate the GOC's consideration of the request. Legislative committees can request reviews directly through a written communication to the Government Oversight Committee.

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Office of Program Evaluation & Government Accountability

82 State House Station • Augusta, ME • 04333-0082



LUCIA A. NIXON
DIRECTOR

MAINE STATE LEGISLATURE
OFFICE OF PROGRAM EVALUATION AND
GOVERNMENT ACCOUNTABILITY

March 18, 2021

The Honorable Nathan Libby, Senate Chair
The Honorable Genevieve McDonald, House Chair
Members of the Government Oversight Committee
82 State House Station
Augusta, Maine 04333

The Honorable Troy D. Jackson, President of the Senate
Members of the 130th Maine Senate
3 State House Station
Augusta, Maine 04333

The Honorable Ryan M. Fecteau, Speaker of the House
Members of the 130th Maine House of Representatives
2 State House Station
Augusta, Maine 04333

Dear Government Oversight Committee Members, Senators and Representatives:

In accordance with 3 MRSA §995(4), I respectfully submit the Office of Program Evaluation and Government Accountability (OPEGA) Annual Reports for 2019 and 2020. OPEGA's service to the Legislature as an independent, non-partisan resource is meant to support the important role of legislative oversight and to help improve the performance of State government. The staff of OPEGA and I continue to be committed to serving Maine's legislators and citizens as a trusted source of objective, credible information.

Sincerely,

A handwritten signature in black ink that reads 'Lucia Nixon'.

Lucia A. Nixon
Director

cc: Darek M. Grant, Secretary of the Senate
Robert B. Hunt, Clerk of the House

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About OPEGA

History:

The Office of Program Evaluation and Government Accountability (OPEGA) is a non-partisan, independent legislative office created by Public Law 2001, Chapter 702. The Office first became operational in January 2005. Its authorizing statute is 3 MRS.A §§991-1001.

Organization:

OPEGA is part of a unique organizational arrangement within the Legislature that ensures both independence and accountability. This structure is critical to ensuring that OPEGA can perform its function in an environment as free of political influence and bias as possible.

The Legislative Council appoints the Director of OPEGA for five-year terms and sets the Director's salary. OPEGA's activities are overseen by the Government Oversight Committee (GOC), a 12-member bi-partisan and bi-cameral committee appointed by legislative leaders according to Joint Rule. The GOC approves OPEGA's budget and annual work plan and monitors OPEGA's use of resources and performance.

Staffing:

OPEGA has an authorized permanent staff of nine full-time positions including the Director, the Administrative Secretary, who also serves as the GOC Committee Clerk, and a group of analysts, senior analysts and a principal analyst. Two of OPEGA's positions were added in 2015 as a result of Public Law 2015, Chapter 344 which added evaluations of tax expenditures as part of an on-going legislative review process to OPEGA's responsibilities.

Function:

OPEGA primarily supports legislative oversight by conducting independent program evaluations of State government programs as directed by the GOC¹. As legislators perform their oversight function, they often have questions about how policies are being implemented, how programs are being managed, how money is being spent and what results are being achieved.



The GOC and OPEGA address those questions from an unbiased perspective through rigorous program evaluations, including performance audits. The independence and authorities granted in the statute governing the GOC and OPEGA provide the Legislature with a valuable supplement to the oversight conducted by the policy committees. In addition, the GOC and OPEGA are in an excellent position to examine governmental programs and activities that cut across State agencies and span the jurisdictions of multiple policy committees.

The results of OPEGA's reviews are provided to legislators and the public through formal written reports and public presentations.

¹ When directed to do so, OPEGA also has authority to perform program evaluations of non-State entities that receive State funds or have been established to perform governmental functions.

Mission

The Office of Program Evaluation and Government Accountability exists to support the Legislature in monitoring and improving the performance of State government by conducting independent, objective reviews of State programs and activities² with a focus on effectiveness, efficiency and economical use of resources.

Vision

OPEGA is valued as a credible source of objective information that contributes to good government and benefits Maine's citizens.

Values

OPEGA seeks to be a model for best practices in government and is committed to:

- ◆ Independence and objectivity
- ◆ Professionalism, ethics and integrity
- ◆ Participatory, collaborative approach
- ◆ Timely, effective communications
- ◆ Valuable recommendations
- ◆ Continuous improvement
- ◆ Using skilled and knowledgeable staff
- ◆ Minimizing disruption of operations
- ◆ Identifying root causes
- ◆ Measuring its own performance
- ◆ Smart use of its own resources

Overall Goals

- A. Provide timely, relevant and useful information and recommendations.
- B. Conduct all work with objectivity and accuracy.³
- C. Communicate regularly on our activities, results and impacts.
- D. Utilize OPEGA's resources effectively, efficiently and economically.

Indicator of Overall Outcomes

OPEGA tracks and reports on the percentage of our recommendations that have been implemented or affirmatively addressed by agencies or the Legislature as a measure of our effectiveness in facilitating change in State government.

² When directed to do so by the Government Oversight Committee, OPEGA is also authorized to perform program evaluations of non-State entities that receive State funds or have been established to perform governmental functions.

³ OPEGA adheres as fully as possible to the performance auditing standards issued by the United States Government Accountability Office (GAO), known as the *Generally Accepted Government Auditing Standards (GAGAS)* or Yellow Book standards. Adherence to professional standards ensures OPEGA's work is objective and accurate and reported results are appropriately supported.

Annual Report 2019

OPEGA Completed Three Projects and Conducted Substantial Work on Eight Others

OPEGA's Work Plan for the 2019-2020 period, as approved by the GOC in 2019, included 14 projects in total: eight program reviews and six tax expenditure reviews. During 2020, OPEGA completed three projects and conducted ongoing work on 11 others. OPEGA's 2019-2020 Work Plan is presented in Appendix A.

Projects Completed in 2019

1. Tax Expenditure Full Evaluation - Employment Tax Increment Financing

OPEGA conducted an evaluation of the program design of Employment Tax Increment Financing (ETIF). The Department of Economic and Community Development (DECD) assists businesses with the ETIF application process and is authorized to approve qualified applicants. Maine Revenue Service (MRS) is responsible for approving and authorizing ETIF payments for businesses.

OPEGA's analysis of DECD and MRS data for program years 2010-2016 found that:

- Payments were distributed to businesses in State fiscal years 2012 through 2018 and totaled \$84.7 million.
- An estimated 1,295 unique, new jobs may have been created, in part, due to these payments.
- It is hard to attribute the jobs specifically to ETIF since many ETIF businesses are also participants in other State tax incentive programs.

Additional evaluation findings include:

- DECD, and economic development stakeholders OPEGA interviewed, refer to ETIF as one of Maine's primary economic development tools – in part, because it is accessible to a broad range of businesses. However, stakeholders also note that the program does not directly address barriers to business development in Maine.
- ETIF Program's design supports creation of net, new quality jobs at a relatively low financial risk to the State. The risk is low partially because businesses can only receive payments in years that the jobs are filled and because if just 11.52% of the jobs created were due to ETIF, the impact on the State budget is positive.
- The program is administered diligently, within existing resources, by DECD and MRS. Administrative costs represent less than 1% of the program's total direct cost to the State.
- ETIF requires business applicants to attest that the business activity leading to the creation of the net new jobs would not occur but for the availability of ETIF benefits. OPEGA found this attestation to be a weak tool for ensuring financial benefits are provided only to businesses that would otherwise not have hired net new employees.

The GOC voted unanimously to fully endorse OPEGA's Final Report on ETIF on February 8, 2019.

2. Child Protective Services - Special Project: Office of Child and Family Services (OCFS) Frontline Worker Perspectives

OPEGA conducted a special project aimed at understanding the perspectives of frontline workers in the Office of Child and Family Services (OCFS) within the Maine Department of Health and Human Services (DHHS). The GOC directed OPEGA to conduct this review following OPEGA's release of a special project on how the Child

Protective System functioned in the cases of two child deaths from abuse, which generated interest among the GOC in better understanding the factors that impact efficiency and effectiveness of OCFS workers.

For this review, OPEGA surveyed all assessment, permanency, and intake caseworkers and supervisors, and conducted 44 in-depth interviews of staff. OPEGA identified the following themes in the information reported by these frontline workers in the survey and interviews:

- Staff expressed that child protective work is difficult with many facets and odd and unpredictable hours. The nature of the work contributes to poor work/life balance, a risk of secondary trauma, and, at times, concerns for worker safety while in the field.
- Workers expressed an ongoing shortage of available placements for children who have been removed from their families, which often results in workers having to spend hours or days with children in hotels or hospital emergency rooms.
- Staff were concerned that policy and practice changes implemented after the deaths of two children by abuse and expressed changes were made without staff input, little explanation, and without adequate guidance on how to implement the changes.
- Workers noted a dramatic increase in work volume, and attributed the increase caseloads to high staff turnover in some districts.
- Workers pointed out other concerns, including the role of increased drug abuse in the state and the general lack of services for families, such as mental health services, drug treatment and other community resources complicating child protective efforts.

The GOC voted unanimously to fully endorse OPEGA’s Information Brief on Frontline Workers in the State Child Protective System on March 22, 2019.

3. Tax Expenditures Expedited Review 2019 – “Charitable” Exemptions

Tax expenditures in the expedited review category are those intended to implement broad tax policy goals that cannot be reasonably measured. Under 3 MRSA §998(2), the GOC, in consultation with the Taxation Committee has set a six-year schedule for OPEGA to review expedited tax expenditures grouped by policy areas (Table 1).

Calendar Year	Tax Policy Area
2016	Necessity of Life Exemptions
2017	Tax Fairness Exemptions
2018	Specific Policy Goal/Mandate Exemptions and Charitable Exemptions (1 st Half)
2019	Charitable Exemptions (2 nd Half)
2020	Interstate and Foreign Commerce Exemptions
2021	Conformity with IRC and Exemptions for Inputs to Tangible Products

Under 3 MRSA §1000(2), OPEGA is required to provide information to support the Legislature’s Joint Standing Committee on Taxation in carrying out expedited reviews of certain tax expenditures under Maine law. The information OPEGA is required to provide to the Taxation Committee includes:

- a description of the tax policy under review;
- descriptions of each tax expenditure associated with that policy, including the mechanism through which it is distributed and its intended beneficiaries;
- the legislative history of each tax expenditure; and
- the fiscal impact of the tax policy and each related tax expenditure, including past and future impacts.

The 17 tax expenditures subject to expedited review in 2019 were classified under the tax policy area of “charitable” exemptions. These exemptions included those from the sales and use tax and exemptions from the service provider tax. In 2019, OPEGA prepared the information required for each of the 17 “charitable” expenditures. To aid in categorizing these for evaluation by the Taxation Committee, OPEGA organized them into groupings of similar exemptions, based on the intended beneficiaries. The groupings of expenditures described as “Charitable” are listed as:

- 1) Public Support for Certain Organizations
- 2) Public Support for Students, Youth and Schools
- 3) Public Support for Persons with Disabilities

A summary of the estimated fiscal impact of these tax expenditures is presented in Table 2:

Category	FY16	FY17	FY18	FY19	FY20	FY21
Public Support for Certain Organizations	\$10,224,989	\$10,224,989	\$10,224,989	\$10,224,989	\$10,224,989	\$10,224,989
Public Support for Students, Youth and Schools	\$21,578,139	\$23,015,799	\$15,269,999	\$16,009,999	\$16,589,999	\$17,119,999
Public Support for Persons with Disabilities	\$70,228	\$72,334	\$70,000	\$80,000	\$80,000	\$81,000
2019 Total	\$31,873,356	\$33,313,122	\$25,564,988	\$26,314,988	\$26,894,988	\$27,425,988

Source: Estimates for FY16 & FY17 are from the 2018-2019 Maine State Tax Expenditure Report (MSTER) while the estimates for FY18 through FY21 are from the 2020-2021 MSTER. Where ranges are reported, the average of the lower and upper end of the range is used.

In preparing the information for the Taxation Committee, OPEGA found the following:

- The four expenditures grouped into the category of “Public Support for Students, Youth and Schools” constitute the majority of the fiscal impact of these 17 tax expenditures.
- Estimates for each of the 17 tax expenditures are generally consistent across years.
- The most variation is seen in “Meals Served by Public or Private Schools” (36 MRSA §1760(6-A)) between FY17 and FY18. MRS described how the new estimate was based on the economic model’s output and a review and analysis of Maine Department of Education (DOE) data, which indicated that the original estimate was high and therefore the estimate was lowered.

OPEGA completed the preparation of information to support the review of the “charitable” tax expenditures and submitted its report to the Taxation Committee on June 20, 2019.

OPEGA Conducted Substantial Work on Eight Other Projects

During 2019, OPEGA conducted substantial work on the following eight other projects that continued in progress toward completion at the close of the year:

- ReEmployME System
- Maine Citizen Initiative Process

- Child Protective Services: Out of Home Placements for Children Removed from Care by the Department of Health and Human Services/Office of Child and Family Services
- Pine Tree Development Zones, Limited Scope review
- Reimbursement for Business Equipment Tax Exemption for Municipalities (BETE) Reimbursement for Taxes Paid on Certain Business Property (BETR)
- Seed Capital Investment Tax Credit
- Maine Commission on Indigent Legal Services
- Maine Capital Investment Credit

OPEGA and the GOC Took Actions on Past Reports

Each year, OPEGA and the GOC monitor actions taken related to previously completed projects and reports and determine whether additional GOC action is needed relative to recommendations made in the reports. Notable actions taken in 2019 related to past OPEGA reports included:

- **Evaluation of Maine's Pine Tree Development Zone Program (PTDZ).** In 2019, the GOC directed OPEGA to follow up its 2017 PTDZ report with a limited scope review subsequent to legislative changes made to the program following the 2017 report. The limited scope review of the PTDZ Program was to focus on:
 1. The extent to which the PTDZ Program's current design effectively targets the program's newly stated objectives and intended beneficiaries.
 2. The degree to which the recommendations of OPEGA's 2017 PTDZ report have been addressed.
 3. The alignment of the PTDZ Program with the State's strategic economic development plan under development by the Strategic Planning Task Force led by DECD.

Following OPEGA's 2017 PTDZ report, the Legislature enacted LD 1654, An Act To Protect Economic Competitiveness in Maine by Extending the End Date for Pine Tree Development Zone Benefits (PL 2017, c. 440). The PTDZ Program, which provides benefits to qualifying businesses for 10 years, was set to stop accepting applications in 2018 from new businesses seeking to qualify. Chapter 440 extended that date to 2021, meaning the benefits under the program would end in 2031 rather than 2028. Additionally, the law required OPEGA to report out a full evaluation of PTDZ to the GOC and TAX committee by January 15, 2021. Chapter 440 also provided language stating the specific public policy objective of the program and the performance measures to be used in future evaluations of PTDZ.

Completing the evaluation by the deadline set in Chapter 440 would have allowed only two years' of newly required program data to be collected by DECD and analyzed by OPEGA. The GOC determined that 2 years' worth of data might not be useful in showing trends and providing the information necessary for evaluating future decisions about PTDZ. With this in mind, and considering the limited OPEGA resources available for tax expenditure reviews and the current schedule of full tax expenditure reviews, the GOC reported out LD 1629 (PL 2019, c. 305). That bill removed the deadline for a future OPEGA evaluation from PTDZ's statute. It was passed during the First Regular Session of the 129th Legislature.

Following the removal of the PTDZ evaluation deadline from statute, the GOC considered how to best direct OPEGA's resources to provide additional information about the PTDZ Program prior to December 31, 2021, the date at which the program is currently set to stop accepting new applicants. Given the newly stated public policy objective in Chapter 440, the Committee directed OPEGA to conduct a limited scope review of the PTDZ Program to assess the degree to which the program's design, as amended by PL 2017, c. 440, supports the program objectives designated in the law. Committee members also requested the limited scope review include an assessment of changes to the program in response to OPEGA's initial

PTDZ report and an assessment of how the PTDZ Program’s objectives align with the State economic development plan.

- **Child Protective Services.** The GOC, with support from OPEGA, has conducted ongoing oversight related to child protective services since the release of OPEGA’s 2018 information brief, *Maine’s Child Protection System: A Study of How the System Functioned in Two Cases of Child Death by Abuse in the Home*, and 2019 information brief, *Frontline Workers in the State Child Protective System: Perspectives on Factors That Impact Effectiveness and Efficiency of Child Protective Work*. In 2019, this oversight work included:
 - Having the Office of Child and Family Services Director Todd Landry report to the GOC at two meetings in 2019 on plans for improvement to Maine’s child protective system.
 - Discussing oversight efforts for the child protection system with the Chairs and Leads of the Health and Human Services and Judiciary Committees at the October 2019 GOC meeting.

OPEGA Supported the GOC and Other Legislative Efforts

- OPEGA provides staffing services to the Government Oversight Committee. Staff support includes coordinating and giving notice of meetings and agendas, developing and distributing written meeting materials, and preparing written summaries of the meetings. In 2019, the GOC held 12 meetings. An archive of the meeting summaries from all GOC meetings is maintained on OPEGA’s website.
- OPEGA performs research and gathers information to support the GOC’s consideration of potential review topics. In 2019, OPEGA processed and conducted research related to one formal request for review. The GOC placed this request for a review of the Maine Commission on Indigent Legal Services on OPEGA’s Work Plan for 2019–2020. In 2019, OPEGA also fielded contacts from 16 citizens inquiring about the potential for an OPEGA review on a variety of topics. These discussions did not result in formal requests for reviews, but did involve telephone conversations, e-mail or other written correspondence.

OPEGA Stayed Within Budget Again in FY2019

OPEGA’s actual expenditures have been under budget each year since beginning of OPEGA operations in 2005 and that trend continued in 2019. Table 4 shows OPEGA’s adjusted General Fund budget and actual expenses for the past three State fiscal years.

Table 4. OPEGA’s Budget and Expenditures by Fiscal Year			
	FY2017	FY2018	FY2019
Total General Fund budget	\$1,208,880	\$1,291,824	\$1,315,883
Total General Fund dollars expended	\$1,074,266	\$1,158,807	\$1,215,239
Dollar variance of expenditures to budget	(\$134,614)	(\$133,017)	(\$100,644)
% variance of expenditures to budget	(11%)	(10%)	(8%)

OPEGA’s actual expenditures for FY19 were under budget by \$100,644, or about 8% of the total budget. The variance was primarily due to:

- actual costs for consultant services being less than budgeted; and
- actual costs for employee training, printing, and advertising being lower than budgeted.

OPEGA's Notable Achievements

In 2019, OPEGA was awarded the National Legislative Program Evaluation Society (NLPES) Certificate of Impact for its report, *Maine's Beverage Container Redemption Program*. This award is presented by NLPES to recognize legislative offices that produce evaluations that result in documented public policy changes, program improvements, dollar savings or other public impacts.

Annual Report 2020

OPEGA Completed Five Projects and Conducted Substantial Work on Four Others

During 2020, OPEGA completed five projects on the 2019-2020 Work Plan and conducted ongoing work on four additional projects. OPEGA's 2019-2020 Work Plan is presented in Appendix A.

Projects Completed in 2020

1. Business Equipment Tax Reimbursement (BETR) & Business Equipment Tax Exemption (BETE)

OPEGA conducted full evaluations of the Business Equipment Tax Reimbursement and Business Equipment Tax Exemption and presented them in a single Final Report. BETR and BETE are State programs that reduce, or eliminate, municipal property taxes on qualifying business equipment. Under BETR, the State directly reimburses businesses for property taxes paid to municipalities. Under BETE, the State instead exempts businesses from paying property taxes for qualified equipment. Maine Revenue Service (MRS) bears primary responsibility for administration of both programs, with municipalities filling a necessary supporting administrative role.

OPEGA's review primarily examined:

- the extent to which the design of the tax expenditure is effective in accomplishing the tax expenditure's purposes, intents or goals and to what extent it is achieving its goals;
- the extent to which those benefitting from the tax expenditure are the intended beneficiaries;
- the State cost impacts of the tax expenditure;
- the extent to which BETR and BETE are coordinated, complimentary or duplicative of other programs in Maine; and
- the extent to which the State's administration and implementation is effective and efficient.

OPEGA made the following findings:

- BETR and BETE accomplish the shared goal of reducing the cost of owning business property in the State.
- Municipalities and businesses face challenges in determining asset eligibility for BETR and BETE.
- Goals and intended outcomes against which BETR and BETE are to be evaluated are unclear.
- Municipalities are not adequately reimbursed for mandated expenses associated with BETE.
- MRS has not provided the Department of Administrative and Financial Services information on the BETE mandates that they administer as required by statute.
- MRS documentation to support adjustments to BETE payments is inadequate.

OPEGA presented the Final Report on BETR & BETE in February 2020. The GOC voted unanimously to fully endorse the report on November 20, 2020.

2. Maine Capital Investment Credit

OPEGA conducted a full evaluation of the Maine Capital Investment Credit (MCIC). MCIC was enacted in 2011 and is administered by Maine Revenue Services (MRS). The MCIC is a personal and corporate income tax credit for depreciable property, such as equipment and buildings, placed in service in Maine. The credit may be taken by Maine taxpayers who claimed bonus depreciation on their federal income tax returns under section 168(k) of the Internal Revenue Code (IRC).

OPEGA's review examined:

- the extent to which MCIC is likely to encourage businesses to expedite capital investments; and
- the extent to which MCIC is an effective way to encourage businesses to make capital investments in Maine rather than elsewhere.

OPEGA made the following finding:

- MCIC is a complicated response to bonus depreciation, and is unlikely to significantly affect capital investment in Maine. Specifically, MCIC is:
 - complex for businesses;
 - unlikely to encourage businesses to expedite their capital investments to any significant degree; and
 - unlikely to encourage businesses to choose Maine over other states when making capital investments.

OPEGA presented the Final Report on the Maine Capital Investment Credit in February 2020. The GOC voted unanimously to fully endorse the report on November 20, 2020.

3. Maine Commission on Indigent Legal Services – Part I

OPEGA reviewed the Maine Commission on Indigent Legal Services (MCILS). MCILS was established as an independent commission in 2009 to provide efficient, high quality representation to indigent criminal defendants, juvenile defendants and children and parents in child protective cases.

In 2020, OPEGA completed the first part of a two-part review of MCILS to address certain elements of the evaluation that the GOC prioritized for expedited review. OPEGA's expedited review, completed in 2020, focused on the following areas:

- the extent to which the systems and procedures used by MCILS to process payments and expenditures associated with providing legal representation are adequate; and
- whether the oversight structure of MCILS is adequate.

OPEGA found the following issues:

- MCILS has no established policies and procedures governing expenditures by and payments to attorneys and expectations for billing practices may not be effectively communicated by MCILS to attorneys;
- the data available to MCILS staff via Defender Data system is unreliable and potentially misleading;
- current MCILS efforts to monitor vouchers submitted by attorneys are inefficient and of limited effectiveness;
- invoice-level review of non-counsel services (i.e., private investigators, interpreters, etc.) may be of limited effectiveness in identifying certain types of noncompliance, such as inappropriate high daily billings, duplicate charges, and duplicate payments;
- MCILS has no established audit procedures or review procedures and current efforts to perform internal audit work are inconsistent and limited in scope, depth and effectiveness;
- the agency charged with administering MCILS's purpose is under-staffed;
- MCILS operates without clearly-defined roles for staff and uses current staff inefficiently;
- MCILS receives insufficient support from staff for its necessary operations; and
- a weak oversight structure impacts the ability of MCILS to adequately meet its statutory purpose.

OPEGA presented the Final Report on the Maine Commission on Indigent Legal Services, part one of the two-part review, in November 2020. The GOC voted unanimously to fully endorse the report on February 12, 2021.

4. Pine Tree Development Zones – Limited Scope Review

OPEGA conducted a limited scope review of the Pine Tree Development Zones (PTDZ) program. In 2017, OPEGA released a full evaluation of the PTDZ program. In the following year, July 2018, the Legislature enacted LD1654, An Act to Protect Economic Competitiveness in Maine by Extending the End Date for Pine Tree Development Zone Benefits and Making Other Changes to the Program (PL 2017, c. 440). This law extended the duration of the PTDZ—moving the date on which the program would stop accepting new applications from December 31, 2018 to December 31, 2021. In 2019, the GOC directed OPEGA to conduct a limited scope review of PTDZ to provide the Legislature with additional information about the PTDZ program prior to the December 31, 2021 date to stop accepting new applications.

In the limited scope review, OPEGA found that:

- Since 2017, the Legislature has made significant changes in the PTDZ program, including clarification of the program’s goals.
- PTDZ’s clarified goals focus on creation and retention of quality jobs as the program’s ultimate goal.
- The amended design of PTDZ ensures that benefits will mostly be provided only to businesses that create and retain at least one quality job and requires notarization of “but for” statements filed by applicants. However, these amendments do not guarantee that PTDZ is actually resulting in more quality job creation and retention that would have happened without the program.
- Proactive program management could support strengthened oversight and help ensure PTDZ is effective.
- While generally in line with the overarching goals of the Maine Economic Development Strategy 2020-2029, PTDZ does not speak to the specific actions outlined in the Plan.
- The report expected from Maine’s Economic Recovery Committee in December 2020 may shed more light on PTDZ’s role in the economic recovery following the COVID-19 pandemic.

OPEGA presented the Final Report on Pine Tree Development Zones, limited scope review, in November 2020. The GOC voted unanimously to fully endorse the report on February 26, 2021.

5. Tax Expenditures Expedited Review 2020 - Interstate and Foreign Commerce

Tax expenditures in the expedited review category are those intended to implement broad tax policy goals that cannot be reasonably measured. In 2020, the tax policy area scheduled for expedited review includes those tax expenditures associated with interstate and foreign commerce. In 2020, OPEGA prepared the information it is required to provide the Taxation Committee for each of the 13 “interstate and foreign commerce” expenditures. The information OPEGA provided to the Taxation Committee includes:

- a description of the tax policy under review;
- descriptions of each tax expenditure associated with that policy, including the mechanism through which it is distributed and its intended beneficiaries;
- the legislative history of each tax expenditure; and
- the fiscal impact of the tax policy and each related tax expenditure, including past and future impacts.

The interstate and foreign commerce exemptions were grouped into those associated with general sales and use taxes and those associated with internal combustion fuels and special fuels taxes. A summary of the estimated fiscal impact of these tax expenditures is presented in Table 3:

	FY16	FY17	FY18	FY19	FY20	FY21
Exemptions from Sales and Use Taxes	\$19,212,973	\$19,398,954	\$17,709,998	\$18,079,998	\$18,379,998	\$18,619,998
Exemptions from Internal Combustion Fuels Excise Taxes	\$67,054	\$67,724	\$61,280,000	\$64,550,000	\$67,070,000	\$68,410,000
Exemptions from Special Fuels Excise Taxes	N/A	N/A	\$14,980,000	\$15,770,000	\$16,390,000	\$16,720,000
Totals	\$19,280,027	\$19,466,678	\$93,969,998	\$98,399,998	\$101,839,998	\$103,749,998

Source: Estimates for FY16 & FY17 are from the 2018-2019 MSTER while the estimates for FY18 through FY21 are from the 2020-2021 MSTER. Where ranges are reported, the average of the lower and upper end of the range is used.

In preparing the information for the Taxation Committee, OPEGA found the following:

- The two expenditures in “Exemptions from Internal Combustion Fuels Excise Tax” constitute the majority of the total fiscal impact for these 13 expenditures.
- Two of the expenditures associated with gasoline and special fuels exported from the State did not have data available for FY16-17. This results in no data for one category as well as the jump from \$67K to \$61M in the other category. Other than those variations, the expenditures associated with these exemptions are very consistent across years.

OPEGA completed the preparation of information to support the review of the interstate and foreign commerce tax expenditures and submitted its report to the Taxation Committee on December 15, 2020.

OPEGA Conducted Substantial Work on Four Other Projects

During 2020, OPEGA conducted substantial work on the following eight other projects that continued in progress toward completion at the close of the year:

- Maine Citizen Initiative Process;
- Child Protective Services: Out of Home Placements for Children Removed from Care by Department of Health and Human Services/Office of Child and Family Services;
- Maine Commission on Indigent Legal Services, Part II; and
- Tax Expenditure Evaluation: Seed Capital Investment Tax Credit.

OPEGA and the GOC Took Actions on Past Reports

Each year, OPEGA and the GOC monitor actions taken related to previously completed projects and reports and determine whether additional GOC action is needed relative to recommendations made in the reports. Notable actions taken in 2020 related to past OPEGA reports included:

- **Child Protective Services.** The GOC, with support from OPEGA, has conducted ongoing oversight related to child protective services since the release of OPEGA’s 2018 information brief, *Maine’s Child Protection System: A Study of How the System Functioned in Two Cases of Child Death by Abuse in the Home*, and 2019 information brief, *Frontline Workers in the State Child Protective System: Perspectives on*

Factors That Impact Effectiveness and Efficiency of Child Protective Work. In 2020, this oversight work included:

- The GOC received a presentation of the Child Welfare Service Ombudsman in January 2020.
- The GOC heard testimony from the Director of the Office of Child and Family Services regarding planned improvements to the child welfare system in March 2020.
- OPEGA created a tracking document to help facilitate and coordinate legislative oversight of strategies to improve the child protection system. This includes OCFS strategies and the related LDs or enacted laws, biennial budget initiatives and any related report findings and recommendations.
- OPEGA conducted preliminary research regarding Child Protective System: Out of Home Placements for Children Removed from Care by Department of Health and Human Services/Office of Child and Family Services.

OPEGA Supported the GOC and Other Legislative Efforts

- OPEGA provides staffing services for the Government Oversight Committee. Staff support includes coordinating and giving notice of meetings and agendas, developing and distributing written meeting materials, and preparing written summaries of the meetings. The GOC held seven meetings in 2020, which is fewer than a typical year, as multiple meetings were cancelled due to the COVID-19 pandemic. An archive of the meeting summaries from all GOC meetings is maintained on OPEGA's website.
- OPEGA performs research and gathers information to support the GOC's consideration of potential review topics. In 2020, the Office processed and conducted research related to one formal request for review. Due to the cancellation of GOC meetings resulting from the COVID-19 pandemic, the GOC did not consider this request at a meeting in 2020. However, the request is tentatively scheduled to be considered at a future GOC meeting in 2021. In 2020, OPEGA also fielded contacts from 19 citizens inquiring about the potential for an OPEGA review on a variety of topics. These discussions did not result in formal requests for reviews, but did involve telephone conversations, e-mail or other written correspondence.
- OPEGA also provided support, as requested, to the Legislature's Taxation Committee related to its expedited reviews of 13 tax expenditures.

OPEGA Stayed Within Budget Again in FY2020

OPEGA's actual expenditures have been under budget each year since beginning operations in 2005 and that trend continued in 2020. Table 4 shows OPEGA's adjusted General Fund budget and actual expenses for the past three fiscal years.

	FY2018	FY2019	FY2020
Total General Fund budget	\$1,291,824	\$1,315,883	\$1,361,492
Total General Fund dollars expended	\$1,158,807	\$1,215,239	\$1,267,023
Dollar variance of expenditures to budget	(\$133,017)	(\$100,644)	(\$94,469)
% variance of expenditures to budget	(10%)	(8%)	(7%)

OPEGA's actual expenditures for FY20 were under budget by \$94,469, or about 7% of the total budget. The variance was primarily due to:

- actual costs for consultant services being less than budgeted; and
- actual costs for travel, employee training, and advertising being lower than budgeted.

OPEGA's Notable Achievements

OPEGA was recognized for two notable achievements in 2020:

- OPEGA was awarded the National Legislative Program Evaluation Society (NLPES) Certificate of Impact for its report, *Employment Tax Increment Financing - An Evaluation of Program Design and Analysis of Program Activity from 2010 through 2016*. This award is presented by NLPES to recognize legislative offices that produce evaluations that result in documented public policy changes, program improvements, dollar savings or other public impacts.
- OPEGA was recognized by the PEW Charitable Trusts for Maine's leadership in tax incentive evaluations. OPEGA's tax incentive evaluations were recognized as providing consistently high-quality, demonstrating rigor to measure economic and fiscal impacts and providing helpful information for policymakers.

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OPEGA would like to acknowledge and express appreciation to others in State government for the knowledge, service and other assistance they willingly contribute to OPEGA's reviews and general operations. In particular, special thanks to the:

- Office of the Executive Director of the Legislative Council;
- Office of Legislative Information Technology;
- Office of Policy and Legal Analysis;
- Office of Fiscal and Program Review;
- Law and Legislative Reference Library;
- Office of the State Controller;
- Office of the State Auditor; and
- Office of the Attorney General.

Appendix A

OPEGA Work Plan for 2019-2020

Project	Date Approved by GOC	OPEGA Work Phases 2019-2020	Year Completed (or closed)
OPEGA Program Evaluations			
Child Protective Services - Special Project: Office of Child Protective Services (OCFS) Frontline Worker Perspectives	June 2018	Fieldwork Reported: February 2019	2019
Child Protective Services - Special Project: Office of Child and Family Services (OCFS) Strategic Initiatives	June 2018	Paused: March 2019	2019 (closed)
ReEmployME System	August 2018	Preliminary Research	2019 (closed)
Pine Tree Development Zones – Limited Scope Review	August 2019	Fieldwork Report: November 2020	2020
Maine Commission on Indigent Legal Services	April 2019	Preliminary Research Fieldwork: Part I Report: Part I Nov. 2020	2020 - Part I [ongoing – Part II]
Maine Citizen Initiative Process	November 2017	Fieldwork	
Child Protective Services: Out of Home Placements for Children Removed from Care by the Department of Health and Human Services (DHHS)/OCFS	March 2019	Preliminary Research	
Child Protective Services: Follow-up Survey of OCFS Frontline Workers	March 2019	Planning	
Department of Health and Human Services Audit Functions	April 2013	No action	
Substance Abuse Treatment Programs in the Corrections System	August 2017	No action	
OPEGA Tax Expenditure Reviews (3 MRSAS998-1001)			
Employment Tax Increment Financing	n/a	Fieldwork Report: January 2019	2019
Expedited Review 2019: Charitable Exemptions (Report to Taxation Committee)	n/a	Research Report: June 2019	2019
Reimbursement for Business Equipment Tax Exemption to Municipalities (BETE) and Reimbursement for Taxes Paid on Certain Business Property (BETR)	n/a	Fieldwork Report: February 2020	2020
Maine Capital Investment Credit	n/a	Fieldwork Report: February 2020	2020
Expedited Review 2020: Interstate and Foreign Commerce (Report to Taxation Committee)	n/a	Research Report: December 2020	2020
Seed Capital Investment Tax Credit	n/a	Preliminary Research Fieldwork	