

MAINE STATE LEGISLATURE

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**OPEGA
ANNUAL
REPORT**



**Office of Program Evaluation and
Government Accountability**

**Annual Report
2022**

**January
2023**

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

GOVERNMENT OVERSIGHT COMMITTEE OF THE 131ST LEGISLATURE

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Senator Lisa Keim, Lead
Senator Richard Bennett
Senator Jill Duson
Senator Jeff Timberlake
Senator Michael Tipping

Representative Jessica L. Fay, Chair
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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.

Copies of OPEGA's reports are free.

Reports are available in electronic format at:

<http://legislature.maine.gov/opega/opega-reports>

Hard copies may be obtained by contacting OPEGA at:

(207) 287-1901



PETER SCHLECK
DIRECTOR

MAINE STATE LEGISLATURE
OFFICE OF PROGRAM EVALUATION AND
GOVERNMENT ACCOUNTABILITY

January 13, 2023

The Honorable Craig Hickman, Senate Chair
The Honorable Jessica L. Fay, 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 131st Maine Senate
3 State House Station
Augusta, Maine 04333

The Honorable Rachel Talbott Ross, Speaker of the House
Members of the 131st 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 Report for 2022. 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. We remain committed to serving Maine's legislators and citizens as a trusted source of objective, credible information.

Thank you for the opportunity to be of assistance.

Sincerely,

Peter Schleck
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 MRSA §§991-1001.

Organization

OPEGA is part of an 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.

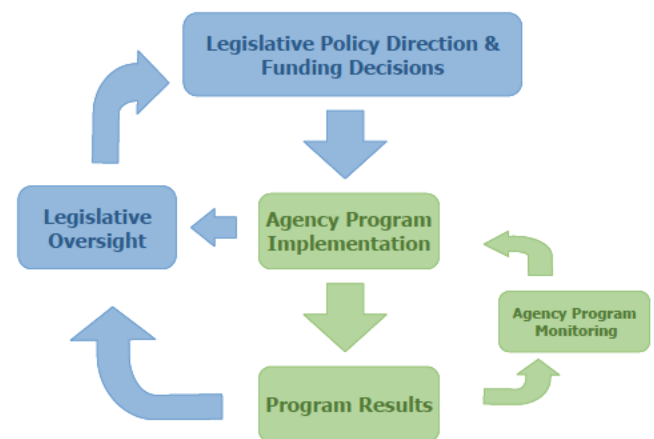
The Legislative Council appoints the Director of OPEGA for a renewable five-year term and sets the Director's salary. OPEGA's activities are overseen by the Government Oversight Committee (GOC), a 12-member bi-partisan and bi-cameral committee appointed by legislative leaders according to Joint Rule. 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 GOC.¹ 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. 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 positioned 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 activities 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.²
- C. Communicate regularly on our activities, results and impacts.
- D. Utilize OPEGA's resources effectively, efficiently and economically.

² 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. OPEGA also consults a variety of other professional standards, guides, and best practices, as appropriate. OPEGA strives at all times to ensure its work is objective and accurate and reported results are supported.

The Year in Review

During 2022, OPEGA completed four review projects, began work on four additional projects, and facilitated the GOC’s “closeout” of further actions regarding three other matters, one of which was the subject of a previous OPEGA review.

Table 1 – OPEGA Project Work in 2022				
	Project Approved	Scope of Work Approved	Project Status as of 12/31/22	Report Date
Projects Completed in 2022				
Information Brief—Oversight of Maine’s Child Protective Services	7/2021	8/2021	Completed	1/2022
Evaluation of the Research Expense Credit (R&D Credit)	~	5/2021 ³	Completed	3/2022
Child Protective Services Investigations	7/2021	8/2021	Completed	3/2022
2022 Tax Expenditure Expedited Reviews	~	~	Completed	12/2022
Projects with Work In-Progress (or Paused in Favor of More Urgent Matter)				
Child Protective Services, DHHS/OCFS Reunification	7/2021	7/2022	Paused	
Tax Benefits for Media Production Companies	~	6/2022	Active	
Deduction for Contributions to Capital Construction Funds for Maintenance or Replacement of Fishing Vessels	~	6/2022	Paused	
Rapid Review of 4 DHHS/OCFS Case Files	10/2022	10/2022	Active	
Government Oversight Committee Closeout of: Ongoing Monitoring Based on Prior OPEGA Review; or Consideration of Requests for OPEGA Reviews				
	Closeout Date	GOC Activity		
Maine Commission on Indigent Legal Services	9/2022	Ongoing GOC Monitoring of Prior OPEGA Review Topic		
WorkDay Maine	9/2022	Consideration of Request for OPEGA Review		
Maine Wild Blueberry Commission	10/2022	Consideration of Request for OPEGA Review		

³ For tax expenditure evaluations, the listed date under “approved by GOC” represents the date the evaluation parameters were approved by the GOC following preliminary research, since these projects, being required by statute, do not have approval dates prior to that point in the process.

Projects Completed in 2022

1. Information Brief – Oversight of Maine’s Child Protective Services

OPEGA published an Information Brief on the oversight of Maine’s child protective services in January 2022. The Information Brief reported on the first of three then-expected components comprising OPEGA’s review of child protective services in Maine. The Brief included four major sections that addressed: federal regulatory oversight; state advisory oversight; best practices in child protective services oversight; and other state approaches. It also presented key lessons and observations from the research. Finally, four appendices to the Brief presented: the research methods used; tables of detailed information referenced in the main report; and a summary of recent reports related to child protective services, a summary of past recommendations from Maine’s advisory oversight entities, and a listing of related bills before the second regular session of the 130th Legislature. (For a link to the Information Brief, see <https://legislature.maine.gov/doc/7924>).

2. Evaluation of the Research Expense Tax Credit (R&D Credit)

OPEGA completed an evaluation of the Research Expense Tax Credit (R&D credit) in accordance with 3 MRSA §999. The R&D credit provides a non-refundable income tax credit to taxpayers who make certain qualified research expenditures in Maine. The effect of the credit is to reduce the cost, and hence the financial risk, of investments in research and development. The credit is built on the federal R&D credit and uses federal definitions of qualifying research expenses. The R&D credit was enacted in 1995 and has no sunset date. It is administered by Maine Revenue Services through the normal tax filing process in accordance with Title 36 §5219-K.

In this evaluation OPEGA found that:

- Research supports the idea that increasing innovation is an economic driver, but the ability to understand the specific impacts of Maine's R&D credit on the State economy is limited by the lack of readily available data.
- Other data available on R&D in Maine generally demonstrates that the State has performed poorly over time on R&D even as Maine's credit has remained available.
- R&D credits are common in states (70%) and typically built on the structure of the federal R&D credit.
- While having an R&D credit as an option to support Maine businesses may make sense in light of similar credits in many states, research points to other factors that may be more important in attracting R&D to Maine.
- The incremental structure and limitations of Maine's credit exclude some businesses conducting R&D from participating in the credit, but there may be reasons for policymakers to support these limitations. Complexities in the federal credit, upon which the State credit is based, may also create uncertainty for businesses and hinder take-up of the credit.

OPEGA made three recommendations for the Legislature’s consideration, in consultation with State agencies and other stakeholders where appropriate:

1. Review and memorialize the R&D credit’s goals, intended beneficiaries, and how success is defined in terms of outcomes for the credit;
2. Amend the design of the R&D credit as needed to ensure that intended beneficiaries can access the credit; and
3. Determine what data is needed for effective oversight of the R&D credit and make changes to statute or practice, as needed, to ensure the necessary data is readily accessible.

For a link to the full evaluation report, see <https://legislature.maine.gov/doc/8379>.

3. Evaluation of Child Protective Services Investigations

OPEGA completed the second of an expected three-phase evaluation of Maine’s child protective services, this time focusing on investigations. This review was designed to examine and understand how child safety is protected and the risks to child safety from the point at which alleged child abuse or neglect is reported to DHHS through the completion of the investigation.

In conducting this review, the GOC directed OPEGA to:

1. Understand how initial investigations are designed and conducted, including the legal and policy framework and priorities over time;
2. Evaluate how well the initial investigations are performed, potentially including:
 - a. Roles and responsibilities of caseworkers and supervisors,
 - b. Information sources and quality and communication channels,
 - c. Thoroughness of work performed,
 - d. Role of Structured Decision-Making (SDM) tools,
 - e. Training and supervision of caseworkers and supervisors,
3. Understand how DHHS/OCFS assures quality of investigations;
4. Understand roles and coordination between key parties, including DHHS/OCFS, Assistant Attorneys General (AAGs), and courts, in decision making regarding child safety;
5. Understand and assess how stakeholders (for example: mandated reporters, service providers and state agencies) interact, communicate, and share information; and
6. Consider perspectives of DHHS/OCFS staff and stakeholders.

This report discussed the topics above and provided results from our evaluation of quality assurance case reviews on how well OCFS is performing investigations and the perspectives of OCFS staff, mandated reporters, and other stakeholders in the child welfare system derived from surveys and interviews. We concluded with a discussion of our findings and recommendations and other areas for consideration.

OPEGA made three recommendations, coming out of the evaluation, for OCFS management:

1. Take steps to address the workload issue to ensure that caseworkers and supervisors have the time necessary to conduct thorough investigations and more effectively assess the safety risks to children and the needs of families;
2. Evaluate the nature and extent of after-hours work requirements and expectations currently placed on caseworkers, and the risks to caseworker effectiveness and burnout; design and implement policy and program changes to address identified issues and risks; and consider restructuring the delivery of Children's Emergency Services to decreases or even eliminate required overnight shifts for caseworkers and supervisors; and
3. Build on the foundation of its existing QA system of case reviews to better identify specific practice concerns in a timely manner, within all OCFS districts, and link those concerns to opportunities for supervisor feedback, mentoring, and potentially additional training for individual caseworkers and other district staff.

For a link to the final evaluation report, see <https://legislature.maine.gov/doc/8493>.

4. Tax Expenditures Expedited Review 2022

Each year, according to statute (3 MRSA §1000(2)) OPEGA provides information to support expedited reviews of tax expenditures conducted by the Joint Standing Committee on Taxation (3 MRSA §1000(1)). The annual reviews are grouped into tax policy areas, or categories, over a 6-year cycle. In 2022, the tax expenditures assigned for expedited review covered the Necessities of Life policy area. This policy area was first covered in 2016 and OPEGA's 2022 effort included updating information for the Taxation Committee to reflect statutory changes and current fiscal estimates for the 13 tax expenditures in the policy area. In accordance with statute, OPEGA compiled and prepared the following specific information for the Taxation Committee:

- 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.

A summary of the estimated fiscal impact of the 13 tax expenditures included in the Necessity of Life 2022 cohort is presented in Table 2. The fiscal impact estimates presented here are calculated

from estimates published in the Maine State Tax Expenditure Report (MSTER) produced by Maine Revenue Services (MRS). The estimates represent estimated foregone State General Fund revenue due to the exemptions from sales and use tax.

	FY18	FY19	FY20	FY21	FY22	FY23
Estimated Foregone Revenue	\$593,610,000	\$625,160,000	\$501,742,000	\$512,627,000	\$520,986,000	\$536,434,000

Source: Estimates for FY18 & FY19 are from the 2020-2021 MSTER while the estimates for FY20 through FY23 are from the 2022-2023 MSTER. Notes: Where ranges are reported, the average of the lower and upper end of the range is used.

OPEGA submitted “Information to Support 2022 Expedited Reviews of Maine State Tax Expenditures” to the Taxation Committee on November 30, 2022.⁴

Projects with Work In-Progress

During 2022, OPEGA conducted work on the following projects, two of which (see 3 and 4 below) were paused to focus OPEGA resources on work in the realm of child protective services prioritized by the Government Oversight Committee.

1. Rapid Review of Four Child Protective Services Case Files

The Government Oversight Committee directed OPEGA to request and review the contents of four Department of Health and Human Services (DHHS), Office of Child and Family Services (OCFS) case files, which document generally the intersection of DHHS/OCFS with the lives of four Maine children who died in 2021. This review currently has the highest priority, with a number of other OPEGA projects previously initiated being paused pending completion of this effort. The records involved are confidential by statute, and the documents number over 20,000. Consequently, OPEGA will be proceeding carefully to determine the extent to which findings may be publicly reported, how, and when. In all of these cases, there have also been pending court proceedings, and OPEGA has sought to conduct its own work while avoiding interfering in those matters.

2. Tax Benefits for Media Production Companies

The Government Oversight Committee (GOC) considered proposed evaluation parameters for OPEGA’s full evaluation of the Tax Benefits for Media Production Companies and received stakeholder input. The GOC voted to approve the evaluation parameters below, pursuant to 3

⁴ The summary of information OPEGA prepared for the Taxation Committee is available at: <https://legislature.maine.gov/doc/9299>.

MRSA §999(1)(A). As of the writing of this report, OPEGA has completed primary fieldwork on this evaluation and anticipates delivering the evaluation report to the GOC in the 1st quarter of 2023.

Purposes, Intent or Goals of the Tax Benefits
<ul style="list-style-type: none"> (1) To increase filming of visual media productions in Maine; (2) To strengthen the State economy; (3) To increase tourism; (4) To increase local spending by out-of-state visual media production crews; (5) To increase State tax revenue; (6) To establish/grow the Maine visual media production industry; and (7) To grow jobs in Maine.
Intended Beneficiaries of the Tax Benefits
<ul style="list-style-type: none"> (1) Directly: film production companies; and (2) Indirectly: <ul style="list-style-type: none"> a. Local Maine businesses b. Job seekers c. Maine visual media production industry
Evaluation Objectives⁵
<ul style="list-style-type: none"> (a) The fiscal impact of the tax expenditure, including past and estimated future impacts; (b) The extent to which the design of the tax expenditure is effective in accomplishing the tax expenditure's purposes, intent or goals and consistent with best practices; (c) The extent to which the tax expenditure is achieving its purposes, intent or goals, taking into consideration the economic context, market conditions and indirect benefits; (d) The extent to which those actually benefiting from the tax expenditure are the intended beneficiaries; (e) The extent to which it is likely that the desired behavior might have occurred without the tax expenditure, taking into consideration similar tax expenditures offered by other states; (f) The extent to which the State's administration of the tax expenditure, including enforcement efforts, is efficient and effective; (g) The extent to which there are other state or federal tax expenditures, direct expenditures or other programs that have similar purposes, intent or goals as the tax expenditure, and the extent to which such similar initiatives are coordinated, complementary or duplicative; (h) The extent to which the tax expenditure is a cost-effective use of resources compared to other options for using the same resources or addressing the same purposes, intent or goals; and (i) Any opportunities to improve the effectiveness of the tax expenditure in meeting its purposes, intent or goal.
Performance Measures
<ul style="list-style-type: none"> (1) \$ Amount of tax credits claimed (in past and future estimates); (2) \$ Impact on State budget (revenue loss and net impact);

⁵ Evaluation Objectives: Each objective will be addressed to the extent that is warranted and practical based on our assessment of: the availability of the necessary data; the level of resources required/available; and the relevance of the particular objective to the tax credit.

- (3) # Visual media productions supported by the incentives in Maine over time;
- (4) \$ Visual media production spend in Maine over time;
- (5) \$ Visual media production spend in Maine from productions supported by Maine’s incentives over time;
- (6) # Visual media production industry jobs in Maine over time (normalized and compared to other states);
- (7) # Jobs supported by visual media productions receiving state incentives over time; and
- (8) Number, location and types of projects supported by the incentives.

The GOC also voted to have OPEGA include in this evaluation, to the degree possible based on available data and staff resources, the areas of interest raised in written comments from Representative Maureen Terry and the Maine Center for Economic Policy as well as those raised by GOC members in the work session.

3. Deduction for Contributions to Capital Construction Funds for Maintenance or Replacement of Fishing Vessels

The Government Oversight Committee (GOC) considered proposed evaluation parameters for OPEGA’s full evaluation of the Deduction for Contributions to Capital Construction Funds for Maintenance or Replacement of Fishing Vessels and received stakeholder input. The GOC voted to approve the following evaluation parameters, pursuant to 3 MRSA §999(1)(A). Based on the GOC’s prioritization of the Rapid Review of Four Child Protective Case Files, discussed at 1 above, OPEGA paused work on this tax-related review in 2022 and anticipates resuming it in 2023.

Purposes, Intent or Goals of the Deduction
(1) To support a well-maintained commercial fishing fleet in Maine
(2) To conform to federal treatment of contributions to CCFs for commercial fishing vessels
Intended Beneficiaries of the Deduction
(1) Directly: Maine residents operating commercial fishing vessels
(2) Indirectly: Maine’s fishing industry
Evaluation Objectives⁶
(a) The fiscal impact of the tax expenditure, including past and estimated future impacts;
(b) The extent to which the design of the tax expenditure is effective in accomplishing the tax expenditure's purposes, intent or goals and consistent with best practices;
(c) The extent to which the tax expenditure is achieving its purposes, intent or goals, taking into consideration the economic context, market conditions and indirect benefits;
(d) The extent to which those actually benefiting from the tax expenditure are the intended beneficiaries;

⁶ Evaluation Objectives: Each objective will be addressed to the extent that is warranted and practical based on our assessment of: the availability of the necessary data; the level of resources required/available; and the relevance of the particular objective to the tax credit.

<p>(e) The extent to which it is likely that the desired behavior might have occurred without the tax expenditure, taking into consideration similar tax expenditures offered by other states;</p> <p>(f) The extent to which the State's administration of the tax expenditure, including enforcement efforts, is efficient and effective;</p> <p>(g) The extent to which there are other state or federal tax expenditures, direct expenditures or other programs that have similar purposes, intent or goals as the tax expenditure, and the extent to which such similar initiatives are coordinated, complementary or duplicative;</p> <p>(h) The extent to which the tax expenditure is a cost-effective use of resources compared to other options for using the same resources or addressing the same purposes, intent or goals; and</p> <p>(i) Any opportunities to improve the effectiveness of the tax expenditure in meeting its purposes, intent or goal.</p>
<p>Performance Measures</p>
<p>(1) \$ Amount of deductions claimed (in past and future estimates)</p> <p>(2) \$ Impact on State budget (revenue loss and net impact)</p> <p>(3) # Taxpayers taking the deduction (count and average)</p> <p>(4) % Participation rate</p> <p>(5) % Maine commercial fishing fleet in well-maintained condition</p>

The GOC also voted to have OPEGA include in this evaluation, to the degree possible based on available data and staff resources, the areas of interest raised in Representative Maureen Terry’s submitted comments and those raised by GOC members in work session

4. Child Protective Services, DHHS/OCFS Reunification

In what was the expected third phase of recent OPEGA reviews of child protective services, the Government Oversight Committee voted to direct OPEGA to initiate a review of the child and family reunification process. The GOC subsequently voted to direct OPEGA to conduct a rapid review of four OCFS case files, and our work on the reunification process was paused, accordingly.

Activities Related to Past OPEGA Reports

Each year, OPEGA and the GOC conduct follow-up work as needed related to previously completed projects. Notable activities during 2022 in this regard included those described below.

1. Maine Commission on Indigent Legal Services

OPEGA further assisted the GOC with ongoing follow-up work stemming from the November 2020 OPEGA report, “Maine Commission on Indigent Legal Services (MCILS) – An evaluation of MCILS’s structure of oversight and the adequacy of its systems and procedures to administer payments and expenditures.” In keeping with a GOC request for progress reports from MCILS for

the remainder of the 130th Legislature, OPEGA assisted with the coordination of presentations to the Committee, by the MCILS Executive Director, in February and September. Based on the reported progress of MCILS to address previously identified concerns, the Committee's Chairs sent a letter in October to the Presiding Officers and the Members of the 130th Legislature indicating that the GOC was concluding its formal monitoring of ongoing MCILS operations.

Specifically, in its October 6, 2022, letter to the Presiding Officers and Members of the 130th Legislature, the GOC Chairs shared the following conclusions with respect to the Committee's oversight work and MCILS:

The Government Oversight Committee, with the assistance of the Office of Program Evaluation and Government Accountability, has devoted a significant amount of time and attention in recent years to the effective administration of the Maine Commission on Indigent Legal Services (MCILS). See, e.g., Maine Commission on Indigent Legal Services (MCILS) - An evaluation of MCIL's structure of oversight and the adequacy of its systems and procedures to administer payments and expenditures. We are now pleased to observe that through the sustained efforts of new leadership and staff, and based on the regular reporting to us in recent years by that agency, MCILS appears to have made welcome and appropriate progress in addressing our concerns regarding the adequacy of business and financial controls, so much so that we are concluding our formal ongoing monitoring of MCILS operations.

At the same time, an increasingly acute challenge concerns the continuing ability of MCILS to ensure that adequate legal representation remains available to indigent criminal defendants, parents in child protection proceedings, and persons subject to involuntary commitment. Despite the work to improve the system, a variety of factors, including the impact of pandemic conditions on court operations and schedules, and the resulting backlogs of unresolved cases, has contributed to a steep and continuing decrease in attorneys available, willing, and able to take appointments to represent indigent parties. Based on the reporting to us by MCILS about the difficult environment at hand, we have concluded that a further and substantial increase in the hourly rate of attorney reimbursement is not only necessary and appropriate, but essential. Maine has Constitutional obligations to ensure that certain indigent persons have adequate legal representation.

Our confidence in making this recommendation has been enhanced in no small measure by the apparent progress of MCILS to demonstrate better stewardship of taxpayer resources. That work must continue.

OPEGA also assisted the GOC in connection with a letter sent by the Chairs to Maine's U.S. Congressional delegation, seeking assistance in addressing apparent current limitations on privately employed attorneys, appointed by MCILS to represent indigent clients, from participating in Federal student loan forgiveness. In their letter, also dated October 6, 2022, the GOC Chairs stated:

We are writing to you today in our capacities as the Senate and House Chairs, and on behalf of our fellow Members, of the Government Oversight Committee of the

130th Maine State Legislature. This relates to a matter of ongoing and great urgency: our State's ability to ensure that adequate legal representation remains available to indigent criminal defendants, parents in child protection proceedings, and persons subject to involuntary commitment. As you are no doubt aware, Maine faces an ongoing and increasingly acute crisis in this regard, one with Constitutional ramifications, as the rosters of available and willing attorneys to take on such representation in Maine continues to dwindle.

A number of remedies and solutions will continue to be explored and pursued at the State level, but it has come to our attention that certain Federal regulations do not apparently permit private attorneys accepting court appointments through the Maine Commission on Indigent Legal Services (MCILS) to participate in any public service student loan forgiveness on that basis. Expanding eligibility to include such service, we believe, will help encourage more attorneys in our State, especially those under financial strain repaying loans for legal education, to help address our current crisis by taking on MCILS appointments.

2. Child Protective Services

OPEGA continued to assist the GOC with ongoing oversight activities related to DHHS/OCFS, including coordinating presentations by a range of agency or legislative officials, as well as a public hearing in July 2022 at which members of the public were able to share their own experiences working with DHHS/OCFS.

Support to the GOC and the Legislature

1. Staffing of the Government Oversight Committee

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. OPEGA staffed two GOC meetings per month in March and April, and one meeting per month in January, February, May, June, July, September and October. During 2022, the OPEGA director and staff made the following presentations to the GOC:

- Tax Expenditure Review Working Group Report and Recommendations
- Information Brief – Oversight of Maine's Child Protective Services Oversight
- OPEGA Report – Evaluation of the Research Expense Tax Credit (R&D Credit)
- OPEGA Report – Child Protective Services Investigations
- OPEGA Operations and Administration:
 - Status of OPEGA projects in progress (each GOC meeting)
 - Annual Report 2021
 - 2022-2023 Work Plan
 - FY2022-23 Budget

2. Support for GOC Consideration of Review Requests

Each year, OPEGA performs research and gathers information and documentation to support and facilitate the GOC’s consideration of potential topics for OPEGA review projects. To be presented to the GOC for consideration, a request for an OPEGA review must be initiated or sponsored by a legislator and must be submitted in writing. OPEGA did not present any new review requests to the GOC in 2022, however OPEGA and the GOC did work to resolve two review requests covering the following topics that were first processed, researched and presented to the GOC in calendar year 2021: the Maine Wild Blueberry Commission, and the Workday Human Resources Management System.

OPEGA also fields letters, phone calls and emails throughout the year from a number of individuals seeking information or inquiring about the potential for an OPEGA review of a topic of concern to them. OPEGA responded to individuals who contacted the office for this purpose and conducted follow-up work to provide information and guidance by telephone, e-mail or other written communication.

OPEGA’s Budget

Table 3 - OPEGA’s Budget and Expenditures by Fiscal Year – As of 12/31/2022			
	FY2021	FY2022	FY2023 to date
Total General Fund budget	\$1,403,375	\$1,521,825	\$1,566,846
Total General Fund dollars expended	\$1,242,145	\$1,256,022	\$603,746
Dollar variance of expenditures to budget	(\$161,230)	(\$265,803)	(\$963,100)
% variance of expenditures to budget	(11%)	(17%)	(61%)

The OPEGA Director will make a presentation to the GOC, expected in March 2023, on OPEGA’s budget, including to discuss and provide insight on the following prior year balances:

Personal Services - \$524,291
 All Other - \$755,834
 Total - \$1,280,125

The prior year balances have accumulated over the course of several years. Balances in the “All Other” line are mostly related to the unused portion of the \$85,000 baseline budget intended for consultants. Balances in the Personal Services (PS) line in recent years are mostly due to the health premium holidays, vacancies, and changes in staff.

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