STATE OF MAINE
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Joint Standing Committee on Taxation

Tax Expenditure Review

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TAX EXPENDITURE REVIEW REPORT

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Pursuant to 3 MRSA §§998-1001 the Joint Standing committee on Taxation is required every year to review a portion of tax expenditures. The provisions subject to review were identified by the Government Oversight Committee, in consultation with the Taxation Committee. Information regarding each tax expenditure was provided to the Taxation Committee by the Office of Governmental Evaluation and Program Accountability.

The provisions subject to review in 2016 are all sales tax exemptions identified as falling under the tax policy of exempting purchases for "necessities of life.

The Taxation Committee held two meetings to review the information provided by OPEGA nad Committee staff and makes the following findings and recommendations as required by 3 MRSA §1000, sub-§1.

Tax Policy

The tax policy of exempting "necessities of life" is not explicitly stated in law; however, the rationale is implicit in all of the provisions subject to review under this category.

> **FINDING 1**: The Taxation Committee finds that the policy exempting necessities of life from sales tax should be maintained to the extent possible within budgetary constraints.

Individual tax expenditures

The Taxation Committee reviewed each individual tax expenditure subject to review in 2016 and does not see the need to make any changes. The committee makes the following specific recommendations. Further detail is included in the body of the report.

> **RECOMMENDATION 1:** In recent years, the Legislature has not taken an in-depth look at the operation of the MRS revenue estimating model. The Taxation Committee recommends that the Taxation Committee of the 128th Legislature take a closer look at estimates provided in the MRS tax expenditure analysis due in January

2017 with an eye toward developing a better legislative understanding of the workings and reliability of the model to improve its usefulness as a tool for revenue impact analysis.

RECOMMENDATION 2: The Committee recommends that the Taxation Committee of the 128th Legislature take a look at the inconsistency in the treatment of hotels in the fuel exemption.

RECOMMENDATION 3: The Committee recommends that the Taxation Committee of the 128th Legislature take a look at the inconsistency in the treatment of water sold for residential use based on whether the water is purchased for home delivery or at a retail store.

RECOMMMENDATION 4: Given recent inconsistent interpretations regarding whether primary residential rentals should be consider part of the tax base for purposes of calculating the revenue loss due to this exemption, the Taxation Committee recommends that the Taxation Committee of the 128th Legislature work with Maine Revenue Services to clarify whether estimates of revenue loss under this item should include losses attributable exclusion of primary residential rentals.

RECOMMENDATION 5: The Committee recommends that future Legislature consider the goal of consistency in the exemption of medicines and medical supplies when considering amendments or additions to these provisions in the future.

TAX EXPENDITURE REVIEW

REPORT OF THE JOINT STANDING COMMITTEE ON TAXATION

I. Background

In 2015, the 127th Maine Legislature enacted legislation establishing a process requiring legislative review of tax expenditures.[1] Under the new law, the Legislature's Government Oversight Committee (GOC) has responsibility for the details of establishment of the review process. The Joint Standing Committee on Taxation (Taxation Committee) has responsibility for conducting substantive review of the tax expenditures subject to review.

The new law required the GOC, assisted by its staff in the Office of Program Evaluation and Governmental Accountability (OPEGA), and in consultation with the Taxation Committee, to assign tax expenditures to one of three categories: full review (provisions that provide an incentive for certain behavior, benefit a specific group or for which measurable goals can be identified); expedited review (provisions that are intended to implement broad tax policy goals that cannot be reasonable measured); and no review (provisions that result in revenue loss less than $50,000) or do not otherwise warrant review.) This assignment was completed in 2015 with the first round of review scheduled for 2016.

The tax expenditures subject to review by the Taxation Committee in 2016 are all in the form of sales tax exemptions and have been identified by the GOC, in consultation with the Taxation Committee, as falling within the category of expedited review under the tax policy of "necessities of life."

The sales tax was enacted in 1951 for the purpose of generating revenue to fund the general expenditures of state government.[2] The tax policy, "necessities of life," subject to review in 2016 was identified by the GOC, in consultation with the Taxation Committee in 2015 pursuant to 3 MRSA §998. The 2016 OPEGA report to the Taxation Committee suggests a definition of

[1] PL 2015, c. 115 (3 MRSA §§998-1001). See Appendix A. "Tax expenditure" means " …those state tax revenue losses attributable to provisions of Maine tax laws that allow a special exclusion, exemption or deduction or provide a special credit, a preferential rate of tax or a deferral of tax liability."

[2] PL 1951, c. 250. Minor portions of revenue from the sales tax now also support other purposes, including primarily transfers to the Local Government Fund for state-municipal revenue sharing. Small portions of the sales tax are also dedicated to tourism promotion and multimodal transport.

"necessity of life" as "any good necessary for health and welfare" based on similar terminology used by the State of Vermont in its tax expenditure review.[3]

The original law enacting the sales tax contained a small number of exemptions. The following exemptions being reviewed this year were enacted as part of the original sales tax law: food for human consumption; medicines; and coal, oil and wood used for residential heating.

The Taxation Committee notes that tax expenditures have been subject to review in one form or another since 1979.[4] The depth of review varied from year to year, and in the years preceding enactment of the current process, was limited to the biennial report on tax expenditures from Maine Revenue Services pursuant to 36 MRSA §199-B.

II. Scope of report

Pursuant to 3 MRSA §§ 998-1001, the Taxation Committee is required to review certain tax expenditures that fall under the category of expedited review as identified by the Government Oversight Committee and report the results of its review to the next Regular Session of the Legislature by December 1, 2016. For tax expenditures falling within the category of "expedited review" the Taxation Committee is required by statute to consider the following information:

1. <u>For each tax policy subject to review:</u>
    - a. The reasons the tax policy was adopted;
    - b. The extent to which the reasons for the adoption remain or whether reconsideration is needed;
    - c. The extent to which the tax policy is consistent with other state goals; and
    - d. The past and estimated future fiscal impact of the tax policy.

2. <u>For each individual tax expenditure;</u>
    - a. The past and estimated future fiscal impact;
    - b. The administrative costs and burdens;
    - c. The extent to which the tax expenditure is consistent with the policy being reviewed and with other tax expenditures;
    - d. The extent to which the tax expenditure is effective;
    - e. The extent to which there are adequate mechanisms to ensure only intended beneficiaries are receiving benefits;

[3] OPEGA report, p. 2. (*Vermont Tax Expenditures: 2015 Biennial Report* , January 15, 2015, describes the statutory purpose of several sales tax exemptions subject to review as intended to limit the cost of goods that are necessary for the health and welfare of Vermont residents. The Vermont report does not provide any greater definitional detail.)
[4] The original law providing for tax expenditure was enacted in PL 1979, chapter 467. The law in effect prior to enactment of the current process can still be found at 36 MRSA c. 10.

f. The extent to which the reasons for establishing the tax expenditure still remain; and
g. Any other reasons to discontinue or amend the tax expenditure.

III. Process

In the identification of tax policies, the categorization of individual tax expenditures and the development of the 6-year rotating schedule for tax expenditure review, the primary responsibility, under law, falls on the GOC with staff support from OPEGA. Input from the Taxation Committee was sought at each step in the process as required by statute.

As required by 3 MRSA §1000, subsection 2, on July 1, 2016, OPEGA submitted to the Taxation Committee and the GOC of the 127th Legislature *Information to Support 2016 Expedited Reviews of Maine State Tax Expenditures: "Necessities of Life" Sales and Use Tax Exemptions*.[5] Pursuant to statute, the information provided in the report includes:

- A description of the tax policy under review,
- A description 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.[6]

The specific tax expenditures identified for review during the 2016 cycle are the following sales tax exemptions.[7]

1. Grocery staples;[8]
2. Meals served to patients in hospitals and nursing homes and similar licensed institutions;[9]
3. Fuels used for cooking and heating in residences (excluding gas and electricity;[10]
4. Gas used for cooking and heating in residences;[11]
5. Water purchased for use in residences;[12]
6. Residential electricity (first 750 KWHs);[13]

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[5] The OPEGA report is located in Appendix B.
[6] Fiscal impact estimates are included for fiscal year 2011-12 through fiscal year 2018-19.
[7] The text of the statutory provisions subject to review this year can be found in Appendix C.
[8] 36 MRSA §1760.3.
[9] 36 MRSA §1760.6.B.
[10] 36 MRSA §1760.9.
[11] 36 MRSA §1760.9-C
[12] 36 MRSA §1760.39.
[13] 36 MRSA §9-B.

7. Rental charges for living quarters in licensed hospitals and nursing facilities ;[14]
8. Rental charges for continuous residence for 28 days or more;[15]
9. Prescription drugs;[16]
10. Prosthetic or orthotic devices sold on prescription and crutches and wheelchairs;[17]
11. Diabetic supplies;[18]
12. Positive airway pressure equipment and supplies;[19] and
13. Funeral services.[20]

Following receipt of the OPEGA report, the Tax Committee met twice (July 19 and August 30) to receive briefings from OPEGA, review the OPEGA report and resolve any questions committee members might have regarding the report or the individual tax expenditures subject to review.

Parts IV and V of this report contain the Taxation Committee's conclusions. These conclusions are made in the context of review of tax expenditures required under current law. They do not necessarily indicate opinions of the Committee or its members of the provisions were to be considered in the context of overall tax reform.

IV. Analysis of tax policy

For each tax policy subject to review the Taxation Committee is directed by statute to " … assess the continued relevance of, or need for adjustments to … " the policy considering:

- The reasons the tax policy was adopted;
- The extent to which the reasons for the adoption remain or whether reconsideration is needed;
- The extent to which the tax policy is consistent with other state goals; and
- The past and estimated future fiscal impact of the tax policy.[21]

A. Reasons for tax policy

As part of its statutory duties the GOC, in consultation with the Taxation Committee, is required to identify tax policies for tax expenditures under review. The tax

[14] 36 MRSA §1760.18.
[15] 36 MRSA §1760.20.
[16] 36 MRSA §1760.5.
[17] 36 MRSA §1760.5-A.
[18] 36 MRSA §1760.33.
[19] 36 MRSA §1760.94.
[20] 36 MRSA §1760.24.
[21] 3 MRSA §1000.1.

expenditures reviewed this year are all sales tax exemptions that have been identified as falling under the category of items that should not be taxed because they are "necessities of life." The Maine Legislature has never explicitly adopted a policy of exempting all necessities of life; however, the policy has occasionally been expressed as a rationale for the enactment of some of the tax expenditures in this category. Maine has no statutory definition or standards for evaluating what constitutes a necessity of life. The OPEGA report provides guidance from a 2015 report of the Vermont Legislature[22] which identifies sales tax exemptions similar to those subject to the current review as being "necessary for" or "in support of" the "health and welfare" of Vermonters.

B. The extent to which the reasons for the adoption remain or whether reconsideration is needed;

FINDING 1: The Taxation Committee finds that the policy exempting necessities of life from sales tax should be maintained to the extent possible within budgetary constraints. When future exemptions are proposed, the Legislature should consider the extent to which they fall under this category. The Committee recognizes that there are many items that might be considered "necessities of life" that are not currently exempt. It is recognized that there will likely be disagreement as to what items constitute "necessities" and which necessities can be afforded within the myriad of conflicting budgetary priorities. The Committee believes that reconsideration of this policy is not warranted at this time.

C. The extent to which the tax policy is consistent with other state goals

FINDING 2: This tax policy is consistent with the goals of state policy makers to create a tax structure that minimizes the tax burden on Maine families and provides tax fairness. The policy is consistent with other state tax policies designed to reduce the impact of taxes on Maine households such as the homestead property tax exemption and the income tax credits designed to alleviate sales tax and property tax burdens. This policy alleviates the regressivity inherent in a sales tax.

D. The past and estimated future fiscal impact of the tax policy.

The OPEGA report provides estimates for the General Fund revenue loss attributable to each individual tax expenditure subject to review for FY 12 through FY 19. The estimates are derived from information provided by Maine Revenue Services in its 2013 and 2015 MRS biennial tax expenditure reports and estimates provided

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[22] See fn. 3.

specifically for the OPEGA report for FY 18 and FY 19. The estimates are prepared by Maine Revenue Services primarily through use of its economic microsimulation model. The model is adjusted periodically to update the base year for economic assumptions and to incorporate factors determined annually by the Maine Economic Forecasting Commission and other entities. The total estimate of the General Fund revenue loss increased from $201,525,108 in FY 12 to an estimated loss in FY 19 of $719,017,799.

The Taxation Committee notes that the use and application of the MRS economic model and agency analysis occasionally results in dramatic changes in estimates of revenue loss from one year to the next for certain tax expenditure items. [23] These anomalies raise questions as to the accuracy and reliability of the model. They also raise concerns about the use of model-derived estimates to analyze trends in the revenue losses attributable to individual tax expenditures or anticipate the economic impact of changes to existing tax expenditures.

RECOMMENDATION 1: In recent years, the Legislature has not taken an in-depth look at the operation of the MRS revenue estimating model. The Taxation Committee recommends that the Taxation Committee of the 128th Legislature take a closer look at estimates provided in the MRS tax expenditure analysis due in January 2017 with an eye toward developing a better legislative understanding of the workings and reliability of the model to improve its usefulness as a tool for revenue impact analysis.

V. Analysis of individual tax expenditures

The Taxation Committee reviewed the information provided in the OPEGA report regarding the tax expenditures subject to review in this cycle and other information made available to the Committee from staff and Maine Revenue Services. The Committee provides the following conclusions and recommendations.

A. Grocery staples. The definition of food products that are exempt for sales tax has been the object of numerous statutory and regulatory changes over the 65 years since the original enactment of the exemption at the same time as the establishment of a sales tax

[23] For example, estimates of revenue loss approximately doubled in one year from FY 13 to FY 14 in grocery staples, fuels used in cooking and heating, water used in private residences, prescription drugs and prosthetic devices. This doubling was not due to a doubling of purchases, prices or tax rates but to an update in the model's base year from 2000 to 2009. In another instance, the estimate for rental charges on continuous residence for more than 28 days declined from $20,767,000 in FY 13 to $836,000 in FY 14, remained at that level for four years and then increased to $259,260,000. These dramatic changes were not due primarily to changes in tax rates or residency patterns, but to changes in agency interpretation of the meaning of the statutory language of the tax expenditure.

in Maine. The Committee recognizes that the determination of which food products are "necessities" results in confusion among both retailers and purchasers of those products. This confusion appears to exist in other states which have a similar exemption. Over the past several years Maine legislation has moved toward incorporation of definitions from the Streamlined Sales Tax Project[24] with the goal of improving understanding by adopting definitions with a nationally recognized interpretation..

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B).

2. Administrative costs and burdens. The Committee notes that the complexity of application of (or exemption from) sales tax creates administrative burdens for retailers who must reprogram computer systems or retrain employees to minimize the risk of error in performance of their duties to collect, report and remit sales tax accurately. The Committee encourages continuing efforts to improve understanding and interpretation of the law. The complexity of interpretation of this exemption also contributes to confusion and dissatisfaction among consumers.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no issues with consistency.

4. Effectiveness. The sales tax exemption for grocery staples is effective in reducing the cost of food needed to support life.

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

B. Meals served to patients at hospitals, nursing homes and similar licensed institutions.

[24] The SSTP is a national effort originated by the National Conference of State Legislatures and the National Governors Association in 1999 to simplify sales tax collection and to create model sales tax legislation that could be adopted by member states in an effort to reduce the potential administrative burden on remote sellers and encourage the United States Congress to enact legislation authorizing states to collect sales tax on remote sales. Currently 24 of the 44 states with a sales tax have amended their sales tax legislation to be in full conformity with the model legislation. Congress has not yet acted although legislation has been introduced in most recent years to permit state taxation of remote sales. While Maine is an advisory state in the SSTP, it is not a full member and has not fully conformed to the model legislation.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B).

2. Administrative costs and burdens. The Committee sees no issues with administrative costs and burdens.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no issues with consistency.

4. Effectiveness. This sales tax exemption reduces the cost of necessary medical and residential care.

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

C. Fuels used for residential heating in residences. The Committee combines under this paragraph the exemptions provided for coal, oil, wood and gas used for residential heating and cooking (36 MRSA §1760, sub-§§ 9 and 9-C); however, the Committee notes that the exemption for gas does not apply to hotels while the exemption for other fuels does.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B).

2. Administrative costs and burdens. The Committee sees no issues with administrative costs and burdens.

3. Consistency with the tax policy and other tax expenditures. The Committee sees inconsistency in the different treatment of hotels with regard to the type of fuel entitled to exemption.

4. Effectiveness. This sales tax exemption reduces the cost of necessary residential cooking and heating.

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

RECOMMENDATION 2: The Committee recommends that the Taxation Committee of the 128th Legislature take a look at the inconsistency in the treatment of hotels in the fuel exemption.

D. Water for residential use. This exemption applies to water delivered to a residence (excluding hotels) for residential use. It does not apply to water sold in retail stores regardless of the purpose for which it is intended.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B).

2. Administrative costs and burdens. The Committee sees no issues with administrative costs and burdens.

3. Consistency with the tax policy and other tax expenditures. The Committee believes the application of this exemption creates inconsistency with regard to the sale of water as a necessity of life. The Committee notes that households with inadequate home water supplies sometimes rely on purchases of bottled water at retail stores and must pay sales tax while some persons with completely adequate home water supplies sometimes choose to have bottled water delivered to their home tax-exempt.

4. Effectiveness. This sales tax exemption reduces the cost of necessary water.

5. Reaching intended beneficiaries. The Committee sees potential inconsistency in reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

RECOMMENDATION 3: The Committee recommends that the Taxation Committee of the 128th Legislature take a look at the inconsistency in the treatment of water sold for residential use based on whether the water is purchased for home delivery or at a retail store.

E. Residential electricity (750 KWH per month). Legislative history of this exemption indicates that it was originally enacted to treat electricity used for residential heating and cooking fuels in a similar manner as the treatment of other fuels.[25] A monthly threshold was chosen because electricity is rarely metered separately for heating and cooking purposes alone. It has since come to represent a threshold for necessary residential electric consumption.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B).

2. Administrative costs and burdens. The Committee sees no issues with administrative costs and burdens.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no issues with consistency.

4. Effectiveness. This sales tax exemption reduces the cost of residential electricity.

5. Reaching intended beneficiaries. The Committee recognizes that this exemption is overbroad in that its beneficiaries are all residential users of electricity, not just those who use electricity for heating and cooking.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

F. Rental charges for living quarters in hospitals and nursing facilities.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B).

2. Administrative costs and burdens. The Committee sees no issues with administrative costs and burdens.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no issues with consistency.

4. Effectiveness. This sales tax exemption reduces the cost of necessary medical and residential care.

[25] See Maine Legislature. *Report of the Joint Standing Committee on Taxation of the 110th Legislature on the Statutory Review of the Sales and Use Tax Exemptions Contained in Title 36 Section 1760,* 1982. p. 24.

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

G. Rental charges exceeding 28 days. The Taxation Committee notes technical confusion in the interpretation of this exemption. While legislative intent is clear that rentals of primary residential living quarters should not be subject to sales tax, it is not clear whether such rentals should be considered as never included in the rental base for taxable living quarters or should be considered a tax expenditure (an exemption from the tax base). While this distinction makes no difference with regard to tax treatment of such rentals, it does make a difference in the way tax expenditure revenue losses are calculated.

The sales tax was extended to lodging in 1959. At the same time, an exemption was enacted for rental of living quarters in "apartment houses." One way to interpret the 1959 enactment is to view it as an expression of Legislative intent that apartment rentals (and by extension, rentals of other types of primary residential living quarters) should not be considered part of the tax base. By 1982, when legislative review was identifying the revenue impact of this exemption, the Bureau of Taxation (the agency now known as Maine Revenue Services) was estimating the fiscal impact as including "principal dwelling places."[26]

There continues to be confusion in recent years as to the proper interpretation of the sales tax on lodging and its relationship to this exemption. While the language of the statutes has changed periodically since enactment of the tax on lodging, current law provides that the sales tax on lodging is imposed on " … rental of living quarters in any hotel, rooming house or tourist or trailer camp ….[27]" "Living quarters is defined as " … sleeping rooms, sleeping or housekeeping accommodations, and tent or trailer space." [28] "Hotel" is defined as " … every building or structure kept, used, maintained, advertised as or held out to the public to be place where living quarters are supplied for pay to transient or permanent guests and tenants." [Emphasis added] Prior to 2015, it was assumed that the exemption covered primary residential rentals exceeding 28 days (e.g. apartments, houses, mobile homes). In the 2015 MRS Tax Expenditure Report, MRS excluded primary residential rentals when calculating the estimated revenue impact of this exemption for FY 14 through FY 17, assuming apartment rentals were not part of the

[26] Maine Legislature. *ibid.* p. 45. It is unclear whether estimates of revenue impacts of sales tax exemptions were made on a regular basis before 1982.
[27] 36 MRSA §1811.
[28] 36 MRSA §1752, sub-§6.

intended tax base. When providing estimates to OPEGA for its tax expenditure report this year MRS returned to including the revenue loss attributable to primary residential rentals in the estimate as it has for FYs prior to FY14.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B).

RECOMMMENDATION 4: Given recent inconsistent interpretations regarding whether primary residential rentals should be consider part of the tax base for purposes of calculating the revenue loss due to this exemption, the Taxation Committee recommends that the Taxation Committee of the 128th Legislature work with Maine Revenue Services to clarify whether estimates of revenue loss under this item should include losses attributable exclusion of primary residential rentals.

2. Administrative costs and burdens. The Committee sees no issues with administrative costs and burdens.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no issues with consistency.

4. Effectiveness. This sales tax exemption reduces the cost of maintaining a residence for those who rent and treats rented residences in the same manner as owned residences for the purposes of the sales tax.

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

H. Prescription drugs, prosthetic or orthotic devices, diabetic supplies and positive airway pressure equipment and supplies. These four provisions are grouped together here because they meet a similar need – to reduce the cost of necessary medicine and medical supplies. A prescription is required for most purchases to qualify for the exemption.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B).

2. Administrative costs and burdens. The Committee sees no issues with administrative costs and burdens.

3. Consistency with the tax policy and other tax expenditures. The Committee notes that, while the exemption for prescription medicine is quite broad, there may be “over-the-counter” medications that would be considered “necessities of life” for some users. The provisions exempting certain medical supplies, on the other hand, are limited to specific items and quite narrow. It is likely that there are other types of medical supplies that would be considered “necessities of life” that have not been made exempt.

RECOMMENDATION 5: The Committee recommends that future Legislature consider the goal of consistency in the exemption of medicines and medical supplies when considering amendments or additions to these provisions in the future.

4. Effectiveness. This sales tax exemption reduces the cost of necessary medical care.

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

I. Funeral services.

1. Past and estimated future fiscal impact. Please see OPEGA report (Appendix B).

2. Administrative costs and burdens. The Committee sees no issues with administrative costs and burdens.

3. Consistency with the tax policy and other tax expenditures. The Committee sees no issues with consistency.

4. Effectiveness. This sales tax exemption reduces the cost of necessary funeral expenses.

5. Reaching intended beneficiaries. The Committee sees no issues with reaching the intended beneficiaries.

6. Extent reasons for exemption still exist. The Committee believes this item still warrants exemption.

Appendix A

Tax Expenditure Review Statutes

Title 3: LEGISLATURE

Chapter 37: LEGISLATIVE OVERSIGHT OF GOVERNMENT AGENCIES AND PROGRAMS

(selected provisions)

§992. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 702, §2 (NEW).]

1. Committee. "Committee" means a joint legislative committee established to oversee program evaluation and government accountability matters.

[2001, c. 702, §2 (NEW) .]

2. Director. "Director" means the Director of the Office of Program Evaluation and Government Accountability.

[2001, c. 702, §2 (NEW) .]

3. Office. "Office" means the Office of Program Evaluation and Government Accountability established in section 991.

[2001, c. 702, §2 (NEW) .]

4. Other entity. "Other entity" means any public or private entity in this State that may be subject to program evaluation under this chapter as the result of its receipt or expenditure of public funds. "Other entity" may include local and county governments, quasi-municipal governments, special districts, utility districts, regional development agencies or any municipal or nonprofit corporation.

[2003, c. 673, Pt. GGGG, §2 (AMD) .]

4-A. Policy committee. "Policy committee" means the joint standing committee of the Legislature having jurisdiction over taxation matters.

[2015, c. 344, §1 (NEW) .]

5. Program evaluation. "Program evaluation" means an examination of any government program that includes performance audits, management analysis, inspections, operations, research or examinations of efficiency, effectiveness or economy or the evaluation of any tax expenditure required under this chapter.

[2015, c. 344, §2 (AMD) .]

5-A. Qualified auditor. "Qualified auditor" means an auditor who meets the education and experience requirements of the Office of State Auditor as defined in Title 5, section 241.

[2003, c. 463, §2 (NEW) .]

6. State agency. "State agency" means each state board, commission, department, program, office or institution, educational or otherwise, of this State.

[2001, c. 702, §2 (NEW) .]

6-A. **Statistic.** "Statistic" means a numerical value computed from a set of data. "Statistic" includes, but is not limited to, a sum, mean, median, maximum, minimum, range and variance.

[2015, c. 344, §3 (NEW) .]

6-B. **Tax expenditure.** "Tax expenditure" has the same meaning as under Title 5, section 1666.

[2015, c. 344, §3 (NEW) .]

7. **Working paper.** "Working paper" means all documentary and other information acquired, prepared or maintained by the office during the conduct of a program evaluation, including all intra-agency and interagency communications relating to a program evaluation and includes electronic messages and draft reports or any portion of a draft report.

[2001, c. 702, §2 (NEW) .]

SECTION HISTORY
2001, c. 702, §2 (NEW). 2003, c. 463, §§1,2 (AMD). 2003, c. 673, §§GGGG2,3 (AMD). 2015, c. 344, §§1-3 (AMD).

§998. PROCESS FOR REVIEW OF TAX EXPENDITURES

1. **Assignment of review categories.** By October 1, 2015, the committee, in consultation with the policy committee, shall assign each tax expenditure to one of the following review categories:

A. Full evaluation for tax expenditures that are intended to provide an incentive for specific behaviors, that provide a benefit to a specific group of beneficiaries or for which measurable goals can be identified; [2015, c. 344, §4 (NEW).]

B. Expedited review for tax expenditures that are intended to implement broad tax policy goals that cannot be reasonably measured; and [2015, c. 344, §4 (NEW).]

C. No review for tax expenditures with an impact on state revenue of less than $50,000 or that otherwise do not warrant either a full evaluation or expedited review. [2015, c. 344, §4 (NEW).]

[2015, c. 344, §4 (NEW) .]

2. **Schedule.** By October 1, 2015, the committee, in consultation with the policy committee, shall establish a schedule of ongoing review of the tax expenditures assigned to the full evaluation and expedited review categories pursuant to subsection 1, paragraphs A and B. To the extent practicable, the committee shall schedule the review of tax expenditures with similar goals during the same year.

[2015, c. 344, §4 (NEW) .]

3. **Annual review of assignments and schedule.** By October 1st of each year, beginning in 2016, the committee, in consultation with the policy committee, shall review and make any necessary adjustments to the review category assignments and schedule pursuant to subsections 1 and 2, including adjustments needed to incorporate tax expenditures enacted, amended or repealed during the preceding year.

[2015, c. 344, §4 (NEW) .]

4. **Office responsibilities.** The office shall maintain a current record of the review category assignments and the schedule under this section.

[2015, c. 344, §4 (NEW) .]

SECTION HISTORY
2015, c. 344, §4 (NEW).

§999. FULL EVALUATION OF TAX EXPENDITURES

1. **Evaluation process.** Beginning January 1, 2016, the office shall evaluate each tax expenditure identified under section 998, subsection 1, paragraph A in accordance with the schedule established in section 998, subsection 2.

A. By January 31st of each year, the committee, after consideration of recommendations from the office, shall approve the following for each tax expenditure subject to full evaluation review in that year:

(1) The purposes, intent or goals of the tax expenditure, as informed by original legislative intent as well as subsequent legislative and policy developments and changes in the state economy and fiscal condition;

(2) The intended beneficiaries of the tax expenditure;

(3) The evaluation objectives, which may include an assessment of:

(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 goals; and

(4) The performance measures appropriate for analyzing the evaluation objectives. Performance measures must be clear and relevant to the specific tax expenditure and the approved evaluation objectives. [2015, c. 344, §4 (NEW).]

B. Before final approval pursuant to paragraph A, the committee shall seek and consider input from the policy committee and stakeholders and may seek input from experts. [2015, c. 344, §4 (NEW).]

[2015, c. 344, §4 (NEW) .]

2. **Action by office; report.** By December 31st of each year, beginning in 2016, the office shall complete the tax expenditure evaluations pursuant to subsection 1 scheduled for that year and submit a report on the results to the committee and the policy committee. The office shall seek stakeholder input as part of the report. For each tax expenditure evaluated, the report must include conclusions regarding the extent to which the tax expenditure is meeting its purposes, intent or goals and may include recommendations for continuation or repeal of the tax expenditure or modification of the tax expenditure to improve its performance.

[2015, c. 344, §4 (NEW) .]

3. **Action by committee.** The committee shall review the report submitted by the office under subsection 2, assess the report's objectivity and credibility and vote whether to endorse the report. By June 1st of each year, beginning in 2017, the committee shall submit a record of the vote on the report and any comments of or actions recommended by the committee to the policy committee for its review and consideration.

[2015, c. 344, §4 (NEW) .]

4. **Action by policy committee.** The policy committee shall review the results of the tax expenditure evaluations and of the committee's review based on materials submitted under subsections 2 and 3. By December 1st of each year, beginning in 2017, the policy committee shall submit to the Legislature a report documenting its activities under this chapter and any recommendations resulting from its review of the materials submitted under subsections 2 and 3. The policy committee may submit a bill to the next regular session of the Legislature to implement the policy committee's recommendations.

[2015, c. 344, §4 (NEW) .]

SECTION HISTORY
2015, c. 344, §4 (NEW).

§1000. EXPEDITED REVIEW OF TAX EXPENDITURES

1. **Expedited review process.** Beginning July 1, 2016, the policy committee shall conduct expedited reviews of tax expenditures and the associated tax policies identified under section 998, subsection 1, paragraph B, in accordance with the schedule established in section 998, subsection 2.

A. For each tax policy subject to review, the policy committee shall assess the continued relevance of, or need for adjustments to, the policy, considering:

(1) The reasons the tax policy was adopted;

(2) The extent to which the reasons for the adoption still remain or whether the tax policy should be reconsidered;

(3) The extent to which the tax policy is consistent or inconsistent with other state goals; and

(4) The fiscal impact of the tax policy, including past and estimated future impacts. [2015, c. 344, §4 (NEW).]

B. For each tax expenditure related to the tax policy under review, the policy committee shall assess the continued relevance of, or need for adjustments to, the expenditure, considering:

(1) The fiscal impact of the tax expenditure, including past and estimated future impacts;

(2) The administrative costs and burdens associated with the tax expenditure;

(3) The extent to which the tax expenditure is consistent with the broad tax policy and with the other tax expenditures established in connection with the policy;

(4) The extent to which the design of the tax expenditure is effective in accomplishing its tax policy purpose;

(5) The extent to which there are adequate mechanisms, including enforcement efforts, to ensure that only intended beneficiaries are receiving benefits and that beneficiaries are compliant with any requirements;

(6) The extent to which the reasons for establishing the tax expenditure remain or whether the need for it should be reconsidered; and

(7) Any other reasons to discontinue or amend the tax expenditure. [2015, c. 344, §4 (NEW).]

[2015, c. 344, §4 (NEW) .]

2. **Action by the office.** By July 1st of each year, beginning in 2016, the office shall collect, prepare and submit to the policy committee the following information to support the expedited reviews under subsection 1:

A. A description of the tax policy under review; [2015, c. 344, §4 (NEW).]

B. Summary information on each tax expenditure associated with the tax policy under review, including:

(1) A description of the tax expenditure and the mechanism through which the tax benefit is distributed;

(2) The intended beneficiaries of the tax expenditure; and

(3) A legislative history of the tax expenditure; and [2015, c. 344, §4 (NEW).]

C. The fiscal impact of the tax policy and each related tax expenditure, including past and estimated future impacts. [2015, c. 344, §4 (NEW).]

[2015, c. 344, §4 (NEW) .]

3. **Report by policy committee; legislation.** By December 1st of each year, beginning in 2016, the policy committee shall submit to the Legislature a report on the results of the expedited reviews conducted pursuant to subsection 1 that year. The policy committee may submit a bill related to the report to the next regular session of the Legislature to implement the policy committee's recommendations.

[2015, c. 344, §4 (NEW) .]

SECTION HISTORY
2015, c. 344, §4 (NEW).

§1001. TAX EXPENDITURE EVALUATION PROCESS DETAILS

1. **Information requests; confidentiality; reporting.** The following provisions apply to the performance of duties under sections 999 and 1000. These powers are in addition to the powers granted to the office and committee under this chapter.

A. The office may request confidential information from the Department of Administrative and Financial Services, Maine Revenue Services or other state agencies as necessary to address the evaluation objectives and performance measures approved under section 999, subsection 1. The office shall request any confidential information in accordance with section 997, subsection 4. The office shall request that confidential tax information, other than beneficiary contact information, be made accessible to the office as de-identified tax data. If Maine Revenue Services is unable to provide such data, the office and representatives of Maine Revenue Services shall determine appropriate methods for the office to access the requested information. [2015, c. 344, §4 (NEW).]

B. Upon request of the office and in accordance with section 997, subsection 4, the Department of Administrative and Financial Services, Maine Revenue Services or other state agencies shall provide confidential information to the office. The office shall maintain the confidentiality of the information provided, in accordance with section 997, subsections 3 and 4. This paragraph does not apply to federal tax information that is confidential under Title 36, section 191, subsection 3. [2015, c. 344, §4 (NEW).]

C. The office, the committee or the policy committee may consult with governmental agencies, other entities and experts, including members of the Consensus Economic Forecasting Commission under Title 5, section 1710. [2015, c. 344, §4 (NEW).]

D. The office may contract with other entities for the purpose of obtaining assistance in the review of tax expenditures. The office shall require a nondisclosure agreement as part of any contract entered into pursuant to this paragraph. The office may not disclose confidential taxpayer information to a contractor, except for:

(1) Contact information for specific beneficiaries of tax expenditures for the purpose of conducting interviews, surveys or other data collection; and

(2) Statistics classified so as to prevent the identification of specific taxpayers or the reports, returns or items of specific taxpayers.

The contractor shall retain physical control of any information obtained pursuant to this paragraph until the conclusion of the review for which the information was provided, after which the information must be immediately destroyed. [2015, c. 344, §4 (NEW).]

E. The office may report confidential information obtained under this section to Legislators, legislative committees, state agencies and the public only in the form of statistics classified so as to prevent the identification of specific taxpayers or the reports, returns or items of specific taxpayers. [2015, c. 344, §4 (NEW).]

F. Prior to the submission of a tax expenditure evaluation report under section 999, subsection 2, the office shall provide the State Tax Assessor an opportunity to review a draft of the report in accordance with the provisions of section 997, subsection 1. The State Tax Assessor may advise the office on compliance with paragraph E. [2015, c. 344, §4 (NEW).]

G. For purposes of this section, the following terms have the following meanings:

(1) "Beneficiary contact information" means the following information listed on a tax return or included in a tax return: the name, address, zip code, e-mail address and telephone number of the taxpayer, and of any related entity, officers, attorneys, personal representatives and other agents, tax preparers and shareholders of, partners of or members of the taxpayer or of a listed related entity.

(2) "De-identified tax data" means tax returns and other confidential tax information that are redacted or otherwise modified or restricted by Maine Revenue Services so as to exclude the following:

(a) Beneficiary contact information;

(b) Identification numbers including federal or state employer identification numbers, social security numbers and registration numbers; and

(c) Other information from which the State Tax Assessor determines that the identity of the taxpayer could reasonably be inferred. [2015, c. 344, §4 (NEW).]

[2015, c. 344, §4 (NEW) .]

2. **Legislation.** The committee may submit to the Legislature any legislation it considers necessary to improve the process or availability of data for the review of tax expenditures.

[2015, c. 344, §4 (NEW) .]

SECTION HISTORY
2015, c. 344, §4 (NEW).

Appendix B

OPEGA Report

Information to Support 2016 Expedited Reviews of Maine State Tax Expenditures

"Necessity of Life" Sales & Use Tax Exemptions

Prepared by

the Office of Program Evaluation and Government Accountability
Pursuant to Title 3 Section 1000 sub-section 2

Submitted to

Joint Standing Committee on Taxation
and
Government Oversight Committee

July 2016

Office of Program Evaluation and Government Accountability
Maine State Legislature
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Augusta, Maine 04333
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Overview

The Office of Program Evaluation and Government Accountability (OPEGA) is tasked by 3 MRSA §1000 sub-section 2 with providing information to support the Legislature's Joint Standing Committee on Taxation in carrying out expedited reviews of certain Maine State tax expenditures[1]. The information OPEGA is required to provide includes:

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

As required by 3 MRSA §998, the Legislature's Government Oversight Committee (GOC), in consultation with the Taxation Committee, previously assigned each Maine State tax expenditure to one of three review categories: (a) full evaluation; (b) expedited review; (c) no review. Tax expenditures selected by the Committees for expedited review are those intended to implement broad tax policy goals that cannot be reasonably measured (see 3 MRSA §998 sub-section 1, paragraph B, in Appendix A). The 13 tax expenditures selected by the Committees for expedited review in 2016 are all sales and use tax exemptions under the tax policy area generally described as "Necessity of Life."

1. Grocery Staples
2. Meals Served to Patients in Hospitals and Nursing Homes
3. Fuels for Cooking and Heating Homes
4. Gas Used for Cooking and Heating in Residences
5. Water Used in Private Residences
6. Certain Residential Electricity
7. Rental Charges for Living Quarters in Nursing Homes and Hospitals
8. Rental Charges on Continuous Residence for More Than 28 Days
9. Prescription Drugs
10. Prosthetic Devices
11. Diabetic Supplies
12. Positive Airway Pressure (PAP) Equipment & Sales
13. Funeral Services

[1] As defined by 3 MRSA §992 and 5 MRSA §1666, "tax expenditures" means "those state tax revenue losses attributable to provisions of Maine tax laws that allow a special exclusion, exemption or deduction or provide a special credit, a preferential rate of tax or a deferral of tax liability."

"Necessity of Life" Tax Policy Area: Definition

OPEGA found no definition of "Necessity of Life" as a sales tax exemption policy area that is generally used in Maine, among other states, or among the tax policy experts we consulted. Consequently, OPEGA suggests the Taxation Committee define a "Necessity of Life" as "any good necessary for health and welfare" in assessing whether the exemptions subject to expedited review in 2016 are consistent with the goals of this tax policy area. OPEGA's suggestion is based on a similar definition used by the State of Vermont.[2]

Fiscal Impact Estimates

The fiscal impact estimates presented in this report for the "Necessity of Life" sales tax exemptions represent estimated foregone revenue for the State. Maine Revenue Services (MRS) is required to prepare these estimates, based on current tax law, and presents them biennially in its Maine State Tax Expenditure Report as estimated General Fund revenue loss. MRS uses an economic microsimulation model to prepare the estimates for 10 of the 13 "Necessity of Life" tax expenditures. See Appendix C for more information about MRS' microsimulation model.

Table 1: Estimated Fiscal Impact of "Necessity of Life" Sales & Use Tax Exemptions in the State of Maine

Year	MRS Estimated Revenue Loss
FY12	$201,525,108
FY13	$205,011,807
FY14	$381,555,499
FY15	$406,299,170
FY16	$383,986,420
FY17	$400,557,367
FY18	$686,707,600
FY19	$719,017,799

Source: Estimates for FY12-FY13 were published in the 2014-2015 Maine State Tax Expenditure Report. Estimates for FY14-FY17 were published in the 2016-2017 Maine State Tax Expenditure Report. Estimates for FY18-FY19 were developed by MRS specifically for inclusion in this report.

Change in Maine's Sales Tax Rate

Effective October 2013, the Legislature enacted a temporary sales tax increase from 5 to 5.5 percent that was set to expire in FY15. This increase was extended, but MRS' assumptions for the FY16-FY17 revenue loss estimates were based on the lower tax rate, which they expected the State would revert back to. The FY16 and FY17 estimates, therefore, used a different tax rate than the actual tax for that period. Similarly, during this time period, the sales tax on lodging also increased from 7 to 8 percent, and then to 9 percent in 2016.

MRS estimates foregone revenue for the other three tax expenditures using various methods. The method used, and any additional context, is noted in the individual tax expenditure descriptions beginning on page 5.

Table 1 shows the total estimated fiscal impact of this group of 13 tax expenditures as reported by MRS. Appendix B shows the breakdown of individual "Necessity of Life" sales tax exemptions by year. These figures are also included in the individual tax expenditure descriptions.

[2] "Vermont Tax Expenditures 2015 Biennial Report," January 15, 2015.

There are substantial increases in the fiscal estimates for some exemptions between the years FY13 and FY14. MRS explained these changes as primarily due to a new sales and excise tax model that uses an updated base year for purchases data. Appendix C contains further explanation of the model and base year data changes. For some tax expenditures, the changes were also attributable to other external factors accounted for by the model, such as fuel prices or inflation.

At the time MRS prepared the estimates for FY14 – FY17, the anticipated general sales and use tax rate was 5.5% for FY14 and FY15 and 5% for FY16 and FY17. This accounts for the drop in estimated revenue loss between FY15 and FY16. It also partly explains the substantial increases in revenue loss estimates for some exemptions between the years FY17 and FY18 as the FY18 estimates produced for OPEGA are based on the current sales tax rate which is still 5.5%. According to MRS, the increases between FY17 and FY18 are also due to changes in the economic forecasts provided to MRS twice a year by the Consensus Economic Forecasting Commission.

Information on Individual Sales Tax Exemptions

The remainder of this report contains a series of tables summarizing the information OPEGA is required to provide under 3 MRSA §1000 for each individual "Necessity of Life" sales tax exemption. OPEGA gathered much of this information from the following sources:

- Sections of Maine statute pertaining to each exemption;
- MRS' Maine State Tax Expenditure Reports for 2016-2017 and 2014-2015; and
- MRS Sales and Use Tax Bulletins.

In addition, the legislative history summarized in this report was prepared by OPEGA in consultation with the Office of Fiscal and Program Review based on details researched and provided to OPEGA by the Law and Legislative Reference Library.

None of the sources we reviewed directly identified intended beneficiaries for these exemptions, so OPEGA has defined these based on our understanding of the exemptions.

MRS' biennial reports are the source of the fiscal impact estimates OPEGA has included in this report for Fiscal Years (FY) 2012 through 2017. The FY12 and FY13 estimates were published in the 2014 -2015 Maine State Tax Expenditure Report. The estimates for FY14 through FY17 were published in the 2016 - 2017 Maine State Tax Expenditure Report. The revenue loss for FY18 and FY19 was estimated by MRS specifically for inclusion in this report.

OPEGA recognizes that the changes to the microsimulation model, and its inputs, make it challenging to discern any trends or policy impacts over time using the revenue loss estimates published in the Maine State Tax Expenditures Reports. Estimates forecasted by the model for inclusion in the Reports are influenced by the anticipated tax rates; economic activity; policy changes; underlying changes to the model and base year data; and other factors. Consequently, MRS is unable to determine the amount of impact from each of these factors in a given year. Additionally, MRS explained that its process for producing model-generated estimates of foregone revenue for these biennial Reports does not consider expectations about consumer behavior (such as possible decreases in demand if sales tax is increased) or the State's ability to enforce compliance with tax law, factors that are considered when fiscal notes for specific bills are prepared. As such, the estimates in the MRS Reports do not give the Legislature a complete picture of how much revenue could be recouped if these items were taxed. MRS told OPEGA they do not use these estimates to look at trends; rather, the numbers are "frozen in time" based on the economic forecast using the best information available at the time.

Neither OPEGA nor MRS was able to identify any existing data that could be used to assess how closely MRS' estimates reflected actual forgone revenue, or that would better illustrate trends in fiscal impact. OPEGA gathered some general information about MRS' estimating process and the models used which is presented in Appendix C. However, it was beyond the scope and resources of our current project for OPEGA to delve any more deeply into the workings of the microsimulation model or more fully research other potential data sources. If the Legislature is interested in understanding fiscal impact trends and/or actual impacts from policy changes on "Necessity of Life" tax expenditures, we suggest the Joint Standing Committee on Taxation confer with Maine Revenue Services and the Office of Fiscal and Program Review on options for obtaining such analyses in the future.

Tax Expenditure	Grocery staples		
Statutory reference	36 MRSA §1760.3		
Distribution mechanism	Exempted from tax at point of sale		
Brief description	Grocery staples are exempted from the sales tax under 36 MRSA 1760.3 and are generally defined under 36 MRSA §1752.3-B as food products ordinarily consumed for human nourishment; some food items are taxed, including many snack foods and prepared foods.		
Intended beneficiaries	Purchasers of grocery staples		
Estimated fiscal impact	FY12	$78,299,000	*Source:* 2014-2015 Maine State Tax Expenditure Report
	FY13	$79,980,500	
	FY14	$164,500,195	*Source:* 2016-2017 Maine State Tax Expenditure Report
	FY15	$175,204,700	
	FY16	$164,901,000	
	FY17	$171,152,000	
	FY18	$184,100,000	*Source:* Developed by MRS for this report
	FY19	$191,130,000	
Notes on estimated fiscal impact	Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained the increase from FY13 to FY14 as primarily due to a new model with updated base year data (see Appendix C for more about base year data). FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.		
Legislative history (includes substantive amendments)	Public Law	Change	
	PL 1951, c.250	Enactment of sales tax exemption for food products	
	PL 1953, c.54	Exempted meals served to patients and inmates of hospitals and other state institutions as food products.	
	PL 1961, c.87	Excluded from exemption "take out"(packaged or wrapped food taken from the premises).	
	PL 1977, c.443	Imposed sales tax at wholesale level for sales of food from vending machines, except in certain cases.	
	PL 1979, c.513	Removed exemption for hospital and certain other institutional meals as a "food product" under §1760.3 and created a new provision of law, §1760.6.B, exempting meals served to hospital patients from sales tax (see page 6).	
	PL 1985, c.783	Redefined "food products" qualifying for exemption; moved exemptions for all purchases with food stamps and for certain sales of food from vending machines to another section of law.	
	PL 1991, c.591	Redefined items eligible for exemption from "food products" to "grocery staples" and exempted fewer items. Most notably, taxes were extended to "snack foods".	
	PL 1999, c.698	Redefined grocery staples, effectively exempting from sales tax all snack foods except for candy and confections.	
	PL 2015, c.267	Redefined grocery staples, expanding the types of foods subject to tax.	

<table>
<tr><th>Tax Expenditure</th><th colspan="3">Meals Served to Patients in Hospitals and Nursing Homes</th></tr>
<tr><td>Statutory reference</td><td colspan="3">36 MRSA §1760.6.B</td></tr>
<tr><td>Distribution mechanism</td><td colspan="3">Exempted from tax at point of sale</td></tr>
<tr><td>Brief description</td><td colspan="3">Meals served to patients at hospitals, nursing homes, and similar institutions licensed by the State are exempted from sales tax.</td></tr>
<tr><td>Intended beneficiaries</td><td colspan="3">Patients in hospitals and nursing homes</td></tr>
<tr><td rowspan="8">Estimated fiscal impact</td><td>FY12</td><td>$4,085,000</td><td rowspan="2">Source: 2014-2015 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY13</td><td>$4,208,500</td></tr>
<tr><td>FY14</td><td>$8,314,970</td><td rowspan="4">Source: 2016-2017 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY15</td><td>$8,903,400</td></tr>
<tr><td>FY16</td><td>$8,502,500</td></tr>
<tr><td>FY17</td><td>$8,987,000</td></tr>
<tr><td>FY18</td><td>$10,679,600</td><td rowspan="2">Source: Developed by MRS for this report</td></tr>
<tr><td>FY19</td><td>$11,270,700</td></tr>
<tr><td>Notes on estimated fiscal impact</td><td colspan="3">Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model. FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.</td></tr>
<tr><td rowspan="3">Legislative history (includes substantive amendments)</td><td>Public Law</td><td colspan="2">Change</td></tr>
<tr><td>PL 1953, c.54</td><td colspan="2">Added meals served to patients in hospitals and nursing homes licensed by the state to the list of non-taxable food products under what is now 36 MRSA §1760.3 (exemption for grocery staples).</td></tr>
<tr><td>PL 1979, c.513</td><td colspan="2">Removed exemption for hospital meals as a “food product” from §1760.3 (see page 5) and created a new section of law, §1760.6.B, exempting meals served to hospital patients from sales tax.</td></tr>
</table>

Tax Expenditure	Fuels for Cooking and Heating in Residences		
Statutory reference	36 MRSA §1760.9		
Distribution mechanism	Exempted from tax at point of sale		
Brief description	Coal, oil, wood and all other fuels, except gas and electricity, when bought for cooking and heating in buildings designed and used for both human habitation and sleeping are exempt from tax, with some limitations.		
Intended beneficiaries	Purchasers of fuels for cooking and heating in residences		
Estimated fiscal impact	FY12	$35,292,500	*Source:* 2014-2015 Maine State Tax Expenditure Report
	FY13	$35,720,000	
	FY14	$70,308,357	*Source:* 2016-2017 Maine State Tax Expenditure Report
	FY15	$73,933,750	
	FY16	$69,654,000	
	FY17	$73,207,000	
	FY18	$65,810,000	*Source:* Developed by MRS for this report
	FY19	$73,760,000	
Notes on estimated fiscal impact	Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model with updated base year data (see Appendix C for more about base year data). FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.		
Legislative history (includes substantive amendments)	Public Law	Change	
	PL 1951, c.250	Enactment of sales tax exemption for coal, oil, wood and all other fuels, excluding gas and electricity, used for cooking or heating for domestic purposes.	
	PL 1953, c.401	Extended exemption to fuels purchased for cooking and heating in hotels.	
	PL 1977, c.686	Clarified that exemption applies to fuels purchased for cooking and heating in mobile homes.	
	PL 2007, c.438	Clarified that qualifying fuels are exempt when purchased for cooking or heating in any "buildings designed and used for both human habitation and sleeping".	
	PL 2007, c.675	Exempted kerosene purchases in tanks of 5 gallons or less when purchased for cooking or heating in qualifying building.	
	PL 2009, c.625	Exempted wood pellets or compressed wood product when purchased in a quantity of ≤ 200 pounds.	
	PL 2011, c.670	Increased the amount of wood pellets or compressed wood product eligible for exemption to ≤ 1000 pounds until September 30, 2013 and to "any amount" beginning October 1, 2013. Limited the exemption on cut wood to one cord.	
	PL 2015, c.300	Clarified exemptions for wood products and kerosene purchases at retail locations. Extended exemption on cut wood to any amount used for cooking or heating in qualifying building.	

Tax Expenditure	**Gas Used for Cooking and Heating in Residences**		
Statutory reference	36 MRSA §1760.9-C		
Distribution mechanism	Exempted from tax at point of sale		
Brief description	Sales of gas when bought for cooking and heating in buildings designed and used for both human habitation and sleeping, with the exception of hotels, are exempt from the sales and use tax.		
Intended beneficiaries	Purchasers of gas for cooking and heating in residences		
Estimated fiscal impact	FY12	$4,531,500	*Source:* 2014-2015 Maine State Tax Expenditure Report
	FY13	$4,607,500	
	FY14	$13,232,289	*Source:* 2016-2017 Maine State Tax Expenditure Report
	FY15	$14,441,900	
	FY16	$14,478,000	
	FY17	$15,318,750	
	FY18	$14,540,000	*Source:* Developed by MRS for this report
	FY19	$15,430,000	
Notes on estimated fiscal impact	Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model with updated base year data (see Appendix C for more about base year data). FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.		
Legislative history (includes substantive amendments)	Public Law	Change	
	PL 1977, c.686	Exempted gas from sales tax when bought for cooking and heating in residences.	
	PL 2007, c.438	Clarified qualifying gas must be purchased for use in "buildings designed and used for both human habitation and sleeping".	

Tax Expenditure	**Water Used in Residences**		
Statutory reference	36 MRSA §1760.39		
Distribution mechanism	Exempted from tax at point of sale		
Brief description	Sales of water purchased for use in buildings designed and used for both human habitation and sleeping, with the exception of hotels, are exempt from the sales and use tax. (Does not include bottled water sold in retail stores, which is taxable.)		
Intended beneficiaries	Purchasers of water for use in residences (with the exception of bottled water purchases in retail stores)		
Estimated fiscal impact	FY12	$8,160,500	*Source:* 2014-2015 Maine State Tax Expenditure Report
	FY13	$8,227,000	
	FY14	$20,919,570	*Source:* 2016-2017 Maine State Tax Expenditure Report
	FY15	$22,279,400	
	FY16	$20,966,500	
	FY17	$21,755,000	
	FY18	$24,740,000	*Source:* Developed by MRS for this report
	FY19	$25,590,000	
Notes on estimated fiscal impact	Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model with updated base year data (see Appendix C for more about base year data). FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.		
Legislative history (includes substantive amendments)	Public Law	Change	
	PL 1977, c.686	Enactment of sales tax exemption on water used in certain types of dwellings.	
	PL 2007, c.438	Clarified qualifying water must be purchased for use in "buildings designed and used for both human habitation and sleeping".	

Tax Expenditure	**Certain Residential Electricity**		
Statutory reference	36 MRSA §1760.9-B		
Distribution mechanism	Exempted from tax at point of sale		
Brief description	Sale and delivery of the first 750 kilowatt hours of residential electricity per month is exempt from the sales tax.		
Intended beneficiaries	Purchasers of certain residential electricity		
Estimated fiscal impact	FY12	$24,985,000	*Source:* 2014-2015 Maine State Tax Expenditure Report
	FY13	$25,365,000	
	FY14	$23,122,834	*Source:* 2016-2017 Maine State Tax Expenditure Report
	FY15	$25,129,533	
	FY16	$24,173,700	
	FY17	$25,784,045	
	FY18	$30,550,000	*Source:* Developed by MRS for this report
	FY19	$33,290,000	
Notes on estimated fiscal impact	Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model. FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.		
Legislative history (includes substantive amendments)	Public Law	Change	
	PL 1977, c.686	Enactment of exemption of first 750 kilowatt hours of residential electricity per month.	
	PL 1979, c.520	Clarified that the exemption applies to each unit in a multiunit building even if the units are all supplied by one meter.	
	PL 2007, c.438	Clarified qualifying electricity must be provided to "buildings designed and used for both human habitation and sleeping".	
	PL 2011, c.673	Extended the exemption to off-peak residential electricity used for space and water heating by means of an electric thermal storage device.	

Tax Expenditure	**Rental Charges for Living Quarters in Nursing Homes and Hospitals**		
Statutory reference	36 MRSA §1760.18		
Distribution mechanism	Exempted from tax at point of sale		
Brief description	Rent charged for living or sleeping quarters in nursing homes and hospitals licensed by the State is exempted from sales tax.		
Intended beneficiaries	Patients in hospitals and nursing homes		
Estimated fiscal impact	FY12	$250,000 to $999,999	*Source:* 2014-2015 Maine State Tax Expenditure Report
	FY13	$250,000 to $999,999	
	FY14	$250,000 to $999,999	*Source:* 2016-2017 Maine State Tax Expenditure Report
	FY15	$250,000 to $999,999	
	FY16	$250,000 to $999,999	
	FY17	$250,000 to $999,999	
	FY18	$1,000,000 to $2,999,999	*Source:* Developed by MRS for this report
	FY19	$1,000,000 to $2,999,999	
Notes on estimated fiscal impact	According to MRS, this exemption is estimated as a range because they have too little data about the value of sales associated with the exemption to allow for calculation of a more precise estimate.		
Legislative history (includes substantive amendments)	Public Law	Change	
	PL 1959, c.350	Enactment of sales tax exemption on rent charged for living or sleeping quarters in an institution licensed by the State for the hospitalization or nursing care of human beings.	

<table>
<tr><th>Tax Expenditure</th><th colspan="3">Rental Charges on Continuous Residence for More Than 28 Days</th></tr>
<tr><td>Statutory reference</td><td colspan="3">36 MRSA §1760.20</td></tr>
<tr><td>Distribution mechanism</td><td colspan="3">Exempted from tax at point of sale</td></tr>
<tr><td>Brief description</td><td colspan="3">Rent charged to any person who resides continuously for 28 days or more at any one hotel, rooming house or camp is exempted from tax, with certain restrictions. This exemption includes all residential rentals.</td></tr>
<tr><td>Intended beneficiaries</td><td colspan="3">Occupants of long-term rentals</td></tr>
<tr><td rowspan="8">Estimated fiscal impact</td><td>FY12</td><td>$20,624,500</td><td rowspan="2">Source: 2014-2015 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY13</td><td>$20,767,000</td></tr>
<tr><td>FY14</td><td>$836,000</td><td rowspan="4">Source: 2016-2017 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY15</td><td>$894,628</td></tr>
<tr><td>FY16</td><td>$806,284</td></tr>
<tr><td>FY17</td><td>$830,473</td></tr>
<tr><td>FY18</td><td>$259,260,000</td><td rowspan="2">Source: Developed by MRS for this report</td></tr>
<tr><td>FY19</td><td>$268,180,000</td></tr>
<tr><td>Notes on estimated fiscal impact</td><td colspan="3">Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model. FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3).

The dramatic decrease from FY13 to FY14 reflects MRS' decision to remove rent paid on apartments from the estimate of taxable sales for FY14-FY17. MRS explained this change was made to reduce confusion about the potential for increasing State revenue through revisions to the exemption. Although this exemption includes apartment rentals, the statutory language does not clearly state this. Thus, the large amount of estimated foregone revenue often made this exemption a target for repeal until it was pointed out that most of the revenue loss was related to apartment rentals. MRS added apartment rentals back into the preliminary estimates they produced for OPEGA for FY18 and FY19, but MRS is uncertain yet whether they will be included in the estimates produced for future Maine State Tax Expenditure Reports. MRS attributed the more than 10-fold increase in the estimates between FY13 and FY18 to changes in the model.</td></tr>
<tr><td rowspan="4">Legislative history (includes substantive amendments)</td><td>Public Law</td><td colspan="2">Change</td></tr>
<tr><td>PL 1959, c.350</td><td colspan="2">Enactment of sales tax exemption for rent charged to any person who has resided continuously for 3 months or 90 days at any one hotel, rooming house, tourist or trailer camp.</td></tr>
<tr><td>PL 1961, c.271</td><td colspan="2">Amended language to require residing continuously for 28 days rather than "3 months or 90 days" to qualify for the exemption.</td></tr>
<tr><td>PL 1989, c.588</td><td colspan="2">Narrowed eligibility for the exemption to individuals who do not maintain a primary residence at some other location; or those who are residing away from their primary residence in connection with employment or education.</td></tr>
</table>

Tax Expenditure	**Prescription Drugs**		
Statutory reference	36 MRSA §1760.5		
Distribution mechanism	Exempted from tax at point of sale		
Brief description	Drugs sold for use by human beings with a doctor's prescription are exempted from sales tax.		
Intended beneficiaries	Purchasers of prescription drugs		
Estimated fiscal impact	FY12	$15,912,500	*Source:* 2014-2015 Maine State Tax Expenditure Report
	FY13	$16,216,500	
	FY14	$66,715,538	*Source:* 2016-2017 Maine State Tax Expenditure Report
	FY15	$71,039,100	
	FY16	$66,851,500	
	FY17	$69,369,000	
	FY18	$78,780,000	*Source:* Developed by MRS for this report
	FY19	$81,480,000	
Notes on estimated fiscal impact	Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model with updated base year data (see Appendix C for more about base year data). FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.		
Legislative history (includes substantive amendments)	Public Law	Change	
	PL 1951, c.250	Enactment of sales tax exemption for medicines sold with a doctor's prescription.	
	PL 1953, c.66	Clarified the exemption applies only to medicines for human beings (i.e. not for pets or farm animals).	
	PL 2009, c.625	Specified medical marijuana is not exempted under this section of law.	

Tax Expenditure	**Prosthetic Devices**		
Statutory reference	36 MRSA §1760.5-A		
Distribution mechanism	Exempted from tax at point of sale		
Brief description	Prosthetic and orthotic aids, hearing aids, eyeglasses and artificial devices to alleviate physical incapacity are exempted from sales tax.		
Intended beneficiaries	Purchasers of prosthetic devices		
Estimated fiscal impact	FY12	$4,778,500	*Source:* 2014-2015 Maine State Tax Expenditure Report
	FY13	$4,921,000	
	FY14	$6,963,025	*Source:* 2016-2017 Maine State Tax Expenditure Report
	FY15	$7,429,950	
	FY16	$7,011,000	
	FY17	$7,286,500	
	FY18	$8,400,000	*Source:* Developed by MRS for this report
	FY19	$8,760,000	
Notes on estimated fiscal impact	Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model with updated base year data (see Appendix C for more about base year data). FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.		
Legislative history (includes substantive amendments)	Public Law	Change	
	PL 1973, c.573 & c.593	Enactment of sales tax exemption for prosthetic devices, including hearing aids.	
	PL 2015, c.495	Amended to apply to prosthetic or orthotic devices sold by prescription including repair and replacement parts effective October 1, 2016.	

<table>
<tr><td>Tax Expenditure</td><td colspan="3">Diabetic Supplies</td></tr>
<tr><td>Statutory reference</td><td colspan="3">36 MRSA §1760.33</td></tr>
<tr><td>Distribution mechanism</td><td colspan="3">Exempted from tax at point of sale</td></tr>
<tr><td>Brief description</td><td colspan="3">All equipment and supplies used in the diagnosis or treatment of diabetes are exempt from sales tax.</td></tr>
<tr><td>Intended beneficiaries</td><td colspan="3">Purchasers of diabetic supplies</td></tr>
<tr><td rowspan="8">Estimated fiscal impact</td><td>FY12</td><td>$956,608</td><td rowspan="2">Source: 2014-2015 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY13</td><td>$985,307</td></tr>
<tr><td>FY14</td><td>$1,185,614</td><td rowspan="4">Source: 2016-2017 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY15</td><td>$1,255,421</td></tr>
<tr><td>FY16</td><td>$1,175,531</td></tr>
<tr><td>FY17</td><td>$1,210,797</td></tr>
<tr><td>FY18</td><td>$1,898,000</td><td rowspan="2">Source: Developed by MRS for this report</td></tr>
<tr><td>FY19</td><td>$1,962,100</td></tr>
<tr><td>Notes on estimated fiscal impact</td><td colspan="3">According to MRS, foregone revenue associated with this exemption is estimated as a percentage of exempt sales at drugstores.</td></tr>
<tr><td rowspan="3">Legislative history (includes substantive amendments)</td><td>Public Law</td><td colspan="2">Change</td></tr>
<tr><td>PL 1973, c.148 & PL 1973, c.788</td><td colspan="2">Enactment of sales tax exemption for all medical equipment and supplies used by diabetics in the treatment of diabetes.</td></tr>
<tr><td>PL 1977, c.238</td><td colspan="2">Removed the requirement that equipment and supplies must be used by diabetics in order to be exempt.</td></tr>
</table>

Tax Expenditure	**Positive Airway Pressure (PAP) Equipment & Sales**		
Statutory reference	36 MRSA §1760.94		
Distribution mechanism	Exempted from tax at point of sale		
Brief description	Positive airway pressure equipment and supplies sold or leased for personal use are exempt from sales and use tax.		
Intended beneficiaries	Purchasers of positive airway pressure equipment and supplies		
Estimated fiscal impact	FY12	$0	*Source:* 2014-2015 Maine State Tax Expenditure Report
	FY13	$0	
	FY14	$274,062	*Source:* 2016-2017 Maine State Tax Expenditure Report
	FY15	$291,888	
	FY16	$274,905	
	FY17	$284,802	
	FY18	$350,000	*Source:* Developed by MRS for this report
	FY19	$365,000	
Notes on estimated fiscal impact	According to MRS, the estimate for this exemption is based on the original fiscal note from when the legislation passed; it has been adjusted for inflation and sales tax rate. Future estimates will likely be a range because there is too little data about the value of sales associated with the exemption to allow for calculation of a more precise estimate.		
Legislative history (includes substantive amendments)	Public Law	Change	
	PL 2011, c.655	Enactment of sales tax exemption for positive airway pressure equipment and supplies sold or leased for personal use.	

<table>
<tr><td>Tax Expenditure</td><td colspan="3">Funeral Services</td></tr>
<tr><td>Statutory reference</td><td colspan="3">36 MRSA §1760.24</td></tr>
<tr><td>Distribution mechanism</td><td colspan="3">Exempted from tax at point of sale</td></tr>
<tr><td>Brief description</td><td colspan="3">Sales of goods necessary for the burial or cremation of a human body are exempt from sales tax.</td></tr>
<tr><td>Intended beneficiaries</td><td colspan="3">Purchasers of funeral services</td></tr>
<tr><td rowspan="8">Estimated fiscal impact</td><td>FY12</td><td>$3,524,500</td><td rowspan="2">Source: 2014-2015 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY13</td><td>$3,638,500</td></tr>
<tr><td>FY14</td><td>$4,808,045</td><td rowspan="4">Source: 2016-2017 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY15</td><td>$5,120,500</td></tr>
<tr><td>FY16</td><td>$4,816,500</td></tr>
<tr><td>FY17</td><td>$4,997,000</td></tr>
<tr><td>FY18</td><td>$5,600,000</td><td rowspan="2">Source: Developed by MRS for this report</td></tr>
<tr><td>FY19</td><td>$5,800,000</td></tr>
<tr><td>Notes on estimated fiscal impact</td><td colspan="3">Fiscal impact estimates were prepared by MRS using an economic microsimulation model. MRS explained that the increase from FY13 to FY14 is primarily due to using a new model. FY18 and FY19 data include the increased sales tax rate, while FY16 and FY17 do not (as described on page 3). Several factors contribute to changes in estimates over time, and MRS is unable to determine the amount of change due to policy shifts versus other factors.</td></tr>
<tr><td rowspan="2">Legislative history (includes substantive amendments)</td><td>Public Law</td><td colspan="2">Change</td></tr>
<tr><td>PL 1955, c.477</td><td colspan="2">Enactment of sales tax exemption for funeral services.</td></tr>
</table>

Appendix A: Selected Sections of Statute Relevant to Expedited Reviews of Tax Expenditures

3 MRSA §998. Process for review of tax expenditures[3]

1. Assignment of review categories. By October 1, 2015, the committee, in consultation with the policy committee, shall assign each tax expenditure to one of the following review categories:

   A. Full evaluation for tax expenditures that are intended to provide an incentive for specific behaviors, that provide a benefit to a specific group of beneficiaries or for which measurable goals can be identified;

   B. Expedited review for tax expenditures that are intended to implement broad tax policy goals that cannot be reasonably measured; and

   C. No review for tax expenditures with an impact on state revenue of less than $50,000 or that otherwise do not warrant either a full evaluation or expedited review.

2. Schedule. By October 1, 2015, the committee, in consultation with the policy committee, shall establish a schedule of ongoing review of the tax expenditures assigned to the full evaluation and expedited review categories pursuant to subsection 1, paragraphs A and B. To the extent practicable, the committee shall schedule the review of tax expenditures with similar goals during the same year.

3. Annual review of assignments and schedule. By October 1st of each year, beginning in 2016, the committee, in consultation with the policy committee, shall review and make any necessary adjustments to the review category assignments and schedule pursuant to subsections 1 and 2, including adjustments needed to incorporate tax expenditures enacted, amended or repealed during the preceding year.

4. Office responsibilities. The office shall maintain a current record of the review category assignments and the schedule under this section.

3 MRSA §1000. Expedited review of tax expenditures; Subsection 2

2. Action by the office. By July 1st of each year, beginning in 2016, the office shall collect, prepare and submit to the policy committee the following information to support the expedited reviews under subsection 1:

   A. A description of the tax policy under review;

   B. Summary information on each tax expenditure associated with the tax policy under review, including:

      (1) A description of the tax expenditure and the mechanism through which the tax benefit is distributed;

      (2) The intended beneficiaries of the tax expenditure; and

      (3) A legislative history of the tax expenditure; and

   C. The fiscal impact of the tax policy and each related tax expenditure, including past and estimated future impacts.

[3] In these sections of law, "the office" refers to OPEGA; "the committee" refers to the Government Oversight Committee; "the policy committee" refers to the Taxation Committee.

Appendix B: Estimated Fiscal Impact of "Necessity of Life" Sales Tax Exemptions, FY12-FY19

Exemption	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19
Grocery Staples	$78,299,000	$79,980,500	$164,500,195	$175,204,700	$164,901,000	$171,152,000	$184,100,000	$191,130,000
Meals Served to Patients in Hospitals & Nursing Homes	$4,085,000	$4,208,500	$8,314,970	$8,903,400	$8,502,500	$8,987,000	$10,679,600	$11,270,700
Fuels for Cooking & Heating Homes	$35,292,500	$35,720,000	$70,308,357	$73,933,750	$69,654,000	$73,207,000	$65,810,000	$73,760,000
Gas Used for Cooking & Heating in Residences	$4,531,500	$4,607,500	$13,232,289	$14,441,900	$14,478,000	$15,318,750	$14,540,000	$15,430,000
Water Used in Private Residences	$8,160,500	$8,227,000	$20,919,570	$22,279,400	$20,966,500	$21,755,000	$24,740,000	$25,590,000
Certain Residential Electricity	$24,985,000	$25,365,000	$23,122,834	$25,129,533	$24,173,700	$25,784,045	$30,550,000	$33,290,000
Rental Charges for Living Quarters in Nursing Homes and Hospitals	$250,000 to $999,999	$250,000 to $999,999	$250,000 to $999,999	$250,000 to $999,999	$250,000 to $999,999	$250,000 to $999,999	$1,000,000 to $2,999,999	$1,000,000 to $2,999,999
Rental Charges on Continuous Residence for More Than 28 Days[4]	$20,624,500	$20,767,000	$836,000	$894,628	$806,284	$830,473	$259,260,000	$268,180,000
Prescription Drugs	$15,912,500	$16,216,500	$66,715,538	$71,039,100	$66,851,500	$69,369,000	$78,780,000	$81,480,000
Prosthetic Devices	$4,778,500	$4,921,000	$6,963,025	$7,429,950	$7,011,000	$7,286,500	$8,400,000	$8,760,000
Diabetic Supplies	$956,608	$985,307	$1,185,614	$1,255,421	$1,175,531	$1,210,797	$1,898,000	$1,962,100
Positive Airway Pressure Equipment & Sales	$0	$0	$274,062	$291,888	$274,905	$284,802	$350,000	$365,000
Funeral Services	$3,524,500	$3,638,500	$4,808,045	$5,120,500	$4,816,500	$4,997,000	$5,600,000	$5,800,000
TOTAL[5]	$201,525,108	$205,011,807	$381,555,499	$406,299,170	$383,986,420	$400,557,367	$686,707,600	$719,017,799
Source: Estimates for FY12-FY13 were published in the 2014-2015 Maine State Tax Expenditure Report. Estimates for FY14-FY17 were published in the 2016-2017 Maine State Tax Expenditure Report. Estimates for FY18-FY19 were developed by MRS specifically for inclusion in this report.								

[4] MRS told OPEGA that the change in the estimate for FY14-FY17 resulted from excluding rent paid on apartments when calculating taxable sales. According to MRS, this was added back into the FY18 and FY19 estimates produced for OPEGA.

[5] These totals use the mid-point of the estimated range for the fiscal impact of "Rental Charges for Living Quarters in Nursing Homes and Hospitals".

Appendix C: Additional Discussion of MRS' Microsimulation Model

How the Microsimulation Model Works

The estimated General Fund revenue loss MRS reports for many of the sales tax exemptions included in its biennial Maine State Tax Expenditures Report is produced using a microsimulation model. MRS' microsimulation model estimates the foregone revenue based on the estimated value of sales of exempted items and the tax rate that would otherwise be applied to those exempted items for the year being estimated at the time the estimate is being produced.

Estimating the value of purchases for each exempted product or service in each year begins with a base year of sales data developed by the contractors who created the model by scaling national spending patterns down to Maine levels. The base year represents an estimate of sales for a single, past year in various categories, such as groceries or pharmaceuticals. The model adjusts the base year data to reflect current economic conditions based on the forecast from Maine's Consensus Economic Forecasting Committee and forecasts for fuel and auto sales from financial and economic analysis entities (including Global Insight or Moody's Corporation), which change year to year. After the base year has been adjusted to estimate the value of sales in a future year, the model then applies the appropriate Maine sales tax rate to estimate the foregone State revenue associated with those sales.

As a final step MRS assesses the reasonableness of model estimates based on staff judgement and, as necessary, other sources of information including federal statistics and data from others such as retailers, auditors, and tax experts within their organization. MRS stresses that creating some estimates is an art rather than a science due to the limitations of the model, which may not sufficiently disaggregate data, and therefore may require further tweaking and refinement by MRS.

Because the base year data is the starting point for MRS' microsimulation model estimates, updates to the base year data can cause significant changes in the estimates produced by the model. This was apparent in the fiscal estimates OPEGA gathered for this report and the significant variance between many of the exemptions' estimates from FY13 to FY14. The estimates for FY12 and FY13 were generated with a microsimulation model using 2000 as the base year. The estimates for FY14 through FY17 were generated with a new model using 2009 as the base year. The change in estimated sales between the two models was substantial for some tax expenditures as shown in the table below.

Tax Expenditures with Increases in Estimated Fiscal Impact from FY13 to FY14 Primarily Due to Base Year Data Updates to the Microsimulation Model

Exemption	Estimated Purchases of:	Base Year 2000	Base Year 2009
Grocery Staples	Food off-premise	$1,868,420,000	$3,617,912,000
Fuels for Cooking & Heating Homes	Fuel Oil and Other Fuels, Except Gas	$487,470,000	$856,393,000
Gas Used for Cooking & Heating in Residences	Natural Gas	$73,420,000	$258,549,000
Water Used in Private Residences	Residential Water	$157,110,000	$349,982,000
Prescription Drugs	Prescription Drugs	$428,990,000	$1,125,652,000
Prosthetic Devices	Therapeutics, eye glasses, etc.	$70,640,000	$159,453,000

Source: Maine Revenue Services

Appendix C: Additional Discussion of MRS' Microsimulation Model

History of Updates to MRS' Microsimulation Model

The sales and excise tax model is one of several microsimulation models MRS uses to forecast state revenues, to estimate the impact of proposed changes to state and local tax laws, and to develop a distributional analysis of Maine's state and local tax systems. The complete system of tax models also includes models for individual income tax, corporate income tax, property tax, and multi-tax incidence. The models are developed by contractors selected by MRS through a competitive bid process.

MRS has had three sales and excise tax models since 1999 and has a goal of updating the model every five years. MRS is currently in contract negotiations for a new system of models and the project is scheduled to begin with the new fiscal year. The details on models used to date are:

> Model I: Contracted with KPMG, LLP in 1998. Models were completed by end of 1999 and used for fiscal note purposes beginning with the 2000 legislative session. The FY02/03 biennial budget was the first time the models were used for tax expenditure estimates (January 2001).
>
> Model II: Contracted with Barents Group, LLC (at that time a subsidiary of KPMG) in 2002. Models were completed by the end of 2004 and used for fiscal note purposes beginning with the 2005 legislative session. The FY06/07 biennial budget was the first time the models were used for tax expenditure estimates (January 2005). Base year data in this model was for the year 2000. This model was used for fiscal estimates in the 2014-2015 Maine State Tax Expenditure Report.
>
> Model III: Contracted with Chainbridge, LLC in 2011. Models were completed by the end of 2011 and used for fiscal note purposes beginning with the 2012 legislative session. The FY14/15 biennial budget was the first time the models were used for tax expenditure estimates (January 2013). Base year data in this model is for the year 2009. This model was used for fiscal estimates in the 2016-2017 Maine State Tax Expenditure Report.

Appendix C

Statutory Provisions Subject to Review

Statutory Provisions Subject to Review

Maine Revised Statutes

Title 36: TAXATION

Chapter 211: GENERAL PROVISIONS

§1760. EXEMPTIONS

Subject to the provisions of section 1760-C, no tax on sales, storage or use may be collected upon or in connection with: [1999, c. 521, Pt. A, §6 (AMD).]

3. **Grocery staples.** Sales of grocery staples.

5. **Medicines.** Sales of medicines for human beings sold on a doctor's prescription. This subsection does not apply to the sale of marijuana pursuant to Title 22, chapter 558-C.

[2011, c. 548, §15 (AMD) .]

5-A. **Prosthetic devices.** Sale of prosthetic aids, hearing aids or eyeglasses and artificial devices designed for the use of a particular individual to correct or alleviate physical incapacity; and sale of crutches and wheelchairs for the use of sick, injured or disabled persons and not for rental.

[2009, c. 434, §24 (AMD) .]

6. **Certain meals.** Sales of meals:

B. To patients of institutions licensed by the Department of Health and Human Services for the hospitalization or nursing care of human beings, or to patients or residents of institutions licensed by the Department of Health and Human Services under Title 22, Subtitle 6 or Title 22, section 1781; [2007, c. 438, §33 (AMD).]

9. **Coal, oil and wood.** Coal, oil, wood and all other fuels, except gas and electricity, when bought for cooking and heating in buildings designed and used for both human habitation and sleeping. The sale of kerosene or home heating oil that is prepackaged or dispensed from a tank for retail sale in a container with a capacity of 5 gallons or less, or the sale of any amount of wood pellets or any 100% compressed wood product intended for use in a wood stove or fireplace, or of any amount of firewood, is presumed to meet the requirements of this subsection when the product is received by the purchaser at the retail location.

[2015, c. 300, Pt. A, §14 (AMD) .]

[1973, c. 594, (NEW) .]

9-B. **Residential electricity.** Sale and delivery of residential electricity as follows:

A. The first 750 kilowatt hours of residential electricity per month; and [2011, c. 673, §1 (NEW).]

B. Off-peak residential electricity used for space heating or water heating by means of an electric thermal storage device. For the purpose of this paragraph, "off-peak residential electricity" means the off-peak delivery of residential electricity pursuant to tariffs on file with the Public Utilities Commission and the electricity supplied. [2011, c. 673, §1 (NEW).]

For the purpose of this subsection, "residential electricity" means electricity furnished to buildings designed and used for both human habitation and sleeping, with the exception of hotels. When residential electricity is furnished through one meter to more than one residential unit and when the transmission and distribution utility applies its tariff on a per unit basis, the furnishing of electricity is considered a separate sale for each unit to which the tariff applies. For the purpose of this subsection, "delivery" means transmission and distribution;

[2011, c. 673, §1 (RPR) .]

9-C. **Residential gas.** Sales of gas when bought for cooking and heating in buildings designed and used for both human habitation and sleeping, with the exception of hotels.

[2007, c. 438, §36 (AMD) .]

18. **Certain institutions.** Rental charged for living or sleeping quarters in an institution licensed by the State for the hospitalization or nursing care of human beings.

20. **Continuous residence; refunds and credits.** Rental charged to any person who resides continuously for 28 days or more at any one hotel, rooming house, tourist camp or trailer camp if:

A. The person does not maintain a primary residence at some other location; or [1989, c. 588, Pt. E, (NEW).]

B. The person is residing away from that person's primary residence in connection with employment or education. [1989, c. 588, Pt. E, (NEW).]

Tax paid by such a person to the retailer under section 1812 during the initial 28-day period must be refunded by the retailer. If the tax has been reported and paid to the State by the retailer, it may be taken as a credit by the retailer on the return filed by the retailer covering the month in which the refund was made to the tenant.

[2007, c. 438, §37 (AMD) .]

24. **Funeral services.** Sales of funeral services.

33. **Diabetic supplies.** All equipment and supplies, whether medical or otherwise, used in the diagnosis or treatment of diabetes;

[1977, c. 238, (RPR) .]

39. **Residential water.** Sales of water purchased for use in buildings designed and used for both human habitation and sleeping, with the exception of hotels.

94. **Positive airway pressure equipment and supplies.** Positive airway pressure equipment and supplies sold or leased for personal use.

[2011, c. 655, Pt. PP, §3 (NEW); 2011, c. 655, Pt. PP, §4 (AFF) .]

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