SEN. JUSTIN CHENETTE, SENATE CHAIR
REP. ANNE-MARIE MASTRACCIO, HOUSE CHAIR

MEMBERS:

SEN. JAMES HAMPER
SEN. LISA KEIM
SEN. NATHAN LIBBY
SEN. LINDA SANBORN
SEN. JEFFREY TIMBERLAKE
REP. KATHLEEN R.J. DILLINGHAM
REP. AMY ARATA
REP. THOM HARNETT
REP. H. SAWIN MILLETT, JR.
REP. TERESA PIERCE

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY

February 14, 2020
Accepted March 13, 2020

Call to Order

The Chair, Sen. Chenette, called the Government Oversight Committee meeting to order at 9:08 a.m. in the Cross Office Building.

Attendance

Senators:	Sen. Chenette, Sen. Hamper and Sen. Sanborn Joining the meeting in progress: Sen. Timberlake Absent: Sen. Libby and Sen. Keim
Representatives:	Rep. Mastraccio, Rep. Harnett, Rep. Millett and Rep. Pierce Joining the meeting in progress: Rep. Dillingham Absent: Rep. Arata
Legislative Officers and Staff:	Danielle Fox, Director of OPEGA Joel Lee, Analyst, OPEGA Jennifer Henderson, Senior Analyst, OPEGA Scott Farwell, Senior Analyst, OPEGA

Introduction of Committee Members

The members of the Government Oversight Committee introduced themselves.

Summary of January 24, 2020 GOC Meeting

The Meeting Summary of January 24, 2020 was accepted as written.

82 State House Station, Room 107 Cross Building
Augusta, Maine 04333-0082
TELEPHONE 207-287-1901 FAX: 207-287-1906

New Business

- **Presentation of OPEGA Report on Business Equipment Tax Reimbursement (BETR) & Business Equipment Tax Exemption (BETE)**

  Sen. Chenette recognized Rep. Bickford and Rep. Matlack, members of the Taxation Committee, who were at the meeting.

  Director Fox introduced Mr. Lee, lead, and Ms. Henderson the OPEGA Analysts on the BETR/BETE report.

  Director Fox presented the report on BETR & BETE. (The report can be found at http://legislature.maine.gov/opega/opega-reports/9149 and a copy of the report presentation document is attached to the Meeting Summary.)

  GOC members' comments and questions included:

  Sen. Chenette asked when BETE was first implemented, was the objective to eventually phase out BETR and just have BETE or was it to still have the dueling programs. It seems to him that we are phasing out BETR based on what has been seen over the years. Director Fox said BETR will be mostly phased out because it is no longer accepting new assets and the assets in the program will eventually come to the end of their useful life. There is only a small percentage of new assets that are coming in under BETR, so that program is shrinking. Whether that was the actual intention, she could not say for sure, but knows there is a different mechanism for how BETR is implemented versus BETE. With BETR the State deals directly with each business claiming a reimbursement which is a large population of entities that MRS is dealing with. With BETE, the exemption is provided by the municipality and then MRS is reimbursing the municipality. She could not speak specifically to what the motivation was.

  Sen. Chenette said if you were a small business, for example a hair salon, you would contact your municipal assessor to ask what assets could be eligible for either the BETR or BETE program. Director Fox said if your assets were under BETR you would be dealing directly with the State for what can be claimed. If assets were under BETE, the municipality would likely be reviewing the exemption application and would be calling the State to determine if the exemption application qualifies for BETE or should it be under BETR. Sen. Chenette thought there would be a lot of calls figuring out which program the asset would fall under.

  Rep. Pierce asked if they would pay a tax every year on that equipment. Director Fox said yes and you pay based on the value of the asset.

  Rep. Pierce said a business that transfers equipment to their Maine business after being used in an out-of-state business is not making their decision based on the knowledge of the BETR and/or BETE program. They have already made their decision and then start interacting around their tax payments. Director Fox agreed.

  Sen. Chenette wanted to tie the point that neither program is specifically encouraging capital investment to the goal. The GOC set the objective, it was not necessarily the intent of the original program. Director Fox said there are findings in both BETR and BETE indicating the goals. The findings were that the cost of owning business equipment in Maine is high and the State wants to lower that cost associated with doing business. The findings also say that if the State encourages capital investment that will benefit everybody. So, those are the findings, but it didn't state them as a goal with associated targeted program elements that effectuated that goal. For example, there is no baseline of this is what we understand capital investment to be now after the implementation of these programs and we want to see it increased by, whatever percentage. There are no elements in the program that do something specifically like that.

  Rep. Pierce asked if there was historical data regarding those numbers fluctuating over the inception of BETE. Director Fox said OPEGA looked back and found the proportion is about the same. The ratio varies a bit, but is essentially the same. She asked who makes the determination of the 75%? Is it just a yearly assessment, is it done by a formula and who says who are the 8%? Director Fox said it depends on the assets claimed. There is a universe of businesses that apply for reimbursement under BETR and what OPEGA is saying is that of that universe 8% of them, because of how many assets they claimed and the value of those assets, got a larger proportion of that money. Rep. Pierce noted that is kind of based on formula and the Director agreed. It is based on what they paid first in personal property taxes to the municipality, how much the municipality charged in tax and then the age of the asset. So, you get a 100% reimbursement for what you paid on that asset for years 1 through 12 and then it is reduced incrementally until year 18 when the rate reaches 50%. Rep. Pierce said there is no one making a subjective determination of who the 8% are. Director Fox agreed.

Sen. Hamper referred to the four bullet points on page 17 of the report where it states "8% of the businesses received 75% of the $29.1 million total BETR reimbursements", etc. and asked how big was the universe, did OPEGA look at the program as a total or survey a certain amount of businesses. Director Fox said these are BETR businesses and is representative of FY18, but the proportions historically do not vary to any great degree and is a good representation of how it has been. Sen. Hamper said OPEGA is looking at the reimbursements as a whole, the total packages of what is being reimbursed and was not that OPEGA surveyed, or polled, a certain number of businesses. The Director said it was the entire population of businesses for FY18.

Sen. Chenette said of those categories, if you take, for example, the 92% of BETR businesses that received an average benefit of around $5,600, that number represents what to them and do we have an average range of those businesses representing 2%. Director Fox said yes and later in her presentation when she talks about the benefits to businesses, the Committee will see the range of benefits in each program for each year.

Rep. Dillingham asked if OPEGA had the breakdown of the businesses that are applying for the programs which are small businesses and which are large manufacturers. Director Fox said OPEGA does not have that information in the report, but will see if they can get it.

Rep. Pierce followed up on Rep. Dillingham's question and asked what the size ranges of these businesses are. Director Fox said OPEGA did not report on that. Rep. Pierce said when the businesses apply for the programs they must have to say how many people it employs, etc. Director Fox did not have a good answer to that question, but OPEGA will see if they can get that information for the Committee.

Rep. Mastraccio said the State is not reimbursing the municipality at the full 100% under BETE and asked if that was the value. Director Fox was talking about the benefits to businesses this year and the exemption is 100% for the business, so that is the value. Rep. Mastraccio said that is not the exemption that is paid to the municipality. Director Fox said that was correct, it is the value to the businesses. In BETR, OPEGA talks about number of businesses because we had the business level data and in BETE talks about number of establishments because it is not consolidated by businesses, but consolidated by municipality when they are administering that reimbursement. There are businesses that may have locations in multiple towns so that also counts for why the average benefit may look lower under BETE than BETR because it is not by business, it is by establishment and that would diffuse the average value.

Sen. Chenette asked if when the Director referred to the value of the exemptions themselves, is she referring to just the total amount number or the percentage of the cost associated with that asset to the business. Director Fox said under BETR, the value is the reimbursement that they receive based on the taxes they paid to the municipality, that total number. Under BETE it is the value of the exemption, so is what they did not have to pay in personal property tax.

Rep. Pierce referred to the pie graph in the presentation document and said the $29 million was the whole pie and the tiny slice of 8% got the majority of it, is OPEGA saying the average benefit is 20,000, but really 92% of the people are getting an average benefit of $5,600. Director Fox said that is correct.

Rep. Mastraccio said if the 50% is forever who and when is it audited? Director Fox said MRS reviews applications fairly carefully under BETR. Under BETE the municipality plays a larger role in terms of they accept the application from the business for what they want the exempt property to be. Every year during the normal course of their reviews, MRS audits the BETE applications so, MRS does get involved on an annual basis in reviewing the municipalities' BETE reimbursement applications.

Rep. Mastraccio said when a change was made, it was made in a way that does not benefit municipalities because we are reducing the municipal revenue sharing. At the time that was happening she was on the Sanford Council and did not really understand the tax programs. Seeing the reality of what that has meant and how Sanford tax rates have gone up asked if there is any data that says BETR has gone down and BETE has gone up.

Rep. Pierce said under BETE businesses are getting 100% reimbursement on the entire life of the asset. Director Fox said whatever the tax is that they would have paid, they are exempted from completely.

Rep. Mastraccio recalled that in 2010 Sanford's property taxes went up 10% and is now understanding why in a way she had not understood before.

Sen. Chenette referred to the pie graph and said in FY18 it shows 61% and in 2013 it is 50%, so there was a bump up. Director Fox said she was talking about the "careful initial roll out of the program". The State recognized that exempting personal property tax would have a significant impact on municipalities even though it is taxes they had not collected before. So, the program was rolled out in that the State reimbursed the municipality at 100% to start and then each year of reimbursement the rate to the municipality went down until it got to the Constitutional minimum of 50% and in 2013 it hit that. There are other elements of the program that contribute to that 61% municipal reimbursement average.

Rep. Pierce asked if it was in 1978 when the constitution put this into play and was changed for some other reason other than BETE. The Director agreed. The point she was making is that the State, long ago, realized that when State policies implicate local taxation that you need to accommodate for that and help the municipalities. That is generally applicable to any program that would do that.

Sen. Chenette asked for a list of the municipalities where the reimbursement is a lot higher and would it allow someone to be able to map out that there are certain municipalities that may have 75% reimbursement? Director Fox said it would.

Rep. Pierce asked if there is any recognition in BETR or BETE of the school funding model. Director Fox did not believe that either programs' statute mentions it specifically. Rep. Mastraccio said the TIF district and where property taxes can go, is another issue. Director Fox said municipal retention TIF money is usually set aside for municipal improvement projects and often includes debt service, so BETE recognizes they don't want to get in the way of that sort of thing and so will provide for assets located in that district up to 100% reimbursement. So, rather than the 50%, they will get more when there is a municipal retention TIF. Rep. Mastraccio said when the GOC sees the list of municipalities it has asked for, that will be self-evident.

Rep. Mastraccio noted that Director Fox had used the example of a company having a location in New Hampshire and a location in Maine and could move equipment from New Hampshire to Maine and then claim that as new property. Director Fox said they would not be calling it new property, but it would be assessed a personal property tax, so by nature of that, it is eligible under the program. Rep. Mastraccio said the State has no data on that because does not keep track of that information. Director Fox agreed. Rep. Mastraccio said the municipality would not know where the asset came from, it would just be new equipment to the business. For example, she used to pay personal property tax for her husband's office and she was never asked what she got new. You just wrote the asset down and then the Town assessed you on it. It was not necessarily that you purchased it.

Rep. Pierce wanted to clarify that we are doing 90% of $2 so you do not get 100% (mandate reimbursement). Director Fox said the 90% is what the State is required to reimburse the process. Two dollars is what represents 90% of the cost and is what they came up with when BETE was enacted. There were other exemptions that required the involvement of municipalities at the time and that was the rate being used. Whether or not it accurately reflects what the actual cost is referenced in OPEGA's Finding #3.

Sen. Chenette asked if it is known what the dollar amount would be today. Director Fox said no, but there is a mechanism for potentially determining that and is in OPEGA's Finding #4.

Sen. Chenette asked why MRS would not know about a requirement for reporting. It seems like we make it clear to a lot of the agencies and departments that we expect reports and particularly if information is provided in the statute. Director Fox could not answer the why, but said the requirement is in statute. Sen. Chenette said he would be looking forward to MRS's response to that question.

Rep. Pierce asked what the impetus was for BETE. We had BETR, so why did BETE come into the foreground? Director Fox could not speak exactly to the legislative intent, but said under BETE the municipality does the work with the business and then MRS reimburses the municipality at 61% in FY18 so the cost to the State seemed to be less.

Rep. Mastraccio remembers the discussion about BETR and BETE back when she was a member of the Sanford Council. With a decrease in revenue sharing there was going to be an increase in the cost to the local municipalities.

Rep. Pierce said you can see the trend that we are moving toward a BETE world instead of a BETR world.

Director Fox referred to the BETR/BETE At A Glance document that highlights some of the points discussed, including the graph. (A copy is attached to the Meeting Summary.) The report and At A Glance document are posted to OPEGA's website.

Sen. Chenette said, as a process point, he appreciated how the Director laid the presentation out and thinks the power point worked out well and helped the Committee understand a complex subject. He appreciated OPEGA's work on the report.

Rep. Pierce asked what the Committee's next step will be regarding the report. Director Fox said the next step is that the GOC will hold a public comment period on the report and after that there will be work sessions about what the Committee might want to take for action on the report. There is also a role for the Taxation Committee to play and that will be talked about more at a future meeting. She reminded the GOC that February is a heavy meeting month because OPEGA wanted to provided the Committee with the reports they had close to completion in a manner that would allow them to take action, if they so choose, during the session. OPEGA will be presenting the MCIC report next Friday, February 21, and then the GOC will have a public comment on both the BETR/BETE and MCIC reports on Friday, February 28.

Unfinished Business

- **Updates on oversight efforts for the child protection system in Maine.**

Sen. Chenette referred to the information in members' notebooks that included a report from the Department of Health and Human Services, Office of Child and Family Services (OCFS) regarding Child Welfare Caseload and Workload Analysis.

Director Fox noted that also included in the Committee's notebooks is an updated tracking document, a list of action items for when the GOC held their meeting in October with the Chairs and Leads from Judiciary (JUD) and the Health and Human Services (HHS) Committees to coordinate oversight of the planned improvements that had been put forward by Director Landry and OCFS. She noted that the GOC is planning on scheduling another meeting with the Chairs and Leads of JUD and HHS Committees to get an updated status report in terms of coordinating oversight of the improvements. One of the ways the GOC has directed OPEGA to help with that oversight is with the tracking document. Director Fox has heard references to the tracking document and work that OPEGA is doing and thinks the purpose of the tracking documents needs explanation of how it is laid out and other efforts that are ongoing in OPEGA with regard to OCFS. (A copy of the Child protection system improvements – oversight coordination/tracking document is attached to the Meeting Summary.)

Director Fox said the tracking document is a way to provide oversight of the improvements that have been identified and prioritized by OCFS. The left hand column, "Strategies" is based on the presentation that the GOC received from Director Landry in September 2019. It is not all things in the child welfare universe, but are the things that OCFS thought needed to be targeted first with regard to improving the system based on the concerns that they had at the time. The more detailed initiatives are on the far right hand column and mostly align with the elements of "Safety", "Permanency", "Well-being" and "Staff training and support". Director Fox thought it was important for the GOC to have the specific things that Director Landry said OCFS would be taking on. The updates to the document are highlighted in yellow. She wanted to point out that under the OCFS updates that the HHS and JUD Committees have received briefings from Director Landry on his prioritized improvement strategies for the system. We did receive a new report and there were recommendations in the report from the Child Welfare Ombudsman (Ombudsman) that deal with the enhancement of assessment processes so that is a strategy that Director Landry identified enhancement assessment processes and the GOC may recall that Ms. Alberi talked about recommendations regarding training on assessment and reunification.

Sen. Chenette referred to the Ombudsman's report and said the HHS Committee received that report and are statutorily authorized, if they want, to report out legislation pertaining to the training recommendations in the report.

Rep. Mastraccio reported that she spoke to the House Chair of the Education and Cultural Affairs (Educ) Committee and Ms. Alberi was reporting the truancy issues to them so what the GOC asked to happen, has happened.

Director Fox explained that the tracking document was intended to be an index and is about what is going on in legislation, budget items, reports that are making recommendations or referencing the topic and what OCFS is doing. It is meant to be an index of those things and translatable across committees. The document is not intended to be a comprehensive set of information. The detailed information will be included on the GOC/OPEGA website.

Sen. Chenette asked if the updated tracking document was provided to the Chairs and Leads of HHS and JUD Committees. Director Fox said it will be provided after the meeting.

Director Fox said she was made aware of a memo that was sent to parents and guardians of children who are in DHHS care who are also in a treatment facility saying there will be a program for reimbursing travel expenses so that families can be involved in their treatment. There is no option for residential treatment in Maine so the children are receiving treatment out of state. She thinks that was just initially rolled out and OPEGA will post a copy of that memo to the website, but wanted to let the GOC know that is something aligned with developing family engagement tools.

Director Fox said there is a bill (LD 2039) that is about improving resource parent outreach and support and is before the JUD Committee. This bill is associated with children who have been removed and are in DHHS custody, that would allow for judicial review of cases where children in State custody received treatment in a residential treatment program. In order for Families First Prevention Services Act funding to be paid the Federal government requires this level of judicial review. It essentially makes sure that children in State care who are receiving residential treatment that funding through this program can be provided so that the State can cover the cost of their care. In order for that funding to flow, there is a requirement that there is a judicial review of these cases, periodically, by a judge. She could not speak more specifically than that, but the bill was just voted on in the past week and an amendment was added. She will give an update of where that bill stands at a later time.

Under “Staff training and support” Director Fox said the JUD Committee is also hearing another bill, that is currently tabled, and is regarding information related to child welfare cases and is protected by confidentiality. However, Director Landry reported in testimony that there are often threats that are distributed via social media to people who are involved in these cases, meaning State case workers. In order to contact the social media company to have those threats taken down you have to be able to provide certain information as to why information needs to be taken down and that requires an exemption to some of the confidentiality laws. So, if there are threats being made against case workers, the Department can contact the social media company and say this is in violation of your policy, but that may require some information sharing that would otherwise be prohibited. It is a limited exception to that. That bill is before the JUD Committee and is currently tabled. In terms of supplement budget requests, the Director was not sure why she put it under the MACWIS replacement topic so needs to make a correction and find another place for that item. But, as she understands it, there are at least two requests for supplement budgets that relate to the overall goal. Those would provide $1.5 million for new positions and thinks the head count was about 20 and also $2.5 million that would increase reimbursement for foster families.

Director Fox said, although not in the tracking document, noted that Sen. Diamond had a bill before the JUD Committee that in its original form would have created a special task force to look at the child welfare system. She thinks in its current iteration there is an amendment before the JUD Committee that is currently tabled, that would direct the GOC to hold regular meetings with OCFS and the Department to see how they are doing. She did want to bring that information to the Committee’s attention.

At the last GOC meeting Director Fox could not answer the question about what had been included in the biennial budget with regard to the MACWIS replacement. She referred to the information that has been added at the bottom of the tracking document that talks about the financing of the MACWIS replacement. It is not new information, but answers the Committee’s questions.

Sen. Chenette recapped the action items of the discussion. The GOC has invited and is scheduling a time where the majority of the Chairs and Leads of the JUD and HHS Committees can make it to a meeting and expects that to happen in the month of February. The GOC would like to have a follow-up conversation with Director Landry in March.

Director Fox said she has been listening to other committees talk about the efforts of the GOC and OPEGA and wanted to make it clear that the general coordination of oversight of the improvements is different from OPEGA’s review that is currently in process. OPEGA is conducting a review which is specific to the issue of out of home placement of what the system looks like for children who are removed, where do they go, etc. and is it adequate right now. That is a specific report and is an objective that is separate from the previous discussion about the GOC coordinating the oversight with the other Committees.

Report from Director

- **Status of projects in process**

Director Fox stated that the only thing that changed on the work plan is that the GOC approved the parameters for the **Seed Capital Investment Tax Credit** review.

Planning for upcoming meetings

The Chair, Sen. Chenette, reminded the Committee that they would be meeting the next two Fridays. On Friday February 21, 2020 the Committee will be receiving the MCIC report and on Friday, February 28, 2020 will be holding the public comment for both the BETR & BETE and the MCIC reports. He also said that it is the intention to have the Chairs and Leads of the JUD and HHS Committees attend one of those two meetings for a follow-up on child protective services.

Rep. Pierce asked if the Power Point slides from the BETR & BETE presentation would be made available. Rep. Mastraccio suggested they be posted to the OPEGA website. Director Fox agreed to email the presentation to members of the GOC.

Next GOC meeting date

The next GOC meeting is scheduled for February 21, 2020 at 9:00 a.m.

Adjourn

The Chair, Sen. Chenette, adjourned the GOC meeting at 11:01 a.m. on the motion of Rep. Mastraccio, second by Sen. Sanborn, unanimous.

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

Programs Lower the Cost of Owning Business Equipment

But May Have Limited Influence on Capital Investment Decisions

For this evaluation the GOC determined...

That the goals of BETR and BETE are:

1. To reduce the cost of owning business property in Maine, particularly in comparison to other relevant states and countries
2. To encourage growth of capital investment by businesses in Maine
3. Overcoming the disincentive to capital investment stemming from high cost of business property, thereby promoting the welfare of the People of the State of Maine

That the primary beneficiaries are:

1. Businesses investing in qualifying property
2. The people of the State of Maine

see page 1, page 16 and appendix A

Presentation framework

- About BETR and BETE – how the programs work
- BETR and BETE – whether programs are meeting stated goals
- The benefits of the programs to businesses
- The costs of the programs to the State
- The programs' impacts on municipalities

- Evaluation findings

- About BETR and BETE – how the programs work
- BETR and BETE – whether programs are meeting stated goals
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- Evaluation findings

BETR & BETE – the basics

- BETR and BETE are State programs that reduce or eliminate the municipal personal property tax on eligible business equipment
- BETR reimburses businesses who have paid municipal personal property tax on eligible equipment
- BETE exempts a business from paying municipal personal property tax
- BETR reimbursement and BETE exemption apply for the life of the qualified asset
- Both programs are primarily administered by Maine Revenue Services – with a reliance on municipal officials

see pages 1-3

BETR & BETE: How the Benefits Work

BETR

Businesses receive reimbursement from the State for municipal personal property tax paid on qualified business equipment.

Business pays personal property tax to municipality

↓

Business submits claim to state (typically August) for reimbursement of taxes paid in prior year on BETR-eligible equipment

↓

State submits reimbursement to business by November 1st or 90 days after application whichever is later

BETE

Businesses are exempted from paying municipal personal property tax on BETE-eligible equipment.

Business exempted from paying personal property tax on eligible equipment

↓

Municipality submits a claim (via MVR) to the State for reimbursement of personal property tax revenue not collected due to exemption

↓

State determines reimbursement amount (Constitution, PPF, Retention TIF) and submits payment to municipality by December 15th

see pages 5-9

Equipment Eligibility -Generally

Eligible

Depreciable business equipment that is used exclusively to further the purpose of the business.

Not eligible

Equipment that is not directly used to further the business purpose, such as office furniture and lighting fixtures

Equipment that is already exempted from property tax for other reasons, and real property (land, most buildings, parking lots, etc.)

Even with exceptions, the vast majority of business equipment in the State is eligible for the BETR or BETE programs.

See page 3

BETR & BETE: Eligibility for Each Program

BETR

- Equipment enrolled in BETR prior to April 1, 2007 by any business (today these are known as grandfathered assets)
- As of April 1, 2007, no new equipment except assets put into service by small, retail-goods businesses

BETE

- As of April 1, 2007 – new equipment put into service by non-retail businesses or retail-services businesses
- As of April 1, 2007 new equipment of large retailers who derive less than 30% of annual revenue from sales in Maine

- Equipment may be eligible for either BETR or BETE but not both.

One business may claim benefits under both programs for different assets per eligibility definitions and date asset was placed into service.

- New equipment purchased by **large** retail-goods businesses is not eligible for either program (with some exceptions) – see page 3.

Complexity in determining eligibility

Municipal assessors and businesses told OPEGA that it can be challenging and time consuming to determine if a piece of equipment qualifies for a benefit and which program it would qualify under.

Examples

- Chair in a doctor's waiting room – eligible
- Chair in a doctor's office – not eligible

Until recent amendment to statute:

- Hair salon: hair dryer, client chair – eligible under BETE
- Hair salon: shelf-unit to display styling products for sale - BETR

BETR Reimbursement to Businesses

State reimburses a business for personal property taxes paid to municipality

Rates for Business Reimbursements	
No. of Years Claimed	Percent Reimbursed
1 through 12	100%
13	75%
14	70%
15	65%
16	60%
17	55%
18 and beyond	50%

see page 3 and 14

BETE Municipal Reimbursement

The State reimburses municipalities for a portion of the amount of personal property tax not collected due to BETE exemption

Factors Which Determine Reimbursement Amount
1. The Constitution of the State of Maine: Article IV, Part Third, Section 23 requires reimbursement for at least 50% of the revenue loss (due to exemption)
2. Personal Property Factor: Enhanced reimbursement depending on the degree to which a municipality is dependent on personal property taxes.
3. Municipal Retention TIF district: Enhanced reimbursement depending on the presence of eligible property in a district established before 2008

See page 3 - 5

- About BETR and BETE – how the programs work
- BETR and BETE – whether programs are meeting stated goals
- The benefits of the programs to businesses
- The costs of the programs to the State
- The programs' impacts on municipalities

- Evaluation findings

Goals of BETR & BETE

1. To reduce the cost of owning business property in Maine, particularly in comparison to other relevant states and countries
2. To encourage growth of capital investment by businesses in Maine
3. Overcoming the disincentive to capital investment stemming from high cost of business property, thereby promoting the welfare of the People of the State of Maine

see pages 16-18 and 24

Goal: Reducing the Cost of Owning Business Property

Do BETR & BETE accomplish this goal? Yes

- OPEGA finds that the designs of both BETR & BETE guarantee a reduction of the cost of owning business property in Maine.
- The reduction in cost is roughly between 1.1% and 10.8% of the total cost of ownership depending upon the local tax rate and the life of the asset.
- With BETR and BETE, Maine compares more favorably to other states than it would without the program
- The varying methods used by other states to lower business equipment costs does not allow for a direct comparison

see pages 16-18 and 24

Goal: To encourage growth of capital investment by businesses in Maine

Do BETR & BETE accomplish this goal? Unclear. If business behavior is affected, it is likely limited.

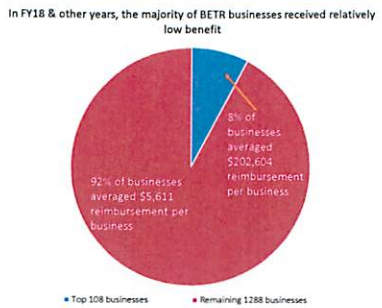
- Neither programs have design elements which specifically encourage capital investment, for example – limiting benefits to **new** investments
- Looking at the literature on tax incentives generally and speaking with stakeholders and assessors, OPEGA learned that:
  - Incentives like tax credits or exemptions have a moderate impact, if any, on business behavior
  - a multitude of factors are weighed when a business makes investment decisions
  - It is often the case that businesses are not aware of the programs' benefits until after equipment has been purchased
- Without BETR and BETE the estimated cost of personal property taxes on business equipment ranges between 1% and 11%. While a cost reduction of 11% may influence investment, a 1% reduction likely would not

see pages 16-18 and 24

Encourage growth of capital investment, continued

- Only a small portion of the businesses receiving BETR get a substantial benefit (In FY18, 8% of BETR businesses got 75 % of the reimbursements)
- Their average benefit is $200,000
- The remainder (92% of BETR businesses) get an average benefit of $5,671

Encouraging Growth of Capital Investment, continued



31% of BETR businesses received less than $1,000 in reimbursement in FY18

Goal: Overcoming the Disincentive to Capital Investment in Maine stemming from high cost of business property, thereby promoting the welfare of the People of the State of Maine

Do BETR and BETE accomplish this goal? Yes, in part.

- If property tax on business equipment is a disincentive to capital investment, the programs overcome this disincentive
- The intent assumes that overcoming this disincentive will promote the general welfare of the people of the State
- Statute does not provide how the people of the State are to benefit
- Generally, tax preferences by nature affect segments of the population differently.

see pages 16-18 and 24

- About BETR and BETE – how the programs work
- BETR and BETE – whether programs are meeting stated goals
- The benefits of the programs to businesses
- The costs of the programs to the State
- The programs' impacts on municipalities

- Evaluation findings

Intended Beneficiaries of BETR & BETE

1. Businesses investing in qualifying property
2. The people of the State of Maine

There is nothing in the design of either program that specifically directs benefits to the people of the State or clearly defines the benefits that the people of Maine are intended to receive.

Intended Beneficiaries of BETR & BETE:
Benefits to Businesses Investing In Qualifying Property

BETR Benefits to Businesses FY18	
Total Value to Businesses	$29.1M
No. of Businesses	1,396
Average Benefit	$20,851
Range of Benefits	$3.90 to $1.5M

Value of BETR reimbursements to businesses has decreased by more than half since FY09.

BETE Benefits to Businesses FY18	
Total Value to Businesses	$58.5M
No. of Business Establishments	6,315
Average Benefit	$9,267

Value of BETE exemptions to businesses has increased 7 times since FY09 and is increasing at 10% per year.

pages 13-16 and 25

BETR vs. BETE – value to business

BETR

- 100 % reimbursement for 12 years
- Reimbursement incrementally reduced until year 18 at which point rate is 50% for the remaining life of the asset
- Reimbursement from can take a year or more after taxes paid to municipality (no access to that money during that period of time)

BETE

- 100% exemption for (useful) life of the asset
- Businesses never lose access to funds that would have otherwise been paid to municipality for personal property tax

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- About BETR and BETE – how the programs work
- BETR and BETE – whether programs are meeting stated goals
- The benefits of the programs to businesses
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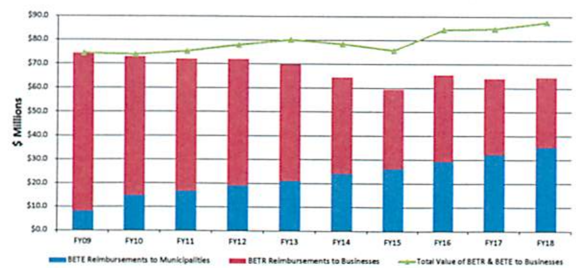
- Evaluation findings

State Costs of BETR & BETE
Benefits to Businesses Compared to State Costs

Between FY09 & FY18, the value to businesses has increased by $13.3M, while State reimbursements have decreased by $9.7M.



Source: Analysis of Data Supplied to OPEGA by Maine Revenue Services.

pages 11-13 and 26

- About BETR and BETE – how the programs work
- BETR and BETE – whether programs are meeting stated goals
- The benefits of the programs to businesses
- The costs of the programs to the State
- The programs' impacts on municipalities - pages 19-22 and 28

- Evaluation findings

Municipal Impacts of BETR and BETE

Both BETR and BETE are embedded in a municipal function – which means that impacts on municipalities are unavoidable.

BETR's impact on municipalities is not as substantial as the impact of BETE

Because BETE preempts a municipality from assessing and collecting personal property tax on eligible property – the potential exists for significant municipal financial impacts

pages 19-22 and 28

BETE
Mitigating the Potential Financial Impacts

These elements provide that municipalities are compensated for the lost authority to collect revenue – although only partially

- Constitution of Maine
- Careful initial roll out of the program
- Program design elements
  - Personal Property Factor
  - Municipal Retention TIFs

In total, the State reimbursed municipalities in FY18 for 61% of property taxes that were not collected due to BETE.

Added administrative responsibilities

The sheer number of assets to be recorded (BETR) or evaluated (BETE) plus the complexity of determining eligibility can be challenging

BETR

- Municipal assessors are needed to complete business' application to state for reimbursement – transferring/copying information already collected from when taxes were assessed

BETE

- Municipal assessors determine and record value of assets exempt under program – submitted to MRS via the MVR (work of assessment and collection without actually collecting personal property tax directly from business)

Errors in determining BETE reimbursement impacts municipalities

- When MRS finds an asset was not eligible for exemption, a municipality has not collected the revenue and will not get reimbursement from state
- If reimbursement has already been issued when the error is discovered, the municipality gets a "bill-back" requiring them to return funds
- Between FY14-FY18 there were 79 bill backs
  - 24 bill-backs required repayment of more than 20% of the original municipal reimbursement

Mandate reimbursement

- BETR was enacted with a mandate preamble – meaning, state is not required to reimburse for cost of expanded municipal activities as a result of program
- BETE did not include a mandate preamble – meaning State is required to cover at least 90% of the costs stemming from the expanded municipal activities as a result of the program pursuant to the Constitution of Maine
- Reimbursement rate is $2 per application
  - This rate affords 5.5 minutes per application (using average hourly rate paid to municipal assessors)
  - An application can list just a few to hundreds of assets
  - Denial of an exemption requires notification by certified mail ($6 per letter)

Municipal reimbursement for mandated activities

BETR

Enacted with a mandate preamble exempting State from covering costs (2/3 vote required)

BETE

No mandate preamble – meaning State is required to cover at least 90% of the costs stemming from the expanded municipal activities as a result of the program pursuant to the Constitution of Maine

Reimbursement rate is $2 per application
- This rate affords 5.5 minutes per application (using average hourly rate paid to municipal assessors)
- An application can list just a few to several dozen assets
- Denial of an exemption requires notification by certified mail ($6 per letter)

- About BETR and BETE – how the programs work
- BETR and BETE – whether programs are meeting stated goals
- The benefits of the programs to businesses
- The costs of the programs to the State
- The programs' impacts on municipalities

- Evaluation findings See pages 29-33

Finding #1
Municipalities and businesses are impacted by challenges in determining asset eligibility

- Difficult to determine asset eligibility
  - Concurrent administration of both programs adds to complexity
  - Time and resource intensive for both businesses and municipality
- Errors in determining eligibility have financial repercussions for municipalities and businesses
  - Complicated eligibility requirements increase potential for error
  - MRS reports 1/3 of BETR applications have an error
  - From FY14-FY18 BETE reimbursements resulted in 79 "bill-backs"

Finding #2
Goals and intended outcomes against which BETR and BETE are to be evaluated are unclear.

- Design of the programs align with one of the goals – reducing cost of owning business property
- No program elements to promote increased capital investment or the degree to which it is to be increased
- Promoting the general welfare of the people of the State of Maine is so broadly stated it is immeasurable

Finding #3
Municipalities are not adequately reimbursed for mandated expenses.

- Article IX, Section 21 of the Constitution of Maine requires the State to pay at least 90% of the costs of expanded activities imposed on a municipality
- The rate used to cover these costs is $2 per BETE application – unchanged since enactment
- Using the average hourly wage for assessors, $2 per application affords just 5.5 minutes. A single application can contain from one to several hundred assets.
- A denial of eligibility must be sent to a business by certified mail – at $6 per letter
- Statute authorizes rules which could potentially adjust the rate – but there are none

Finding #4
MRS has not provided DAFS information on the BETE mandates that they administer as required by statute.

- Agencies who administer reimbursement for mandated activities are required to submit a report to DAFS annually by September 1st
- The report should identify specific mandates and the payment schedule for each
- MRS was unaware of this requirement and has not submitted the report (although information is available as budget line item)

Finding #5

MRS' documentation that supports adjustments to BETE payments is inadequate.

- Adjustments to reimbursements and bill-backs are documented on paper which don't always include the source of error or calculation used to make adjustment
- Better documentation will create records that are accessible/understandable through personnel changes
- Complete documentation will aid MRS if determination is appealed
- Documentation may help improve administration by identifying common source of errors

AT A GLANCE

OPEGA Evaluation of BETR & BETE – Programs Lower the Cost of Owning Business Equipment but May Have Limited Influence on Capital Investment Decisions

About BETR and BETE

Maine's Business Equipment Tax Reimbursement (BETR) and Business Equipment Tax Exemption (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. The State then compensates municipalities for a portion of the tax revenue they lost the opportunity to collect.

BETR and BETE are concurrently administered, primarily by Maine Revenue Services (MRS), but with a reliance on municipal assistance. The majority of business assets in Maine are eligible for one of the two programs. Eligibility depends on when the asset was put into service and which type of business owns it – determining eligibility can sometimes be challenging.

Programs' Intent:

To overcome the disincentive to growth of capital investment in Maine stemming from the high cost of owning business property, thereby promoting the general welfare of the people of the State of Maine

Programs' Goals:

To reduce the cost of owning business property in Maine, particularly in comparison to other relevant states and countries

To encourage growth of capital investment by businesses in Maine

Primary Intended Beneficiaries:

Businesses investing in qualifying property

Secondary Intended Beneficiaries:

The people of the State of Maine

Program outcomes are mixed in relation to goals

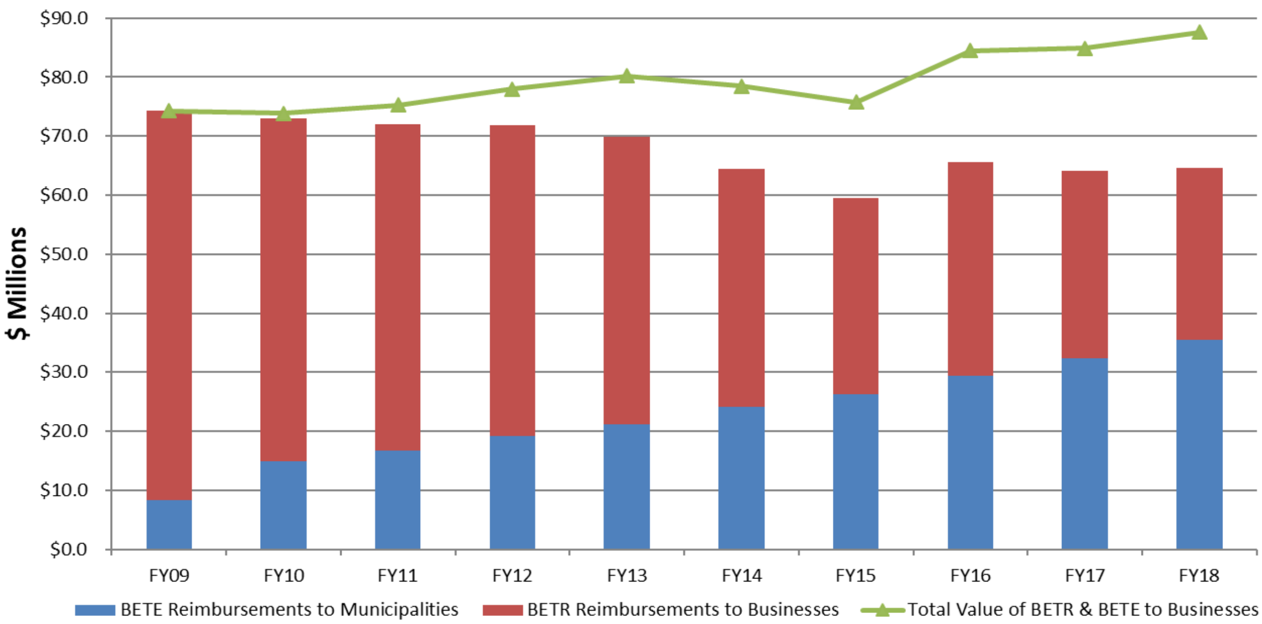
OPEGA finds that BETR and BETE accomplish their shared goal of reducing the cost of owning business property in the State. The programs do this by essentially eliminating property tax on qualifying equipment. In FY18, the State provided $29.1 million in BETR reimbursements to businesses. In that year, businesses were exempt from paying $58.5 million in personal property taxes on eligible equipment.

It is less clear whether the programs meet their other shared goal of encouraging the growth of capital investment in Maine. OPEGA finds that the programs' impact on capital investment is likely marginal, as evidenced by the fact that relatively few businesses receive financially significant benefits. In FY18, just 8% of all BETR-businesses received 75% of the total reimbursements distributed that year – with their average benefit being $202,604. The average benefit for the remaining 92% was $5,611. This average for all BETR assets claimed per business. Because property taxes are the basis for benefits under both programs, OPEGA assumes a similar distribution of benefits exists among BETE businesses. Given that personal property taxes are not reported to be a primary factor influencing the purchase of business equipment and the low-to-moderate amount of the benefit received by most businesses, BETR and BETE likely have a limited effect, if any, on capital investment decisions.

Total State costs have declined while total benefits to businesses have increased

Statutory shifts in program eligibility have driven the total value of benefits under BETE to increase while those under BETR have decreased. Despite the decrease, combined benefits provided under the programs have increased $13.3 million between FY09 and FY18. Over the same period, state reimbursements for the programs combined have dropped by $9.7 million. The State has been able to provide increased benefits to businesses at a lower cost because all of the increased benefits have been under BETE, and BETE benefits cost the State less to provide.

Total Value of BETR & BETR to Businesses in Maine Compared to the Cost of State Reimbursements FY09 Through FY18



Source: Analysis of Data Supplied to OPEGA by Maine Revenue Services

BETE can have substantial impacts on municipalities

Because BETR and BETE are state programs embedded in a municipal function – taxation of personal property – municipal impacts are unavoidable. The impacts of BETR on a municipality are minor because businesses are reimbursed directly by the state. The impacts of BETE are more significant because BETE exempts businesses from paying personal property taxes on eligible assets in the first place – removing the municipality's authority to collect that potential revenue. The Constitution of Maine and some elements of BETE's statutory design, provide that municipalities are compensated for lost authority to collect revenue – although only partially. In total, in FY18, the State reimbursed municipalities for 61% of property taxes that could not be collected due to BETE.

Municipal administration mandated under BETE can also be labor-intensive and time-consuming. Since BETE's enactment, municipalities have been paid by the state at a rate of $2 per application. OPEGA finds this rate to be inadequate to cover 90% of local costs as required by the Constitution of Maine.

Child protection system improvements -oversight coordination/tracking document

This document, prepared by OPEGA, is intended to help facilitate and coordinate legislative oversight of strategies to improve the child protection system as developed by OCFS and presented to the GOC 9/23/19. This document will be subject to periodic changes pursuant to new information and planned updates.

DATE: February 14, 2020

<table>
<tr><th colspan="2">Strategies
See OCFS presentation page 31</th><th>Related LDs or Enacted laws</th><th>Related 129th Biennial Budget initiative</th><th>Reports that have related finding, reference or recommendation*</th><th>OCFS updates/date
HHS/JUD received improvement strategies briefing 2/5/20</th><th>Specific initiatives
See OCFS presentation page 32</th></tr>
<tr><td colspan="5">Safety</td><td></td><td>Guiding Principle:
I. Child Safety, first and foremost
II. Parents have the right and responsibility to raise their own children</td></tr>
<tr><td>1</td><td>Address Intake processes and improve staffing</td><td>128th
PL 2017 c. 471 (emergency)</td><td>(new positions) PL c. 343 pp. 319-320</td><td>PCG 7/19</td><td></td><td rowspan="3">1. ARP Reassessment
2. Increase Caseworker Skills and Communication with Parents
3. Tighten Assessment Practice
4. Home Visitation Education Program
5. 24-Hour Supervisory Intake Report Review
6. Intake Process and Staffing Improvements
7. Judiciary Casework Practice Training
8. Clarify Child and Parent Rights for Staff
9. Background Check Unit Improvement
10. Rapid Safety Feedback
11. SDM Tool Consistency
12. Family Engagement Tools Training
13. Community Partnership for Protecting Children</td></tr>
<tr><td>2</td><td>Re-assess the Alternative Response Program</td><td></td><td></td><td>PCG 7/19
PCG 2/19</td><td>9/23/19: ARP contract amended re Em. Dept. supervision</td></tr>
<tr><td>3</td><td>Enhance Assessment Processes</td><td>128th
PL 2017 c. 472 (LD 1920);
PL 2017 c. 473 (LD 1921);
PL 2017 c. 470 (LD 1922)

129th
LD 1378 - PL c. 162;
LD 1792 - PL c. 300</td><td></td><td>PCG 7/19
PCG 2/19
Ombudsman 2018
Ombudsman 2019 (training re assessment and reunification)</td><td></td></tr>
<tr><td colspan="5">Permanency</td><td></td><td>Guiding Principle:
III. Children are entitled to live in a safe and nurturing environment
IV. All children deserve a permanent family</td></tr>
<tr><td>4</td><td>Develop a Permanency Review Process</td><td></td><td></td><td>PCG 7/19</td><td></td><td rowspan="2">14. Family Treatment Drug Court
15. Diligent Search Policy Training
16. Visitation Policy Training - Contracted
17. Visitation Frequency and Quality Tracking
18. Transportation Service Utilization Improvements</td></tr>
<tr><td>5</td><td>Monitor the Family Visit Coaching pilot to develop best practices</td><td>128th
PL 2017 c.471 (LD 1923)</td><td></td><td>Ombudsman
PCG 7/19</td><td></td></tr>
</table>

6	**Improve SDM tool consistency**			Ombudsman PCG 7/19		19. Emergency Placement Improvements 20. Online Application and Licensing Improvements 21. Onboarding Process for Resource Parents 22. Resource Parent Outreach Strategy 23. Resource Placement Matching Tool 24. Family Visitation Pilot 25. A Family for ME 26. Heart Gallery 27. Statewide Adoption Pilot 28. Wendy's Wonderful Kids 29. Adoption Preservation Services 30. Permanency Reviews 31. Residential Reviews
	Well-being					
7	**Develop family engagement tools and training**	**129th** LD 195 - PL c. 130		PCG 12/18 PCG 7/19	*OCFS memo to parents/guardians re: reimbursement for travel expenses to out-of-home placement/treatment facility	
8	**Improve resource parent outreach and support**	**129th** LD 1792- PL c. 399; LD 984 -Res c. 54 LD 115 - Table c/o; LD 633 – Table c/o; LD 1039- Table c/o; LD 1417- Table c/o LD 2039–OTP-A	**2020** Suppl Budget requests for foster family reimbursement	PCG 12/18 PCG 7/19		
	Staff training and support					**Guiding Principle:** V. **How we do our work is as important as the work we do**
9	**Develop policy and training plan for new processes and tools**	**128th** PL 2017 c. 471 (emergency)		PCG 7/19 PCG 2/19		32. Quality Circles 33. Staff Practice and Policy Feedback Loops 34. OA Staff Practice and Policy Feedback Loops 35. Internal Data Dashboard 36. OOI Team Development 37. Supervisory Support Enhancements 38. Update Caseload Size Standards and Ratios 39. Workforce Wellness 40. Update Workload Analytic Tool 41. MACWIS Replacement 42. Motivational Interviewing Training 43. Training Plan for New Processes and Tools 44. Case Management Activities Time Analysis 45. Case Closing Summary Model Development Workgroup 46. Child Welfare Policy Manual Updates 47. TDM Policy and Practice
10	**Establish workforce wellness teams and education**	**129th** LD 2038 -Tabled		PCG 7/19		
11	**Update caseload size standards and ratios**	**128th** PL 2017 c. 471 (LD 1923); **129th** LD 821 -PL c. 34 (emergency)	(new positions) PL c. 343 pp. 319-320 **2020** Supp budget requests for positions	PCG 7/19	**10/1/19:** Report complete pursuant to LD 821, PL c. 34 **9/23/19:** ARP contract amended to include Em. Dept. supervision (of children pending placement) **1/31/20** Report complete pursuant to LD 821, PL c. 34	
12	**Procure MACWIS replacement**	**128th** PL 2017 c. 471 (LD 1923)	PL c. 343 Pt. S (financing)	PCG 7/19 PCG 2/19		

*Notes: 1. The strategies above align with many of the perspectives reported by OCFS in the OPEGA report: Frontline Workers in the State Child Protective System: Perspectives on Factors That Impact Effectiveness and Efficiency of Child Protective Work. Thus, it is referenced here, rather than repeated in the "report" column for all 12 strategies. It should also be noted that the perspectives report did not make findings or include recommendations.
2. OCFS reported that they conducted internal surveys and sought input from staff at all levels across the state in mapping their strategic initiatives –those internal reports are not referenced in "report" column of this chart.
3. PCG produced 3 reports for OCFS:
December 2018 – Behavioral Health Services Assessment. **February 2019** – Child Welfare Business Process Redesign (permanency and adoption).

Further information on yellow highlighted updates
Biennial budget detail requested at 1/24/20 meeting – PL c 343 Pt. S
PART S Sec. S-1. Department of Administrative and Financial Services; financial agreement authorization. Pursuant to the Maine Revised Statutes, Title 5, section 1587, the Department of Administrative and Financial Services and the Department of Health and Human Services, Office of Child and Family Services may enter into financing arrangements on or after July 1, 2019, with debt service commencing on or after July 1, 2021, for the acquisition, licensing, installation and implementation of computer hardware, software and other systems to support the operations of a child welfare system. The financial agreement may not collectively exceed 7 years in duration and $14,000,000 in principal costs. The interest rate may not exceed 7%. Annual principal and interest costs must be paid from the Office of Child and Family Services program accounts in the Department of Health and Human Services.

Resolves 2019, c. 54 (LD 984)
DHHS initiative to coordinate with families who are receiving treatment services for behavioral health issues out of state (not state-custody specific)

LD 2038 An Act to Ensure the Safety of State Employees by allowing Disclosure of Certain Information in Limited Circumstances **(Tabled JUD)**
Allows for DHHS/OCFS to disclose certain confidential information to facilitate removing threatening posts from social media directed against and employee of the department

LD 2039 An Act to Provide for Judicial Review in Compliance with Family First Prevention Services Act **(OTP-A JUD)**
Allows for judicial review of cases where children in State custody receiving treatment is a residential treatment program – compliance with this required so that OCFS can continue to claim for federal reimbursement for costs associated with these children in DHHS care

Supplemental budget
$1.5 million for new positions (20 FTC?)
$2.5 million for increasing reimbursement for foster families

(LD 1554 – Sen. Diamond proposed amendment – tabled in JUD – WS scheduled for 2/26/2020)