



SEN. ROGER J. KATZ, SENATE CHAIR
REP. ANNE-MARIE MASTRACCIO, HOUSE CHAIR

MEMBERS:

SEN. NATHAN L. LIBBY
SEN. PAUL T. DAVIS, SR.
SEN. BILL DIAMOND
SEN. GEOFFREY M. GRATWICK
SEN. THOMAS B. SAVIELLO
REP. JEFFREY K. PIERCE
REP. JENNIFER L. DECHANT
REP. MATTHEW A. HARRINGTON
REP. DEANE RYKERSON
REP. PAULA G. SUTTON

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
November 9, 2017
Accepted January 12, 2018

CALL TO ORDER

The Chair, Sen. Katz, called the Government Oversight Committee to order at 9:06 a.m. in the Burton Cross Building.

ATTENDANCE

Senators: Sen. Katz, Sen. Libby, Sen. Davis, Sen. Gratwick and Sen. Saviello
Joining the meeting in progress: Sen. Diamond

Representatives: Rep. Mastraccio, Rep. DeChant, Rep. Harrington and Rep. Rykerson
Absent: Rep. Pierce and Rep. Sutton

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA
Scott Farwell, Senior Analyst, OPEGA
Amy Gagne, Analyst, OPEGA
Etta Connors, Adm. Secretary, OPEGA

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

The members of the Government Oversight Committee introduced themselves.

SUMMARY OF THE OCTOBER 18, 2017 GOC MEETING

The Summary of the October 18, 2017 meeting was accepted as written.

Sen. Katz asked if there was objection to taking an agenda item out of order. Hearing none, he moved to **Unfinished Business, Request for an OPEGA Review of Maine's Citizen-Initiated Legislation Process.**

UNFINISHED BUSINESS

• Request for an OPEGA Review of Maine's Citizen-Initiated Legislation Process

Sen. Katz referred to Rep. Pierce's letter received by OPEGA on October 2, 2017. In his letter he asked the GOC to task OPEGA with a number of questions so the Legislature could look at suggesting changes to the current citizen-initiative referendum process. Sen. Katz read the five questions in Rep. Pierce's letter, noting that Rep. Pierce was listening by telephone to the Committee's discussion regarding his review request. (A copy of the letter is attached to the Meeting Summary.)

Rep. Pierce had presented the review request in October, 2017 and at that time the GOC had decided to hold a hearing with respect to Question 1, the York County Casino, on the November 7th ballot and then consider Rep. Pierce's request.

Sen. Katz said if the GOC does move forward on Rep. Pierce's request a motion might be made to put this review on OPEGA's Work Plan and to ask OPEGA staff to report back to the GOC with suggested areas of inquiry for the Committee's consideration at their next meeting.

Director Ashcroft said if the GOC puts the review on OPEGA's Work Plan the Office will go into its usual process and will do the preliminary research phase. If the Committee wants proposed questions at a January 2018 meeting, OPEGA will make it a priority and come back to the Committee with the proposed scope questions and a direction for the more detailed review.

Rep. Rykerson asked if members of the Committee can weigh in on Rep. Pierce's questions for the scope of the review at this time. Director Ashcroft said OPEGA does not get to establishing the final scope for the review until the preliminary research phase is completed and they come back to the GOC with those questions. If there are additional areas beyond what Rep. Pierce has indicated in his letter, OPEGA would like to hear the Committee members' areas of interest so they can factor them into their preliminary research.

Rep. DeChant asked if a motion was made and passed to add the review request to OPEGA's Work Plan would it be added to "In Progress" or "Planned". Director Ashcroft said it would technically go to planned unless the GOC wanted a particular priority assigned to the project. The Committee could vote on the priority it should be given as well. There are several options, including suspending other projects that OPEGA currently has in process, to make this review a priority. If the GOC votes to put the review on the Work Plan with no directive on its priority then she will decide when the review will begin based on when OPEGA has resources available. If the Committee feels they want the review as a priority, then OPEGA would work out whether they need to suspend another review currently in progress.

Director Ashcroft said if the GOC wanted OPEGA to come back with proposed scope questions by January 2018 it would involve prioritizing work on this over the other reviews in progress. Rep. DeChant said the GOC has the option, if they vote this review request in, to fast track and put it to the top of the pile. Rep. Mastraccio said the GOC would have to take a different vote to make the review a priority. Putting the review on OPEGA's Work Plan at this meeting does not hold the Office to anything in terms of fast tracking it. Rep. DeChant asked if the Committee says they want something to look at in January how does that come into a pecking order.

Director Ashcroft explained that the GOC has a couple of options. There is an option to make this a "Rapid Response" project and that requires a super majority vote of the Committee. What that means is that OPEGA drops their work on everything else and puts full priority and resources on the review until it is done. Another option, and what the Committee has done in the past, is to say they want to put a review on the Work Plan and then, as Rep. Mastraccio said, the GOC has another discussion about where they want that to land in terms of priority. The GOC can decide they want it as a priority project or that they want the information by a certain

date. She then figures out what OPEGA has do to with its resources with the understanding that it may delay the progress on other projects. If the GOC says they want the review to be a priority, the Director figures out how to make it work.

Sen. Katz wanted to keep the motions separate. The first motion is to vote on whether to add the review request to OPEGA's Work plan and a second motion to decide what the priority of the review will be.

Rep. DeChant questioned how an OPEGA review of this subject would have any other outcome than what has been experienced with the various bills and other initiatives around this topic that have already made their way through the Legislature.

Rep. Mastraccio gave an example of getting an economic development incentive bill before the LCRED Committee, but there is no evaluation or data that comes with the bill telling her why the incentive is going to work. For the referendum process it is an opportunity to delve into the process a little and to actually have some information so future Legislatures can look at it and decide themselves if they want to propose constitutional change around the referendum process. They will have information to base their decision on other than just their feelings.

Sen. Saviello agreed with Rep. DeChant noting he has seen three bills related to the referendum process. He also appreciated what Rep. Mastraccio said but he would rather see OPEGA spend time on the reviews they already have in progress.

Rep. Harrington thinks the referendum process review should be added to OPEGA's Work Plan because it is a huge issue for people across the State and many think the process should be reviewed.

Rep. DeChant asked if it is because people did not like that Question 1 got on to the ballot or because everyone had to vote on it. She was trying to drill down into for what purpose would OPEGA look at this process? So she would be interested in knowing the feedback from Rep. Harrington's constituents. Rep. Harrington noted that at the last GOC meeting the Committee talked extensively about Question 1 and thinks if Question 1 had gone the other way the feeling of the GOC would be feeling dramatically different. The prospect of what could have happened and the fact that someone can come into Maine spending that much money and create legislation for themselves needs to be looked into.

Sen. Gratwick thinks there are two distinct issues here. Rep. Pierce's review request relates to potential abuse of the referendum process and also to its original intent. The larger question is if the referendum process itself is working well. He thinks the review of the referendum process is appropriate at this time because you want to make sure the system is not being abused.

Rep. DeChant saw it differently and when she read the five questions in Rep. Pierce's letter she did not overlay the intent of corruption. She read it as backing out and getting an historical perspective of how did we get here, how has the process evolved, or not evolved. She did not read that this is a question of an issue of corruption. Secondly, she thinks if the results on Question 1 and 2 had gone differently it is still separate from investigating the historical perspective of how we got here. Rep. DeChant does not think the system is wrong. The Ethics Commission found something and that is their job. She does not want to review the referendum process from a sense of corruption, but rather review it from an historical perspective to figure out how Maine got here. When she voted on previous bills related to this issue she did not vote on her feeling, she voted on information she had available at the time.

Director Ashcroft said Rep. Pierce has laid out things in his letter that he is interested in. From OPEGA's perspective, were the Office to take a look at this particular subject matter, it would be coming from a broader perspective than just what Rep. Pierce has indicated. From the work that OPEGA did with regard to the York County Casino, there was also an element around transparency. If there is a lot of big money coming into Maine and those folks are using the referendum process to get what they want done, that is one question. But how transparent is that to the populist is another question and that is part of the story of the York County

Casino. Even though the Ethics Commission in the end did an investigation, the only reason they even got into an investigation was because the attorney misspoke before the VLA Committee as to who he was representing. If that piece of information had never come out, she was not sure anybody would have investigated it to the length it went. Director Ashcroft said that is the transparency issue – what is in the process that is holding people accountable for complying with the report requirements, etc. Beyond that, when OPEGA spoke with the Secretary of State’s Office and Attorney General’s Office there were some areas in the process that seemed inefficient or that were serving the intended purpose. The control functions within the process seem to have some weaknesses in them. She thinks beyond what Rep. Pierce has laid out in his letter there would be opportunities to bring back information about how the process is working and, even if the process was left the way it is, where have we got safeguards built in that are supposed to make sure it is in line with the intent of the Constitution. She thinks the broader question of what is happening here is what the Constitution intended, or not intended, and whether the GOC wants to do anything about trying to adjust it if it is not. OPEGA would have information to feed that discussion that she is not sure has been available to legislators in the past and that is the value a potential OPEGA review could bring.

Rep. Rykerson thinks there are two separate aspects when looking at the five questions. One is the regional aspect and the other is the money aspect. When he looks at the amendment to the Constitution that allowed the referendum, he did not see anything about the regional aspect, but he does see it coming out of a progressive error. Its intention was to increase democratization when Legislatures around the country were very corrupt. He sees the present effect of that as being totally flipped-flopped whereas now the referendum process can be bought by money instead of Legislatures. He would be interested in seeing how that original amendment to Maine’s Constitution, with its intention of increasing democratization, has been flipped-flopped and to see what we can do to return to the original intent.

Sen. Katz noted that this request is for a review and not an investigation.

Sen. Davis said he has spoken with different groups over the last few weeks and this subject has been raised repeatedly. People want to know about the process. He thinks it would be a good idea to have a review of the referendum process and he made the following motion:

Motion: That the GOC puts the review of the citizen-initiated referendum process on OPEGA’s Work Plan. (Motion by Sen. Davis, second by Rep. Harrington, motion passed, vote 12-0.) (Rep. Sutton and Rep. Pierce voted on the motion in the allowed time frame in accordance with the GOC’s Rules.)

Sen. Katz said the next question is whether the GOC wanted to give the referendum review priority in terms of OPEGA staff reporting back to the Committee with a suggested scope for the review.

Rep. Harrington said he had received a message from Rep. Sutton, who could not be at today’s meeting, saying she thinks OPEGA needs to look at the constitutionality of the process with the Federal Constitution.

Sen. Libby asked what work OPEGA is currently doing that would be delayed if the Committee asked OPEGA staff to prepare a scope for January 2018. Director Ashcroft said OPEGA currently has the TANF and the Beverage Container Redemption projects in progress. OPEGA did get an opportunity to do a fair amount of their normal preliminary research work when doing the York County Casino question so she would like to think that OPEGA could come back with something in January without completely delaying the other two projects. The reality is, however, that she would be shifting some resources and one or both of those reviews would likely get strung out a little longer than they might otherwise.

Motion: That the GOC directs OPEGA to present its Recommendation for Project Direction, including proposed scope questions, to the Committee in January 2018. (Motion by Sen. Gratwick, second by Sen. Davis.)

Discussion: Sen. Saviello said he would be voting against the motion because he wanted the Beverage Container review completed before he would want this review completed.

Rep. DeChant said she will also be voting against the motion because she thinks there is a sense of relevancy, but did not think there was a sense of urgency around the issue.

Note: The above motion passed, 7 voting in favor of the motion and 5 voting against the motion. (Rep. Sutton and Rep. Pierce voted on the motion in the allowed time frame in accordance with the GOC's Rules.)

NEW BUSINESS

- **Annual Approval of the Classifications and Review Schedule for Tax Expenditures as Required by 3 MRSA § 998-3**

Director Ashcroft explained that part of the legislative review of tax expenditures requires that the GOC annually, with input from the Taxation Committee, look at the Classification of the Tax Expenditures in terms of what kind of review they are going to get and to also look at the Schedule for getting those reviews done. When OPEGA brings this information forward to the GOC each year, OPEGA updates the inventory of all the tax expenditures that are being considered for a possible tax expenditure review.

Director Ashcroft wanted to get the GOC members' input as to whether there are particular tax expenditure programs listed and the information provided that are of interest, and if they agree with OPEGA's proposed Classification and Schedule. The statute requires input of the Taxation Committee so she thought she would review the tax expenditure information with the GOC today, and then see when OPEGA can get the Taxation Committee's input. The GOC will be discussing the tax expenditures again in January 2018 for the purpose of OPEGA getting formal approval as required under statute. (A copy of the Summary of OPEGA Proposed Additions and Removals for 2018 Tax Expenditure Review List, 2018 Tax Expenditure Classifications by Rationale and Legislative Review Category as of November 2017, Proposed Priority by Rationale for Tax Expenditures Subject to Full Evaluation as of 2018 and Proposed Expedited Tax Expenditure Review Schedule as of 2018 is attached to the Meeting Summary.)

Sen. Libby referred to the limited scope work OPEGA is currently doing on the Major Headquarters Expansion Credit (MHEC). He asked for an explanation of what a review would involve on a tax credit that has not been used yet. Director Ashcroft said OPEGA is doing a design evaluation similar to what they did for PTDZ and New Markets where OPEGA looked at what requirements and definitions exist in statute and rules that define the basis for the program. That is the kind of thing OPEGA is looking at with regard to MHEC which has yet to be implemented. OPEGA will be letting the Legislature know what things they might want to address before the credit gets implemented.

Rep. DeChant asked how the tax expenditure list is comprised and where did it come from. She noted that the Ship Building Tax Incentive is not on the list and asked if it was in a different cycle for review. Director Ashcroft said that Incentive was slated as no review so is on the list and part of the inventory, but it is not anything that is scheduled for review by either OPEGA or the Taxation Committee.

Director Ashcroft said the original list of all the tax expenditures to be considered for review was based on the tax expenditures that were reported on in Maine Revenue Services' Biennial Maine State Tax Expenditure Report. This process started two years ago and OPEGA was using the Report for 2015 as their base. Every year after the legislative session ends, OPEGA goes through all the bills that have been passed that either amend, add or repeal a tax expenditure that is on the list. OPEGA also looks at the newest version of MRS's Biennial Report and adds in the most updated fiscal information from that Report. OPEGA does a cross check to make sure the list is current and as complete as possible.

Sen. Gratwick asked if the expenditures came out of the Finance Department and then the decision is made between OPEGA and an Analyst from Taxation that a program is an “A” versus a “C” review. Director Ashcroft said within the statute that governs the Tax Expenditure Review process there is guidance as to what should get a full evaluation and what should get an expedited review. It is OPEGA who proposes to the GOC what they think the classification should be based on that guidance and she is looking for the Committee’s agreement on that. In the end, the purpose is to be keeping a full inventory of everything that OPEGA is considering for possible review and to have agreement with the Legislature on which are getting full reviews, expedited reviews or not being reviewed at this time.

Rep. Mastraccio said the tax expenditure review process came out of legislation in the 126th Legislature, but really started with the 125th GOC’s proposed legislation that passed in the 126th Legislature. Director Ashcroft referred the Committee to § 998 of OPEGA’s statute in the back of their notebooks. Rep. Mastraccio said the tax expenditure summary and classification information is all part of that process that the GOC/OPEGA were tasked with. Director Ashcroft is coming to the Committee to review what is new, what is not in there anymore and list the reviews OPEGA is planning to do. She referred back to the Summary of Changes OPEGA provided. She noted that the first expenditure on the list, Major Business Headquarters Expansion Expenditure Program, was a business incentive the Legislature passed at the end of last session pretty quickly. It was decided to put into the legislation what was needed to be able to evaluate that program easily because of what has been learned in trying to evaluate past programs. She said you may see legislation proposed in the upcoming short session to address any shortcomings currently in that law.

Sen. Libby asked if the GOC says a tax program is going to be in the “B” category can the Taxation Committee decline to review the program. Director Ashcroft said the Taxation Committee gets input to this process so if they felt they did not want to review a program they can say so and OPEGA would factor that into what the GOC was considering approving. OPEGA provides certain information to Taxation each year for a particular grouping of tax expenditures up for expedited review. She supposed the Taxation Committee could choose to ignore what OPEGA provides them and not deal with it.

OPEGA proposed removing numbers 96 - Credit for Income Tax Paid to Other Jurisdiction, 98 - Deduction for Dividends Received from Nonunitary Affiliates and 110 - Credit for Income Tax Paid to Other State by an Estate or Trust from the List because they are no longer being reported by MRS in their Biennial Tax Expenditure Report. MRS explained the reason is because the tax expenditure itself is something that is constitutionally provided for. These programs have to do with the way State taxation interacts with federal taxation and although the State can choose the form in which it provides this benefit, it is not allowed to not provide the benefit. It is OPEGA’s understanding from MRS that because of that they are no longer reporting it in the Biennial Tax Report because it is not really something that is up for debate about whether the State should keep it or not. Director Ashcroft’s limited understanding is that we may have, as a State, chosen a way to implement what is required and there might be alternative ways to implement what is required. OPEGA is recommending taking the program off the list because there will not be any readily available fiscal impact information if MRS is not reporting it anymore. OPEGA also thinks there is logic to the fact that if the State has to have this tax expenditure what would be the value of reviewing it. If Committee members have any knowledge of these particular programs, and think the form in which the benefit is being provided is something they would want to review or understand, then it might be worth keeping them on the list.

Sen. Gratwick referred to 96 and asked if Other Jurisdictions was only in the United States. Director Ashcroft did not know the answer.

Sen. Libby asked if there was any interest by the Committee in keeping 96 on the list.

Rep. Rykerson asked who made the legal interpretation. Director Ashcroft said OPEGA’s bases are MRS’s bases, which she believe involves court rulings, but OPEGA has not confirmed that. OPEGA’s understanding is that there are more recent court rulings that say constitutionally you have got to do this.

Sen. Libby said he would like to keep it on the List. Sen. Katz suggested contacting MRS to have them explain their position on the three programs listed above. Director Ashcroft said the question would be is this the only form in which we might be able to do this. Sen. Libby thinks there are other ways to provide the constitutionally required benefit. Director Ashcroft will contact MRS to find out if this is really the only way the State could provide this benefit and, if it is, maybe that factors into whether the GOC wants to keep the programs on the list. She will ask about all three of the programs.

Director Ashcroft referred to the Proposed Priority by Rationale for Tax Expenditure Subject to Full Evaluations and said the proposed priority is based on the rationale for the Tax Expenditure. For instance, OPEGA started with Business Incentives that were about job creation. The reviews currently in progress are listed. OPEGA has moved down to some reviews in the next priority grouping, Business Incentive for Financial Investment, and when finished reviewing tax expenditures in that group, would continue to work their way down the list to those expenditures in the next grouping. OPEGA is looking for the GOC to weigh in at this juncture on whether any of these particular tax expenditures or rationale groupings should become a higher priority. OPEGA did front load the priority list with all of the business incentive type tax expenditures because that seemed to be what was of most interest when OPEGA put the original schedule together, but the Committee could talk about moving groupings around. The other idea is to try to keep the reviews of tax expenditures that have similar rationales, groups around the same timeframe so we have a better opportunity to compare programs that have similar goals or purposes to each other. That is not to say that OPEGA could not take individual tax expenditures and move them up. OPEGA is looking for legislators to weigh in on whether we are still good with what was laid out for priorities before or whether there is a need to make some adjustments. Director Ashcroft asked Committee members to review the list at their leisure and she will take comments at any time. OPEGA will be reaching out to the Taxation Committee to get their thoughts as well.

Sen. Katz asked if the Director will be looking for approval of the Plan at the next GOC meeting. Director Ashcroft said once OPEGA has a chance to get the Taxation Committee's input, she would be looking for a formal approval from the GOC in January 2018.

Sen. Katz referred to the Proposed Expedited Tax Expenditure Review Schedule as of 2018 and the two programs highlighted in green, 129 - Gasoline Exported from the State and 130 - Special Fuel Exported from the State. He noted although they are significant dollars they are no longer in the Tax Expenditure report – reason unknown and asked Director Ashcroft to clarify. She said she will be getting together with MRS to understand why that is no longer in the Report so OPEGA can make a recommendation to the GOC about what to do. OPEGA will have more information on that in January.

Sen. Katz asked Committee members to review the information for further discussion at a January meeting.

- **Review of OPEGA Response to the Right to Know Advisory Committee's Inquiry on Provisions for Confidential Documents in OPEGA's Statute**

Director Ashcroft said the Right to Know Advisory Committee is currently engaged in its responsibilities to review the public records exceptions that exist in Statute and every year there are different provisions that are up for review. This year it is the provisions that are in OPEGA's Statutes. The Right to Know Advisory Committee asked a number of questions and the Director referred members to her Draft Memo in their notebook. The Draft lists the questions and OPEGA's response to those questions. She wanted to make sure that the GOC was aware of her answers and see if they have any other perspectives that they wanted to add. The last time OPEGA went through this process the Right to Know Advisory Committee was also looking for the GOC's thoughts.

Director Ashcroft said it is her intention, after today's GOC meeting, to send the letter to the Right to Know Advisory Committee so they can begin their work and she was looking for any input from the members of the GOC. She summarized her Draft response letter for the Committee. (A copy of the Draft OPEGA Response to the Right to Know Advisory Committee is attached to the Meeting Summary.)

Sen. Gratwick noted that OPEGA ran into confidential information problems recently during the Pine Tree Development Zones review where the GOC wanted to know some of the financial data for firms. Some businesses were willing to give that information and others were hesitant. He asked where that kind of restriction fell. Would that information fall under Question #4 b and could leave that decision up to the business or is there an overall policy that will be promulgated. Director Ashcroft said 4 b relates to the fact that OPEGA has access to records that are held confidential by State agencies. An example would be Sen. Gratwick's tax information. She explained this provision means that if OPEGA received the tax information, which is confidential in the hands of MRS, that OPEGA also has to maintain it as confidential and cannot provide that information in response to any records requests. The realm is what State agencies have. Aside from that we could choose to ask businesses to provide information and if they provide it to OPEGA then it becomes a confidential working paper under subsections 3 and 5 so OPEGA would maintain it as a confidential document not to be released as a public record by virtue of the exemptions for our working papers. There is kind of a double layer protection for documents, or information, that OPEGA gets that other agencies hold as confidential. OPEGA has to hold it as confidential because the agency does, plus we hold it confidential anyway because it is a working paper. If businesses want to provide OPEGA information that they felt was confidential, we would hold that confidential in our office regardless.

Rep. Mastraccio said that is important and is why we need the exemption. If we were to lose that exemption then you can forget about receiving all that other information that is needed to evaluate those programs. The Right to Know Advisory Committee's review is about why OPEGA needs to continue to receive these exemptions. Director Ashcroft agreed.

Director Ashcroft will submit the memo to the Right to Know Advisory Committee. She is expecting that if the Right to Know Advisory Committee likes the suggestions that they will make a recommendation to the Judiciary Committee to make the noted changes to OPEGA's Statute, but she did not know if they will go that far or not.

Sen. Katz asked GOC members if they had questions, thoughts or suggested changes regarding the Draft Memo to the Right to Know Advisory Committee. Seeing none, Sen. Katz said Director Ashcroft will forward her memo to the Right to Know Advisory Committee.

UNFINISHED BUSINESS con't

- **Review of Revised Scope Questions for the Temporary Assistance for Needy Families (TANF) Review**

Director Ashcroft said OPEGA presented its recommendation for scope questions and project direction on the TANF review at the October GOC meeting. After Committee discussion, there was a motion made to accept those scope questions with an amendment to add an additional question, or add on to an existing question. OPEGA decided to make the amendment a separate question. The revised questions were sent out to the Committee by email asking for any feedback or comments on the revised set of scope questions before OPEGA moved forward. She said Sen. Gratwick did provide OPEGA with a comment and that is included on the TANF Project Scope Questions currently in the Committee's notebooks. (A copy is attached to the Meeting Summary.)

The Director referred to Sen. Gratwick's suggestion to add "and the extent to which these programs have decreased child poverty and deep child poverty" to scope question 4. She said she would go back to OPEGA's former position that child poverty and deep child poverty do not appear to be part of the specifically stated purposes and goals of the federal TANF program. OPEGA does think that between answering questions 4 and 2 OPEGA will provide information that will allow the GOC and legislators to see what the TANF funds are getting spent on, or are planned to be spent on, in sufficient detail to be able to judge for themselves whether they think those programs and services have an impact on poverty or any of the TANF purposes. OPEGA

thinks the way question 4 is worded is broad enough for them to also be able to take a look at what DHHS does to measure, or assess, the impact on the current TANF purposes. Director Ashcroft thinks OPEGA will already have a lot of helpful information with the way they have the scope questions worded.

Directors Ashcroft noted that Sen. Gratwick was still concerned with whether DHHS has sufficient efforts these days to take care of families' needs. She thinks that is still a much broader type review than just what the TANF program itself is intended to accomplish. She would worry because there are so many different factors impacting that kind of broader outcome that just trying to opine on that from the perspective of TANF would not do that question justice.

Sen. Gratwick said he thinks it is good to be specific because he wants to know if these programs are really working. It has a great deal to do with the meanings of the particular word "needy" and he takes a larger view of that. He is satisfied that OPEGA is going to have a very thorough review of TANF and he will also be asking many questions as to whether or not these programs are working as designed to help people in poverty, helping people up the line and out of poverty.

Sen. Katz asked if Committee members agreed with the five TANF Project Scope Questions. Members agreed.

REPORT FROM DIRECTOR

Status of Projects in Progress

Director Ashcroft said OPEGA is working their way through the more detailed part of the reviews in progress and thinks they are making good progress on all of them. She is doing what she can with the State agencies to make sure that they have smooth communications back and forth and exchange of data at a good pace.

Sen. Diamond said often times the GOC will ask OPEGA how they are doing with staff, time, etc. Director Ashcroft just noted that she felt OPEGA had a good handle on what is going on, but he thinks it is important that the Committee ask the question. Director Ashcroft thinks OPEGA is doing okay. Recently she has been evaluating how they have the resources split between the tax expenditure reviews and the other reviews. She is thinking OPEGA is a little light on the resources devoted to the tax expenditures side now that they recognize what is involved in doing the reviews. She said tax reviews got strung out longer. The fewer resources also means there are not as many minds doing the hard thinking that is required. More minds doing the thinking usually leads to better outcomes. Aside from just getting the work done, finding the time to do good thinking in identifying issues and developing recommendations is something OPEGA has been challenged to do with just a few resources because they have been trying so hard to push the projects out. OPEGA has had to adjust for themselves where they think it is important to be spending time, and if that means lengthening a review out, that they spend whatever time is needed to do the quality thinking as well. She said that is her only concern and thinks she has a very productive group of employees.

ANNOUNCEMENTS AND REMARKS

None.

NEXT GOC

There will be no GOC meeting in December 2017. In January, the GOC will be back on their regular meeting schedule during sessions which is the second and fourth Friday of each month. The next GOC meeting will be January 12, 2018.

Director Ashcroft wanted to be certain that the Committee was alright with receiving OPEGA's Project Direction on the Maine's Citizen-Initiated Legislation Process at the second meeting in January, the 26th. Committee members agreed.

ADJOURNMENT

The Chair, Sen. Katz, adjourned the Government Oversight Committee meeting at 10:36 a.m. on the motion of Sen. Davis, second by Sen. Diamond, unanimous.



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Dear Director Ashcroft:

As you know, members of the Government Oversight Committee recently gave unanimous approval to review the referendum campaign for the proposed York County Casino. However, we believe the alleged nefarious activities surrounding this issue could be just a symptom of a far greater problem. I'm referring to the process by which these referendum questions make their way on to the ballot through Maine's citizens' referendum process.

The amendment to the Maine Constitution that first allowed citizens to propose legislation independent of the legislature was enacted in 1907 and sent to statewide referendum in 1908. Voters approved the measure and added seven new sections to the Maine Constitution (Article IV, Part 3, Section 16 to 22). The changes became effective on January 6, 1909 and Maine became the first state on the east coast to adopt statewide initiative and referendum legislation. In 1951, voters approved a measure that required that no less than 10 percent of the total votes for governor cast in the last gubernatorial election were required in order to get a question on the ballot.

Unfortunately, it appears to have become a regular occurrence for wealthy special interest groups, many from out of state, to swoop in and take advantage of Maine's citizens referendum process, allowing them to get their issue on the ballot. These groups have been more than willing to do so by any means necessary. Increasingly, these groups are engaging in unethical activities and in some cases it appears they may be breaking the law. Once they've succeeded in gathering their signatures, they spend millions of dollars on marketing campaigns designed to deceive the voters. It seems the original intent of the citizens' referendum and the people's veto was to allow everyday citizens, not wealthy special interest groups, to have a voice in public policy independent of the legislature. But that notion seems to quickly be becoming a thing of the past and Maine policy making is now commonly thought of as "a cheap date" for these special interest groups.

We are not suggesting that the people of Maine are not smart enough to understand the referendum questions they see on the ballot. I am suggesting that perhaps our citizen referendum process is being

taken advantage of as evidenced by the numerous ethical violations including the current alleged behavior those spearheading the York County Casino referendum.

I would like the Office of Program and Government Accountability to find the answers to the following questions so the Maine Legislature can look at proposing some changes to the current referendum process.

I would like to know:

1. Since the citizens' initiative was first approved by Maine voters, how many times has a citizen initiated question made its way on to the ballot? How many of these referendums used paid signature gatherers in order to get the question on the ballot and is this contrary to the intent of the citizens referendum process?
2. Looking back at all the citizens' referendum questions in Maine history that made it on the ballot, from which counties did the required signatures come from? Was the original intent of the signature gathering aspect of citizen referendums to be a regionalized effort or an accurate representation of the entire state?
3. Looking back on all the citizens' referendum questions that have successfully made it on to the ballot since Maine's Congressional Districts were changed in 2012, how many of the required signatures were collected from the First Congressional District and how many from the Second Congressional District?
4. Looking back at all the citizens' referendum questions that made it on the ballot over the past 10 years, how much money was spent to obtain the signatures necessary to get these referendum questions on the ballot? What groups or individual supplied this money?
5. We would also ask that you recommend steps that the Maine Legislature can take to ensure that the citizen referendum process is fulfilling its original intent.

Maine's need a guarantee that Maine's referendum process still meets its original intent and is not being taken advantage of by wealthy out-of-state and in-state special interest groups to circumvent the Maine Legislature, and in some cases even violate the law, to further their extreme agendas.

Regards,



Representative Jeffrey Pierce
District 53

State of Maine
Summary of OPEGA Proposed Additions and Removals for 2018 Tax Expenditure Review List

Review Categories: A = Full Evaluation by OPEGA, B = Expedited Review by Taxation Committee, C = No Review

ID #	Rationale	Review Category	Tax Type	Expenditure Type	Expenditure Program Name	Brief Description	FY19 Revenue Loss Estimate*	FY17 Revenue Loss Estimate*	Statutory Cite: Title 36
ENACTED in 2017 - OPEGA Proposes Adding to List									
7	Business Incentive	A	Income	Credit	Major Business Headquarters Expansion	Refundable credit of 2% of taxpayer's investment for a major business that expands or locates its headquarters in Maine and hires the required number of new employees.	Credit is not available until tax year 2020		5219-QQ
INCLUDED in Regular Pension Deduction Beginning 2016 - OPEGA Proposes Removing from List									
26	Non-Business Incentive	C	Income	Deduction	Deduction for Dentists with Military Pensions	Deduction for military pension benefits received by licensed dentists who work at least 20 hours per week and accept MaineCare patients.		\$0 - \$49,999	5122.2.BB
REPEALED as of January 1, 2016 - OPEGA Proposes Removing from List									
36	Tax Relief	A	Service Provider	Exemption	Basic Cable & Satellite Television Service	Tax exemption on the sale of the minimum service that can be purchased from a cable or satellite television supplier.		\$2,280,000	2551.2
ENACTED in 2016 - OPEGA Proposes Adding to List									
38	Tax Relief	A	Income	Deduction	Additional Standard Deduction for the Blind and Elderly	Additional \$1,550 standard deduction if single, or \$1,250 if married available to taxpayers who are blind beginning in tax year 2016.	\$8,200,000		5124-A
ENACTED in 2016 - OPEGA Proposes Adding to List									
42	Charitable	B	Sales & Use	Exemption	Certain Veterans' Service Organizations	Sales to an organization that provides services to veterans and their families that is chartered under 36 United States Code, Subtitle II, Part B, and that is recognized as a veterans' service organization by the U.S. Department of Veterans Affairs.	\$95,954		5162(2)
ENACTED in 2017 - OPEGA Proposes Adding to List									
92	Charitable	C	Sales & Use	Exemption	Certain Sales by Civic, Religious or Fraternal Organizations	Sales of prepared food by a civic, religious or fraternal organization at a public or member-only event, except when alcoholic beverages are available for sale at the event.	No estimate - Enacted in 2017		1760.101
NO LONGER Included in Biennial Maine State Tax Expenditure Report because of "considerations of US Constitution provisions bearing on state taxation" - OPEGA Proposes Removing from List									
96	Tax Fairness	B	Income	Credit	Credit for Income Tax Paid to Other Jurisdiction	Tax credit for residents of income tax paid to another state or jurisdiction, with limitations.		\$48,393,000	5217-A
NO LONGER Included in Biennial Maine State Tax Expenditure Report because of "considerations of US Constitution provisions bearing on state taxation" - OPEGA Proposes Removing from List									
98	Tax Fairness	B	Income	Deduction	Deduction for Dividends Received from Nonunitary Affiliates	Deduction for 50% of dividend income received by a business from an affiliated corporation that is not part of the taxpayer's unitary (i.e. central/integrated) business.		\$10,200,000	5200-A.2.G
NO LONGER Included in Biennial Maine State Tax Expenditure Report because of "considerations of US Constitution provisions bearing on state taxation" - OPEGA Proposes Removing from List									
110	Tax Fairness	C	Income	Credit	Credit for Income Tax Paid to Other State by an Estate or Trust	Tax credit for residents of income tax paid on an estate or trust to another state or jurisdiction.		\$0 - \$49,999	5165
NO LONGER Included in Biennial Maine State Tax Expenditure Report for unknown reason - OPEGA still researching									
129	Interstate or Foreign Commerce	B	Other	Exemption	Gasoline Exported from the State	Gasoline Tax exemption for sales wholly for export from the State. (Highway Fund)		\$73,330,523	2903.4.A
NO LONGER Included in Biennial Maine State Tax Expenditure Report for unknown reason - OPEGA still researching									
130	Interstate or Foreign Commerce	B	Other	Exemption	Special Fuel Exported from the State	Special Fuel Tax exemption for sales of distillates and low energy fuel to be exported from the State by a licensed supplier. (Highway Fund)		\$17,991,845	3204-A.5

State of Maine
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ENACTED in 2016 - OPEGA Proposes Adding to List									
144	Interstate or Foreign Commerce	C	Sales & Use	Exemption	Snowmobiles and All-terrain Vehicles Purchased by Nonresidents	Tax exemption on sales to a nonresident of snowmobiles or all-terrain vehicles.	\$0 - \$49,999		1760.25-C
NO LONGER Included in Biennial Maine State Tax Expenditure Report for unknown reason - OPEGA still researching									
165	Non-Taxable Services	B	Sales & Use	Exemption	Repair, Maintenance and Other Labor Service Fees	Tax exemption on price of labor or services used in installing, applying or repairing property, if separately charged or stated.		\$45,657,000	1752.14.B(4)

State of Maine
2018 Tax Expenditure Classifications by Rationale and Legislative Review Category as of November 2017

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ID #	Rationale	Review Category	Tax Type	Expenditure Type	Expenditure Program Name	Brief Description	FY19 Revenue Loss Estimate*	FY17 Revenue Loss Estimate*	Statutory Cite: Title 36
1	Business Incentive	A	Income	Credit	New Markets Capital Investment Credit	Tax credits of up to 39% of a project's total cost for qualified equity investments in low-income community businesses made via a community development entity, with limitations.	\$15,232,000	\$13,509,000	5219-HH
2	Business Incentive	A	Sales & Use Income	Credit, Exemption, Reimbursement	Pine Tree Development Zones	Reimbursement of sales & use taxes on certain tangible personal property; exemption from sales taxes on tangible personal property and electricity; and credits for qualified businesses that expand or begin operations in the State (100% of Maine income tax liability is waived for the first 5 years, and 50% for years 6 to 10). Ends in 2028/2029.	\$4,570,000 - \$7,319,998	\$3,473,000	\$2016 \$1760.87 \$5219-W
3	Business Incentive	A	Income	Credit	Research Expense Tax Credit	Tax credit for qualified research expenses associated with certain technological and experimental research, with limitations. 15 year carry forward.	\$540,000	\$498,000	5219-K
4	Business Incentive	A	Income	Credit	Seed Capital Investment Tax Credit	Tax credit of up to 50% for capital investment in eligible businesses (including manufacturing, value-added natural resource enterprises, export businesses, advanced technology, and visual media production), with limitations.	\$3,320,000	\$2,679,000	5216-B
5	Business Incentive	A	Income	Credit	Tax Benefits for Media Production Companies	Tax credit (5% of nonwage production expenses, if >\$75,000) and reimbursement (12% of production wages) for certified productions of visual media production companies.	\$499,800	\$256,000	5219-Y, 6902
6	Business Incentive	A	Income	Credit	Credit for Rehabilitation of Historic Properties	Income tax credit for expenditures in rehabilitation of certified historic properties, with limitations. Fiscal impact is expected to increase \$1.4 million in FY17 and perhaps more in future years as a result of recently enacted legislation. Tied to federal credit.	\$15,340,000	\$13,172,000	5219-BB
ENACTED in 2017 - OPEGA Proposes Adding to List									
7	Business Incentive	A	Income	Credit	Major Business Headquarters Expansion	Refundable credit of 2% of taxpayer's investment for a major business that expands or locates its headquarters in Maine and hires the required number of new employees.	Credit is not available until tax year 2020		5219-QQ
8	Business Incentive	A	Income	Reimbursement	Employment Tax Increment Financing	Reimbursement to certain businesses of income tax attributed to qualified employees (those receiving a designated level of wages, health and retirement benefits), subject to limitations including unemployment rates in the area; ends in 2028.	\$17,350,000 (includes JTIF)	\$14,671,000 (includes JTIF)	Chapter 917
9	Business Incentive	A	Property	Reimbursement	Reimbursement For Business Equipment Tax Exemption to Municipalities (BETE)	Reimbursement to municipalities of revenue losses, with limitations, due to the property tax exemption for qualified business equipment.	\$42,968,623	\$36,948,340	Chapter 105, subc. 4-C
10	Business Incentive	A	Property	Reimbursement	Reimbursement for Taxes Paid on Certain Business Property (BETR)	Reimbursement of property tax paid on qualified business property, with limitations. FY15 tax loss shows a decrease from prior years resulting from recently enacted legislation.	\$23,420,000	\$32,000,000	Chapter 915
11	Business Incentive	A	Sales & Use	Exemption	New Machinery for Experimental Research	Tax exemption on sales of machinery and equipment for certain research and development activities, and for biotechnology research.	\$50,000 - \$249,999	\$50,000 - \$249,999	1760.32

State of Maine
2018 Tax Expenditure Classifications by Rationale and Legislative Review Category as of November 2017

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ID #	Rationale	Review Category	Tax Type	Expenditure Type	Expenditure Program Name	Brief Description	FY19 Revenue Loss Estimate*	FY17 Revenue Loss Estimate*	Statutory Cite: Title 36
12	Business Incentive	C	Income	Credit	Super Credit for Substantially Increased Research & Development	Additional tax credit for taxpayers qualifying for the Research Expense Tax Credit (#6) with expenses beyond what is covered under that credit, with certain limitations. Beginning in tax year 2014, except for carry forward amounts this is no longer an active tax credit. Allowable carry forward period is 10 years.	No estimate	\$1,057,000	5219-L
13	Business Incentive	C	Income	Credit	Maine Fishery Infrastructure Investment Tax Credit	Tax credit for up to 50% of investment in eligible fishery infrastructure projects to benefit the public; requires tax credit certificate from the Department of Inland Fisheries and Wildlife. Per IF&W, credit has not yet been used.	\$0 - \$49,999	\$0-50,000	5216-D
14	Business Incentive	C	Income	Credit	Shipbuilding Facility Credit	Tax credit against withholding taxes for owners of shipbuilding facilities with at least 6,500 employees, who invest at least \$200,000,000 related to construction, improvement, modernization or expansion of a 10 acre facility, with limitations.	\$0	\$2,850,000	Chapter 919
15	Business Incentive	C	Income	Deduction	Deduction for Contributions to Capital Construction Funds	Deduction for contributions to a capital construction fund for maintenance or replacement of fishing vessels.	\$0 - \$49,999	\$0 - \$49,999	5122.2.I
16	Non-Business Incentive	C	Income	Credit	Credit for Disability Income Protection Plans in the Workplace	Tax credit to employers for employees enrolled in disability income protection plans on or after January 1, 2017.	\$62,720	\$0 in FY17 (\$28,420 in FY18)	5219-OO
17	Non-Business Incentive	A	Income	Credit	Credit for Educational Opportunity	Tax credit for certain educational loan payments made by participants in the Job Creation Through Educational Opportunity Program and their employers; participants must be residents who remain in Maine after obtaining a degree here.	\$24,900,000	\$9,376,000	5217-D
18	Non-Business Incentive	A	Income	Credit	Credit for Wellness Programs	Tax credit to employers with 20 or fewer employees for expenditures on wellness programs up to \$2,000.	\$0 - \$49,999	\$319,000	5219-FF
19	Non-Business Incentive	A	Income	Credit	Earned Income Credit	Tax credit equal to 4% of the federal earned income tax credit (EITC) received that year; EITC is a credit for individuals who have earned income under a certain limit.	\$10,200,000	\$855,000	5219-S
20	Non-Business Incentive	A	Income	Deduction	Deduction for Interest and Dividends on Maine State and Local Securities - Individual Income Tax	Individual income tax deduction for interest or dividends on securities issued by the State and its political subdivisions.	\$65,000	\$42,000	5122.2.N
21	Non-Business Incentive	A	Income	Deduction	Deduction for Interest and Dividends on U.S., Maine State and Local Securities - Corporate Income Tax	Corporate income tax deduction for interest or dividends on securities issued by the State and its political subdivisions.	\$200,000	\$190,000	5200-A.2.A, 5200-A.2.K
22	Non-Business Incentive	C	Income	Credit	Dental Care Access Credit	Tax credit (not to exceed \$12,000 or \$15,000) for a limited number of licensed dentists (five or six) per year who agree to practice in underserved areas of the State for at least 5 years and are certified eligible by the State's Oral Health Program; credit ends in 2020, with certification ending in 2015.	\$81,000	\$106,000	5219-DD

State of Maine
2018 Tax Expenditure Classifications by Rationale and Legislative Review Category as of November 2017

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23	Non-Business Incentive	C	Income	Credit	Innovation Finance Credit	Refundable tax credit available to the Maine Public Employees Retirement System for capital losses sustained in the Innovation Finance Program administered by the Finance Authority of Maine, which encourages investment in venture capital funds for innovative Maine businesses. Ends in 2029. Per FAME, this has never been utilized.	unspecified potential liability	\$0 - \$4,000,000	5219-EE
24	Non-Business Incentive	C	Income	Deduction	Deduction for Affordable Housing	Deduction for income resulting from sale of certified multifamily affordable housing properties. Per MaineHousing, this has been used only three times since its enactment.	\$0 - \$49,999	\$0 - \$200,000	5122.2.Z
25	Non-Business Incentive	C	Income	Credit	Primary Care Access Credit	Tax credit for outstanding student loans available to a limited number of primary care medical professionals who agree to practice in underserved areas of the state for at least 5 years, with limitations.	\$100,000 - \$200,000	\$186,000	5219-KK
INCLUDED in Regular Pension Deduction Beginning 2016 - OPEGA Proposes Removing from List									
26	Non-Business Incentive	C	Income	Deduction	Deduction for Dentists with Military Pensions	Deduction for military pension benefits received by licensed dentists who work at least 20 hours per week and accept MaineCare patients.		\$0 - \$49,999	5122.2.BB
27	Tax Relief	A	Income	Credit	Credit for Modifications to Make Homes Accessible	Tax credit to individuals for a portion of the cost incurred in modifying a home to make it accessible for a person with a disability or physical hardship. Effective for tax years beginning on or after January 1, 2017.	\$122,500	\$0 in FY17 (\$73,500 in FY18)	5219-PP
28	Tax Relief	A	Income	Credit	Sales Tax Fairness Credit	Tax credit to provide sales tax relief to low and middle income families.	\$33,600,000	\$31,849,020	5213-A & 5403.5
29	Tax Relief	A	Income	Credit	Adult Dependent Care Credit	Tax credit to individuals for a portion of adult dependent care expenses paid including expenses for adult day care, hospice services or respite care.	\$147,000	\$142,500	5218-A
30	Tax Relief	A	Income	Credit	Income Tax Credit for Child Care Expense	Tax credit for child and dependent care expenses in the amount of 25% of the federal tax credit; the credit doubles for expenses incurred for quality child care services. Maximum of \$500.	\$3,920,000	\$3,676,000	5218
31	Tax Relief	A	Income	Deduction	Deduction for Pension Income & IRA Distributions	Deduction for pension benefits received under employee retirement plans and taxable distributions from individual retirement accounts, up to \$10,000.	\$32,300,000	\$26,647,000	5122.2.M
21	Tax Relief	A	Income	Deduction	Deduction for Social Security Benefits Taxable at Federal Level	Deduction for social security benefits and railroad retirement benefits.	\$91,800,000	\$76,864,000	5122.2.C
33	Tax Relief	A	Property	Credit	Property Tax Fairness Credit	Property tax credit for Maine residents based on a formula, not to exceed \$600 for those under 65 years of age, or \$900 for those over 65, with income limitations.	\$15,970,000	\$29,108,000	5219-KK
34	Tax Relief	A	Sales & Use	Exemption	Railroad Track Materials	Tax exemption on sales of railroad track materials for installation on railroad lines within the State.	\$1,313,200	\$383,096	1760.52
35	Tax Relief	A	Sales & Use	Refund	Refund of Sales Tax on Purchases of Parts and Supplies for Windjammers	Refund of sales tax paid on purchases of parts and supplies for use for operation, repair or maintenance of a windjammer providing commercial cruises.	\$50,000 - \$249,999	\$85,500	2020

State of Maine
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REPEALED as of January 1, 2016 - OPEGA Proposes Removing from List									
36	Tax Relief	A	Service Provider	Exemption	Basic Cable & Satellite Television Service	Tax exemption on the sale of the minimum service that can be purchased from a cable or satellite television supplier.		\$2,280,000	2551.2
37	Tax Relief	A	Service Provider	Exemption	Certain Telecommunications Services	Tax exemption on sales of interstate and international telecommunications services.	\$11,975,600	\$14,465,398	2557.33, 2557.34
ENACTED in 2016 - OPEGA Proposes Adding to List									
38	Tax Relief	A	Income	Deduction	Additional Standard Deduction for the Blind and Elderly	Additional \$1,550 standard deduction if single, or \$1,250 if married available to taxpayers who are blind beginning in tax year 2016.	\$8,200,000		5124-A
39	Tax Relief	C	Income	Deduction	Deduction for Holocaust Victim Settlement Payments	Deduction for settlement payments received by Holocaust victims.	\$0 - \$49,999	\$0 - \$49,999	5122.2.0
40	Charitable	C	Sales & Use and Service Provider	Exemption	Certain Veterans' Support Organizations	Sales tax and service provider tax exemption to incorporated nonprofit organizations providing direct supportive services to veterans with service-related post-traumatic stress disorder or traumatic brain injury.	\$21,260 - \$71259	\$15,000 - \$17,000	1760.98 & 2557.37
41	Charitable	C	Sales & Use and Service Provider	Exemption	Nonprofit Library Collaboratives	Sales tax and service provider tax exemption for nonprofit collaboratives of academic, public, school and special libraries.	\$0 - \$99,998	\$0	1760.99 & 2557.38
ENACTED in 2016 - OPEGA Proposes Adding to List									
42	Charitable	B	Sales & Use	Exemption	Certain Veterans' Service Organizations	Sales to an organization that provides services to veterans and their families that is chartered under 36 United States Code, Subtitle II, Part B, and that is recognized as a veterans' service organization by the U.S. Department of Veterans Affairs.	\$95,954		5162(2)
43	Charitable	B	Sales & Use and Service Provider	Exemption	Construction Contracts with Exempt Organizations	Tax exemption on sales of tangible personal property to contractors for incorporation in real property for sale to any sales tax exempt organization or government agency.	\$1,250,000 - \$3,999,998	\$1,000,000 - \$2,999,999	1760.61 & 2557.31
44	Charitable	B	Sales & Use	Exemption	Sales of Certain Qualified Snowmobile Trail Grooming Equipment	Tax exemption on sales of snowmobile trail grooming equipment to incorporated snowmobile clubs.	\$103,753	\$86,184	1760.90
45	Charitable	B	Other	Exemption	State and Local Government Exemption from the Gasoline Tax	Gasoline Tax exemption for sales to the State or any political subdivision of the State. (Highway Fund)	\$2,264,766	\$2,235,102	2903.4.C
46	Charitable	B	Other	Exemption	State & Local Government Exemption from the Special Fuel Tax	Special Fuel Tax exemption for sales to the State or any political subdivision of the State. (Highway Fund)	\$2,266,139	\$2,815,618	3204-A.3
47	Charitable	B	Sales & Use	Exemption	Meals for Residents of Certain Nonprofit Congregate Housing Facilities	Tax exemption on sales of meals to residents of nonprofit church-affiliated congregate housing facilities for the lower-income elderly.	\$0 - \$49,999	\$0 - \$49,999	1760.6.D
48	Charitable	B	Sales & Use	Exemption	Certain Sales by an Auxiliary Organization of the American Legion	Tax exemption on sales of meals and related items and services by a nonprofit auxiliary organization of the American Legion in connection with a fundraising event, under specified conditions.	\$50,000 - \$249,999	\$50,000 - \$249,999	1760.85

State of Maine
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49	Charitable	B	Sales & Use and Service Provider	Exemption	Sales to the State & Political Subdivisions	Tax exemption on sales to the State or federal government or to any political subdivision, agency, or instrumentality of them.	\$194,912,797 - \$196,912,796	\$171,178,538	1760.2 & 2557.2
50	Charitable	B	Sales & Use	Exemption	Meals Served by Public or Private Schools	Tax exemption on sales of meals served by schools and school organizations to students and teachers.	\$15,621,200	\$9,071,170	1760.6.A
51	Charitable	B	Sales & Use	Exemption	Providing Meals for the Elderly	Tax exemption on sales of meals to nonprofit area agencies on aging to provide meals to the elderly.	\$250,000 - \$999,999	\$366,899	1760.6.C
52	Charitable	B	Sales & Use	Exemption	Meals Served by Youth Camps Licensed by DHHS	Tax exemption on sales of meals served by state-licensed youth camps.	\$250,000 - \$999,999	\$250,000 - \$999,999	1760.6.F
53	Charitable	B	Sales & Use	Exemption	Meals Served by a Retirement Facility to its Residents	Tax exemption on sales of meals served by a retirement facility to its residents under specified conditions.	\$250,000 - \$999,999	\$623,893	1760.6.G
54	Charitable	B	Sales & Use and Service Provider	Exemption	Sales to Hospitals, Research Centers, Churches and Schools	Tax exemption on sales to schools, churches, hospitals, certain nonprofit health and human service organizations, certain research organizations, and educational television and radio stations.	\$6,000,000 or more	\$6,000,000 or more	1760.16 & 2557.3
55	Charitable	B	Sales & Use and Service Provider	Exemption	Sales to Certain Nonprofit Residential Child Caring Institutions	Tax exemption on sales to State-licensed private nonprofit residential child caring institutions.	\$50,000 - \$298,999	\$50,000 - \$249,999	1760.18-A & 2557.4
56	Charitable	B	Sales & Use	Exemption	Rental of Living Quarters at Schools	Tax exemption on rental charges for living quarters required for attendance at a school.	\$7,663,600	\$6,650,000	1760.19
57	Charitable	B	Sales & Use and Service Provider	Exemption	Sales to Ambulance Services & Fire Departments	Tax exemption on sales to nonprofit fire departments, ambulance services, and air ambulance services.	\$50,000 - \$298,999	\$250,000 - \$999,999	1760.26 & 2557.5
58	Charitable	B	Sales & Use and Service Provider	Exemption	Sales to Comm. Mental Health, Substance Abuse & Mental Retardation Facilities	Tax exemption on sales to community mental health, adult developmental services and substance abuse services facilities.	\$250,000 - \$1,049,998	\$50,000 - \$249,999	1760.28 & 2557.6
59	Charitable	B	Sales & Use and Service Provider	Exemption	Sales to Historical Societies & Museums	Tax exemption on sales to certain nonprofit memorial foundations, historical societies, and museums.	\$50,000 - \$298,999	\$50,000 - \$249,999	1760.42 & 2557.8
60	Charitable	B	Sales & Use and Service Provider	Exemption	Sales to Day Care Centers & Nursery Schools	Tax exemption on sales to licensed nonprofit nursery schools and day care centers.	\$50,000 - \$298,999	\$50,000 - \$249,999	1760.43 & 2557.9
61	Charitable	B	Sales & Use and Service Provider	Exemption	Sales to Emergency Shelters & Feeding Organizations	Tax exemption on sales to nonprofit organizations providing free temporary emergency shelter or food to underprivileged individuals.	\$50,000 - \$298,999	\$50,000 - \$249,999	1760.47-A & 2557.12
62	Charitable	B	Sales & Use and Service Provider	Exemption	Sales to Comm. Action Agencies; Child Abuse Councils; Child Advocacy Orgs.	Sales to nonprofit child abuse and neglect prevention councils, certain child advocacy organizations and community action agencies.	\$300,000 - \$1,249,998	\$250,000 - \$999,999	1760.49 & 2557.13
63	Charitable	B	Sales & Use and Service Provider	Exemption	Sales to any Nonprofit Free Libraries	Tax exemption on sales to nonprofit government-funded free public lending libraries, and sales by the library or a nonprofit established to support the library.	\$50,000 - \$298,999	\$50,000 - \$249,999	1760.50 & 2557.14
64	Charitable	B	Sales & Use and Service Provider	Exemption	Sales to Nonprofit Youth Athletic & Scouting Organizations	Tax exemption on sales to nonprofit youth organizations whose primary purpose is to provide athletic instruction, and nonprofit scouting organizations.	\$300,000 - \$1,249,998	\$250,000 - \$999,999	1760.56 & 2557.18

State of Maine
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ID #	Rationale	Review Category	Tax Type	Expenditure Type	Expenditure Program Name	Brief Description	FY19 Revenue Loss Estimate*	FY17 Revenue Loss Estimate*	Statutory Cite: Title 36
65	Charitable	B	Sales & Use	Exemption	Sales by Schools & School-Sponsored Organizations	Tax exemption on sales by schools and school organizations, provided that sales benefit the school, organization, or a charitable purpose.	\$250,000 - \$999,999	\$250,000 - \$999,999	1760.64
66	Charitable	B	Sales & Use and Service Provider	Exemption	Sales to Nonprofit Home Construction Organizations	Tax exemption on sales to nonprofit organizations that construct low-cost housing for low-income people.	\$50,000 - \$298,999	\$50,000 - \$249,999	1760.67 & 2557.23
67	Charitable	B	Sales & Use and Service Provider	Exemption	Sales to Nonprofit Housing Development Organizations	Tax exemption on sales to nonprofit organizations whose primary purpose is developing housing for low-income people.	\$50,000 - \$298,999	\$50,000 - \$249,999	1760.72 & 2557.27
68	Charitable	B	Sales & Use	Exemption	Returned Merchandise Donated to Charity	Tax exemption on donations of returned merchandise by a retailer to a charitable organization exempt from federal income tax under 501(c)(3).	\$50,000 - \$249,999	\$50,000 - \$249,999	1863
69	Charitable	B	Sales & Use	Exemption	Merchandise Donated from a Retailer's Inventory to Exempt Organizations	Tax exemption on donations of merchandise from inventory by a retailer to an organization exempt from Maine sales tax.	\$50,000 - \$249,999	\$50,000 - \$249,999	1864
70	Charitable	B	Sales & Use	Exemption	Free Publications	Tax exemption on sales of publications purchased for distribution free of charge and sales of printed materials for inclusion in such publications.	\$2,034,787	\$1,747,204	1760(14-A)
71	Charitable	C	Sales & Use	Exemption	Automobiles Used in Driver Education Programs	Tax exemption on automobile sales to automobile dealers to equip and provide them to schools for driver education programs.	\$0 - \$49,999	\$0 - \$49,999	1760.21
72	Charitable	C	Sales & Use	Exemption	Automobiles Sold to Certain Disabled Veterans	Tax exemption on sales of automobiles to certain amputee and blind veterans.	\$0 - \$49,999	\$251,730	1760.22
73	Charitable	C	Sales & Use	Exemption	Goods & Services for Seeing Eye Dogs	Tax exemption on sales of tangible personal property and taxable services for the care and maintenance of seeing eye dogs to aid any blind person.	\$0 - \$49,999	\$0 - \$49,999	1760.35
74	Charitable	C	Sales & Use and Service Provider	Exemption	Sales to Regional Planning Agencies	Tax exemption on sales to regional planning commissions and councils of government.	\$0 - \$99,998	\$0 - \$49,999	1760.37 & 2557.7
75	Charitable	C	Sales & Use and Service Provider	Exemption	Sales to Church Affiliated Residential Homes	Tax exemption on sales to church affiliated nonprofit organizations operating a residential home for adults under charter by the Legislature.	\$0 - \$99,998	\$0 - \$49,999	1760.44 & 2557.10
76	Charitable	C	Sales & Use and Service Provider	Exemption	Sales to Organ. that Provide Residential Facilities for Med. Patients	Tax exemption on sales to nonprofit organizations providing temporary residential accommodations to medical patients and their families.	\$0 - \$99,998	\$0 - \$49,999	1760.46 & 2557.11
77	Charitable	C	Sales & Use and Service Provider	Exemption	Sales to Veterans' Memorial Cemetery Associations	Tax exemption on sales to nonprofit Veterans' Memorial Cemetery Associations.	\$0 - \$99,998	\$0 - \$49,999	1760.51 & 2557.15
78	Charitable	C	Sales & Use and Service Provider	Exemption	Sales to Nonprofit Rescue Operations	Tax exemption on sales to nonprofit volunteer search and rescue organizations.	\$0 - \$99,998	\$0 - \$49,999	1760.53 & 2557.16
79	Charitable	C	Sales & Use and Service Provider	Exemption	Sales to Hospice Organizations	Tax exemption on sales to nonprofit hospice organizations.	\$0 - \$99,998	\$0 - \$49,999	1760.55 & 2557.17

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80	Charitable	C	Sales & Use	Exemption	Self-Help Literature on Alcoholism	Tax exemption on sales of self-help literature on alcoholism to alcoholics anonymous groups.	\$0 - \$49,999	\$0 - \$49,999	1760.57
81	Charitable	C	Sales & Use	Exemption	Portable Classrooms	Tax exemption on sales of tangible personal property to become part of a portable classroom for lease to a school.	\$0 - \$49,999	\$0 - \$49,999	1760.58
82	Charitable	C	Sales & Use and Service Provider	Exemption	Sales to Certain Nonprofit Educational Orgs.	Tax exemption on sales to State-funded nonprofit educational organizations providing decision making programs about drugs, alcohol and relationships at residential youth camps.	\$0 - \$99,998	\$0 - \$49,999	1760.59 & 2557.19
83	Charitable	C	Sales & Use	Exemption	Sales to Nonprofit Animal Shelters	Tax exemption on sales to nonprofit animal shelters of tangible personal property used in the operation and maintenance of the shelter and animal care.	\$0 - \$49,999	\$0 - \$49,999	1760.60
84	Charitable	C	Sales & Use and Service Provider	Exemption	Sales to Certain Charitable Suppliers of Medical Equipment	Tax exemption on sales to nonprofit charitable organizations that lend medical supplies and equipment free of charge.	\$0 - \$99,998	\$0 - \$49,999	1760.62 & 2557.20
85	Charitable	C	Sales & Use and Service Provider	Exemption	Sales to Orgs that Fulfill the Wishes of Children with Life-Threatening Diseases	Tax exemption on sales to nonprofit organizations whose sole purpose is to fulfill the wishes of children with life-threatening diseases.	\$0 - \$99,998	\$0 - \$49,999	1760.63 & 2557.21
86	Charitable	C	Sales & Use	Exemption	Sales to Monasteries and Convents	Tax exemption on sales of tangible personal property to nonprofit monasteries and convents for use in their operation and maintenance.	\$0 - \$49,999	\$0 - \$49,999	1760.65
87	Charitable	C	Sales & Use and Service Provider	Exemption	Sales to Providers of Certain Support Systems for Single-Parent Families	Tax exemption on sales to nonprofit organizations providing support systems for single-parent families.	\$0 - \$99,998	\$0 - \$49,999	1760.66 & 2557.22
88	Charitable	C	Sales & Use and Service Provider	Exemption	Sales to Orgs that Create & Maintain a Registry of Vietnam Veterans	Tax exemption on sales to nonprofit organizations whose sole purpose is to maintain a registry of Vietnam veterans.	\$0 - \$99,998	\$0 - \$49,999	1760.69 & 2557.24
89	Charitable	C	Sales & Use and Service Provider	Exemption	Sales to Orgs that Provide Certain Services for Hearing-Impaired Persons	Tax exemption on sales to nonprofit organizations whose primary purpose is to promote understanding of hearing impairment and assist hearing-impaired persons.	\$0 - \$99,998	\$0 - \$49,999	1760.70 & 2557.25
90	Charitable	C	Sales & Use and Service Provider	Exemption	Sales to Eye Banks	Tax exemption on sales to nonprofit organizations whose primary purpose is to medically evaluate and distribute eyes for transplantation, research, and education.	\$0 - \$99,998	\$0 - \$49,999	1760.77 & 2557.28
91	Charitable	C	Sales & Use	Exemption	Adaptive Equipment for Vehicles of Persons with Disabilities	Tax exemption on sales of adaptive equipment used to make a motor vehicle operable or accessible by a person with a disability.	\$76,739	\$64,550	1760.95
ENACTED in 2017 - OPEGA Proposes Adding to List									
92	Charitable	C	Sales & Use	Exemption	Certain Sales by Civic, Religious or Fraternal Organizations	Sales of prepared food by a civic, religious or fraternal organization at a public or member-only event, except when alcoholic beverages are available for sale at the event.	No estimate - Enacted in 2017		1760.101
93	Conformity with IRC	A	Income	Credit	Maine Capital Investment Credit	Tax credit for depreciable property placed in service in Maine.	\$5,950,000	\$11,584,000	5219-GG, 5219-JJ, 5219-MM & 5219-NN (Conflict)
94	Conformity with IRC	B	Income	Deduction	Itemized Deductions	Maine generally conforms to itemized deductions allowed by the U.S. Internal Revenue Code with some exceptions.	\$12,900,000	\$68,941,000	5125

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95	Conformity with IRC	B	Income	Deduction	Sum of All Other Conformity Provisions	Maine generally conforms to exclusions and deduction provisions in the U.S. Internal Revenue Code used to calculate federal adjusted gross income.	\$768,510,000 - \$868,510,000	\$804 million - \$905 million	5102(1-D) & 5162(2)
NO LONGER Included in Biennial Maine State Tax Expenditure Report because of "considerations of US Constitution provisions bearing on state taxation" - OPEGA Proposes Removing from List									
96	Tax Fairness	B	Income	Credit	Credit for Income Tax Paid to Other Jurisdiction	Tax credit for residents of income tax paid to another state or jurisdiction, with limitations.		\$48,393,000	5217-A
97	Tax Fairness	B	Income	Deduction	Deduction for Active Duty Military Pay Earned Outside of Maine	Deduction for military pay earned for service performed outside the State.	\$900,000	\$1,985,000	5122.2.LL
NO LONGER Included in Biennial Maine State Tax Expenditure Report because of "considerations of US Constitution provisions bearing on state taxation" - OPEGA Proposes Removing from List									
98	Tax Fairness	B	Income	Deduction	Deduction for Dividends Received from Nonunitary Affiliates	Deduction for 50% of dividend income received by a business from an affiliated corporation that is not part of the taxpayer's unitary (i.e. central/integrated) business.		\$10,200,000	5200-A.2.G
99	Tax Fairness	B	Other	Exemption	Exemptions of the Real Estate Transfer Tax	Real estate tax exemption for certain types of deeds, including deeds to property transferred to or by governmental entities, and certain transfers of property. (General Fund, H.O.M.E. Fund, Housing and Economic Recovery Fund)	\$250,000 - \$999,000	\$250,000 - \$999,000	4641-C
100	Tax Fairness	B	Other	Refund	Refund of the Gasoline Tax for Off-Highway Use and for Certain Bus Companies	Gasoline Tax refund (except one cent per gallon) for taxes paid on gasoline used in certain off-highway vehicles or in buses primarily offering tax-exempt fares. This gasoline is additionally subjected to Use Tax. (Highway Fund)	\$960,000	\$325,000	2908, 2909
101	Tax Fairness	B	Other	Refund	Refund of the Special Fuel Tax for Off-Highway Use and for Certain Bus Companies	Special Fuel Tax refund (except one cent per gallon) for taxes paid on gasoline used in certain off-highway vehicles or in buses primarily offering tax-exempt fares. This gasoline is additionally subjected to Use Tax. (Highway Fund)	\$4,500,000	\$4,500,000	3215, 3218
102	Tax Fairness	B	Sales & Use	Exemption	Certain Returnable Containers	Tax exemption on sales of returnable containers when sold with contents at retail, or when resold for refilling.	\$1,907,824	\$1,458,310	1760.12
103	Tax Fairness	B	Sales & Use	Exemption	Packaging Materials	Tax exemption on sales of packaging materials to businesses engaged in packaging, transporting, shipping, or servicing tangible property.	\$32,996,600	\$12,720,500	1760.12-A
104	Tax Fairness	B	Sales & Use	Exemption	Certain Loaner Vehicles	Tax exemption on use of a loaner vehicle provided by a new vehicle dealer to a service customer pursuant to warranty.	\$297,188	\$251,730	1760.21-A
105	Tax Fairness	B	Sales & Use	Exemption	Mobile & Modular Homes	Tax exemption on sales of used manufactured housing and sales of new manufactured housing excluding the cost of materials, up to 50% of the sale price.	\$33,200,193	\$26,833,025	1760.40
106	Tax Fairness	B	Sales & Use	Exemption	Certain Property Purchased Out of State	Tax exemption on sales of certain property purchased and used out of state, including automobiles, snowmobiles, ATVs, aircraft, and property brought into the state for use in a declared state disaster or emergency, subject to certain restrictions.	\$1,000,000 - \$2,999,999	\$1,000,000 - \$2,999,999	1760.45
107	Tax Fairness	B	Sales & Use	Exemption	Meals & Lodging Provided to Employees	Tax exemption on meals or lodging provided to employees at the place of employment when credited toward the wages of the employees.	\$50,000 - \$249,999	\$151,050	1760.75

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108	Tax Fairness	B	Sales & Use	Exemption	Trade-In Credits	Tax exemption on trade-in value for property including motor vehicles, watercraft, aircraft, trailers, truck campers, and other equipment, when traded toward the sale price of a similar item.	\$37,109,616	\$27,299,115	1765
109	Tax Fairness	B	Sales & Use	Exemption	Motor Vehicle Fuel	Tax exemption on sales of motor fuels on which motor fuel taxes have been paid.	\$92,946,579	\$128,817,694	1760.8.A
NO LONGER Included in Biennial Maine State Tax Expenditure Report because of "considerations of US Constitution provisions bearing on state taxation" - OPEGA Proposes Removing from List									
110	Tax Fairness	C	Income	Credit	Credit for Income Tax Paid to Other State by an Estate or Trust	Tax credit for residents of income tax paid on an estate or trust to another state or jurisdiction.		\$0 – \$49,999	5165
111	Tax Fairness	C	Income	Credit	Credit to Beneficiary for Accumulation Distribution	Tax credit to a beneficiary of a trust for tax already paid by the trust on the income (when distributed from the trust to the beneficiary).	\$0 – \$49,999	\$0 – \$49,999	5214-A
112	Tax Fairness	C	Other	Refund	Refund of Excise Tax on Fuel Used in Piston Aircraft	Gasoline Tax refund (except four cents per gallon) for gasoline used in propelling piston engine aircraft. (State Transit, Aviation and Rail Fund)	\$18,200	\$31,333	2910
113	Tax Fairness	C	Sales & Use and Service Provider	Exemption	Sales to State-Chartered Credit Unions	Tax exemption on sales to State-chartered credit unions.	\$0 - \$99,998	\$0 - \$49,999	1760.71 & 2557.26
114	Tax Fairness	C	Sales & Use	Exemption	Electricity Used for Net Billing	Tax exemption on sale or delivery of electricity to net energy billing customers for which no money is paid.	\$0 – \$49,999	\$0 - \$49,999	1760.80
115	Tax Fairness	C	Sales & Use	Exemption	Certain Vehicle Rentals	Tax exemption on rental of an automobile for less than one year when rental is to a service customer pursuant to a warranty and the rental fee is paid by the vehicle dealer or warrantor.	\$0 – \$49,999	\$0 - \$49,999	1760.92
116	Necessity of Life	B	Sales & Use	Exemption	Grocery Staples	Tax exemption on sales of grocery staples, which are defined as food products ordinarily consumed for human nourishment.	\$178,742,200	\$171,152,000	1760.3
117	Necessity of Life	B	Sales & Use	Exemption	Prescription Drugs	Tax exemption on sales of prescription medicines for humans, excluding marijuana.	\$99,156,400	\$69,369,000	1760.5
118	Necessity of Life	B	Sales & Use	Exemption	Prosthetic or Orthotic Devices	Tax exemption on sales of devices to correct or alleviate physical incapacity for a particular individual, including prosthetic aids, hearing aids, eyeglasses, crutches and wheelchairs.	\$8,526,000	\$7,286,500	1760.5-A
119	Necessity of Life	B	Sales & Use	Exemption	Meals Served to Patients in Hospitals & Nursing Homes	Tax exemption on sales of meals to patients of state-licensed hospitals, nursing homes, and certain care facilities.	\$11,045,286	\$8,987,000	1760.6.B
120	Necessity of Life	B	Sales & Use	Exemption	Fuels for Cooking & Heating Homes	Tax exemption on sales of coal, oil, wood and other fuels, except gas and electricity, used for cooking and heating in residential buildings.	\$53,880,000	\$73,207,000	1760.9
121	Necessity of Life	B	Sales & Use	Exemption	Certain Residential Electricity	Tax exemption on sale and delivery of: A. the first 750 kWh of residential electricity per month; B. off-peak residential electricity used for heating via electric thermal storage.	\$21,217,000	\$25,784,045	1760.9-B
122	Necessity of Life	B	Sales & Use	Exemption	Gas Used for Cooking & Heating in Residences	Tax exemption on sales of gas for use in cooking and heating in residential buildings other than hotels.	\$11,632,600	\$15,318,750	1760.9-C

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123	Necessity of Life	B	Sales & Use	Exemption	Rental Charges for Living Quarters in Nursing Homes and Hospitals	Tax exemption on rental charges for living or sleeping quarters in state-licensed nursing homes and hospitals.	\$250,000 – \$999,999	\$250,000 – \$999,999	1760.18
124	Necessity of Life	B	Sales & Use	Exemption	Rental Charges on Continuous Residence for More Than 28 Days	Tax exemption on rental charges for residence for 28 days or more at a hotel, rooming house, or tourist or trailer camp under certain circumstances.	\$217,599,200	\$830,473	1760.20
125	Necessity of Life	B	Sales & Use	Exemption	Funeral Services	Tax exemption on sales of funeral services.	\$6,958,000	\$4,997,000	1760.24
126	Necessity of Life	B	Sales & Use	Exemption	Diabetic Supplies	Tax exemption on sales of equipment and supplies used in diabetes diagnosis or treatment.	\$1,373,936	\$1,210,797	1760.33
127	Necessity of Life	B	Sales & Use	Exemption	Water Used in Private Residences	Tax exemption on sales of water used in residential buildings, other than hotels.	\$15,925,000	\$21,755,000	1760.39
128	Necessity of Life	B	Sales & Use	Exemption	Positive Airway Pressure Equipment & Sales	Tax exemption on sale or lease of positive airway pressure equipment and supplies for personal use.	\$250,000 – \$999,999	\$284,802	1760.94
NO LONGER Included in Biennial Maine State Tax Expenditure Report for unknown reason - OPEGA still researching									
129	Interstate or Foreign Commerce	B	Other	Exemption	Gasoline Exported from the State	Gasoline Tax exemption for sales wholly for export from the State. (Highway Fund)		\$73,330,523	2903.4.A
NO LONGER Included in Biennial Maine State Tax Expenditure Report for unknown reason - OPEGA still researching									
130	Interstate or Foreign Commerce	B	Other	Exemption	Special Fuel Exported from the State	Special Fuel Tax exemption for sales of distillates and low energy fuel to be exported from the State by a licensed supplier. (Highway Fund)		\$17,991,845	3204-A.5
131	Interstate or Foreign Commerce	B	Other	Exemption	Excise Tax Exemption on Jet or Turbo Jet Fuel - International Flights	Gasoline Tax exemption for gasoline used to propel jet engine aircraft on international flights. (State Transit, Aviation and Rail Fund)	\$69,085	\$146,849	2903.4.D
132	Interstate or Foreign Commerce	B	Sales & Use	Exemption	Ships' Stores	Tax exemption on sales of supplies and bunkering oil to ships engaged in interstate or foreign commerce.	\$250,000 - \$999,999	\$250,000 - \$999,999	1760.4
133	Interstate or Foreign Commerce	B	Sales & Use	Exemption	Certain Jet Fuel	Tax exemption on sales of fuel to propel jet engine aircraft.	\$6,900,213	\$5,608,406	1760.8.B
134	Interstate or Foreign Commerce	B	Sales & Use	Exemption	Certain Vehicles Purchased or Leased by Nonresidents	Tax exemption on sale or lease of motor vehicles, semitrailers, aircraft, and camper trailers to nonresidents, if the vehicle is intended to be removed from the State immediately.	\$250,000 - \$999,999	\$250,000 - \$999,999	1760.23-C
135	Interstate or Foreign Commerce	B	Sales & Use	Exemption	Certain Vehicles Purchased or Leased by Qualifying Resident Businesses	Tax exemption on sale or lease of certain motor vehicles to a business if the vehicle is intended to be removed from the State immediately and for use exclusively in out of state business.	\$1,102,072	\$933,500	1760.23-D
136	Interstate or Foreign Commerce	B	Sales & Use	Exemption	Watercraft Purchased by Nonresidents	Tax exemption on sales to or use by a nonresident of watercraft or materials used in watercraft, subject to certain restrictions.	\$250,000 - \$999,999	\$250,000 - \$999,999	1760.25
137	Interstate or Foreign Commerce	B	Sales & Use	Exemption	Property Used in Interstate Commerce	Tax exemption on sales of a vehicle, railroad car, aircraft or watercraft used in interstate or foreign commerce, subject to certain restrictions.	\$1,000,000 - \$2,999,999	\$1,000,000 - \$2,999,999	1760.41

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138	Interstate or Foreign Commerce	B	Sales & Use	Exemption	Sales of Property Delivered Outside this State	Tax exemption on sales of tangible personal property delivered outside the State for use outside the State.	\$6,000,000 or more	\$6,000,000 or more	1760.82
139	Interstate or Foreign Commerce	B	Sales & Use	Exemption	Sales of Certain Printed Materials	Tax exemption on sales of printed advertising or promotional materials transported outside the State for use outside the State.	\$250,000 - \$999,999	\$250,000 - \$999,999	1760.83
140	Interstate or Foreign Commerce	B	Sales & Use	Exemption	Sales of Certain Aircraft	Tax exemption on sales or leases of aircraft that weight over 6,000 pounds, are propelled by turbine engine, or are in use by certain Federal Aviation Administration (FAA) classified operators.	\$499,879	\$415,236	1760.88
141	Interstate or Foreign Commerce	B	Sales & Use	Exemption	Sale, Use or Lease of Aircraft and Sales of Repair and Replacement Parts	Tax exemption on sales, use or leases of aircraft and sales of aircraft repair and replacement parts from July 1, 2011 to June 30, 2021.	\$781,062	\$648,806	1760.88-A
142	Interstate or Foreign Commerce	C	Sales & Use	Exemption	Certain Aircraft Parts	Tax exemption on sale or use of aircraft parts used by a commercial airline under Federal Aviation Administration (FAA) regulations.	\$0 - \$49,999	\$0 - \$49,999	1760.76
143	Interstate or Foreign Commerce	C	Sales & Use	Refund	Refund of Sales Tax on Goods Removed from the State	Refund of sales tax paid on business purchases of supplies and equipment withdrawn from inventory for use at a location in another taxing jurisdiction.	\$0 - \$49,999	\$0 - \$49,999	2012
ENACTED in 2016 - OPEGA Proposes Adding to List									
144	Interstate or Foreign Commerce	C	Sales & Use	Exemption	Snowmobiles and All-terrain Vehicles Purchased by Nonresidents	Tax exemption on sales to a nonresident of snowmobiles or all-terrain vehicles.	\$0 - \$49,999		1760.25-C
145	Inputs to Tangible Products	B	Sales & Use	Exemption	Fuel Used in Certain Agricultural Production	Sales tax exemption available to some agricultural employers exempting 95% of fuel purchased for use at large, year-round greenhouse facilities. Effective beginning 1/1/2016 and repealed effective 12/31/2019.	\$291,631	\$242,250	1760.9-H
146	Inputs to Tangible Products	B	Sales & Use	Exemption	Products Used in Agricultural and Aquacultural Production & Bait	Tax exemption on sales of products used in aquaculture production and bait, commercial agriculture production, and animal agriculture.	\$7,908,600	\$3,372,500	1760.7-A, 1760.7-B, 1760.7-C
147	Inputs to Tangible Products	B	Sales & Use	Exemption	Fuel and Electricity Used in Manufacturing	Tax exemption on sales of fuel and electricity (95% of value) purchased for use at a manufacturing facility.	\$22,586,871	\$28,392,883	1760.9-D
148	Inputs to Tangible Products	B	Sales & Use	Exemption	Machinery & Equipment	Tax exemption on sales of machinery and equipment used in production of tangible personal property for consumption, or in generation of radio and television broadcast signals.	\$50,283,800	\$51,604,000	1760.31
149	Inputs to Tangible Products	B	Sales & Use	Exemption	Seedlings for Commercial Forestry Use	Tax exemption on sales of tree seedlings used in commercial forestry.	\$50,000 - \$249,999	\$50,000 - \$249,999	1760.73
150	Inputs to Tangible Products	B	Sales & Use	Exemption	Property Used in Manufacturing Production	Tax exemption on sales of tangible personal property that is used in the manufacturing production of tangible personal property for later sale or lease.	\$199,704,400	\$178,115,500	1760.74
151	Inputs to Tangible Products	B	Sales & Use	Exemption	Certain Sales of Electrical Energy	Tax exemption on sale or use of electrical energy, or water stored for generating electricity, to or by a wholly owned subsidiary by or to its parent corporation.	\$250,000 - \$999,999	\$250,000 - \$999,999	1760.91

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152	Inputs to Tangible Products	B	Sales & Use	Refund	Refund of Sales Tax on Certain Depreciable Machinery and Equipment	Refund of sales tax paid on electricity or depreciable machinery and equipment purchased for use in commercial agricultural or aquaculture production, fishing, or wood harvesting, or purchases of fuel for use in a commercial fishing vessel.	\$17,982,961	\$2,888,000	2013
153	Inputs to Tangible Products	C	Sales & Use	Exemption	Fuel Oil for Burning Blueberry Land	Tax exemption on sales of fuel used to burn blueberry fields.	\$0 - \$49,999	\$0 - \$49,999	1760.9-A
154	Inputs to Tangible Products	C	Sales & Use	Exemption	Fuel Oil or Coal which becomes an Ingredient or Component Part	Tax exemption on sales of fuel oil or coal which becomes an ingredient or component part of tangible personal property for later sale.	\$0 - \$49,999	\$0 - \$49,999	1760.9-G
155	Inputs to Tangible Products	C	Sales & Use	Exemption	Sales of Certain Farm Animal Bedding & Hay	Tax exemption on sales of organic bedding materials for farm animals and hay.	\$0 - \$49,999	\$0 - \$49,999	1760.78
156	Specific Policy Goal/Mandate	A	Other	Exemption	Partial Cigarette Stamp Tax Exemption for Licensed Distributors	Allows licensed cigarette distributors to purchase cigarette stamps with a face value of \$2 at a discount of 1.15%. (General Fund)	\$1,390,694	\$1,368,761	4366-A.2
157	Specific Policy Goal/Mandate	A	Sales & Use	Exemption	Air & Water Pollution Control Facilities	Tax exemption on sales of certified air and water pollution control facilities and parts or accessories, construction materials, and chemicals or supplies of these facilities.	\$500,000 - \$1,999,998	\$500,000 - \$1,999,998	1760.29, 1760.30
158	Specific Policy Goal/Mandate	B	Income	Reimbursement	Job Increment Financing Fund - Brunswick Naval Air Station	Reimbursement to SMCC and MRRA of income tax attributed to qualified employees (those receiving a designated level of wages, health and retirement benefits) at businesses in the Brunswick Naval Air Station Area.		\$810,619 for Brunswick & Loring combined	5 MRSA §13083 S-1 (not in Title 36)
159	Specific Policy Goal/Mandate	B	Income	Reimbursement	Job Increment Financing Fund - Loring	Reimbursement to Loring Development Authority of income tax attributed to qualified employees (those receiving a designated level of wages, health and retirement benefits) at businesses in the former Loring Air Force Base area.		\$810,619 for Brunswick & Loring combined	5 MRSA Ch.383 Art. 1-C
160	Specific Policy Goal/Mandate	C	Sales & Use	Exemption	Animal Waste Storage Facility	Tax exemption on sales of materials used in construction, repair or maintenance of an animal waste storage facility, under specified conditions.	\$0 - \$49,999	\$0 - \$49,999	1760.81
161	Specific Policy Goal/Mandate	C	Sales & Use and Service Provider	Exemption	Sales to Centers for Innovation	Tax exemption on sales to centers for innovation, established by State law, which represent specific industry sectors with significant potential for growth and development.	\$0 - \$99,998	\$0 - \$49,999	1760.84 & 2557.29
162	Specific Policy Goal/Mandate	C	Sales & Use	Exemption	Plastic Bags Sold to Redemption Centers	Tax exemption on sales to a local redemption center of plastic bags used to sort, store or transport returnable beverage containers.	\$38,630	\$32,557	1760.93
163	Specific Policy Goal/Mandate	C	Sales & Use	Refund	Fish Passage Facilities	Refund of sales or use tax paid on materials used in construction of fish passage facilities in dams, under specified conditions.	\$0 - \$49,999	\$0 - \$49,999	2014
164	Non-Taxable Services	B	Sales & Use	Exemption	Non-Taxable Services	Services, other than specifically defined "Taxable Services," are not subject to Sales and Use Tax.	\$2,115,083,922	\$2,343,706,905	1752.11, 1752.17-B
NO LONGER Included in Biennial Maine State Tax Expenditure Report for unknown reason - OPEGA still researching									
165	Non-Taxable Services	B	Sales & Use	Exemption	Repair, Maintenance and Other Labor Service Fees	Tax exemption on price of labor or services used in installing, applying or repairing property, if separately charged or stated.		\$45,657,000	1752.14.B(4)

State of Maine
2018 Tax Expenditure Classifications by Rationale and Legislative Review Category as of November 2017

Review Categories: A = Full Evaluation by OPEGA, B = Expedited Review by Taxation Committee, C = No Review

ID #	Rationale	Review Category	Tax Type	Expenditure Type	Expenditure Program Name	Brief Description	FY19 Revenue Loss Estimate*	FY17 Revenue Loss Estimate*	Statutory Cite: Title 36
166	Administrative Burden	C	Sales & Use	Exemption	Exemption for Single-use Carry-out Bag	Sales tax exemption on the amount charged for a paper or plastic single-use carry-out bag.		\$33,915	1752.14.B(14)
167	Administrative Burden	A	Sales & Use	Exemption	Sales Through Coin Operated Vending Machines	Tax exemption on sales of certain products through vending machines by retailers who make the majority of their sales via vending machines.	\$480,993	\$310,040	1760.34
168	Administrative Burden	C	Sales & Use	Exemption	Certain Meals Served by Colleges to Employees of the College	Tax exemption on sales of meals served by a college to its employees if purchased with college-issued debit cards.	\$0 - 49,999	\$0 - 49,999	1760.6.E
169	Administrative Burden	C	Sales & Use	Exemption	Casual Sales	Tax exemption on any casual sale, defined as an isolated transaction in which tangible personal property or a taxable service is sold other than in the ordinary course of repeated transactions by the person making the sale; e.g. at a yard sale.	\$1,000,000 - \$2,999,999	\$1,000,000 - \$2,999,999	1752.11.B(1)
170	Administrative Burden	C	Sales & Use	Exemption	Sales by Executors	Tax exemption on sales by a personal representative in the settlement of an estate.	\$0 - 49,999	\$0 - 49,999	1752.11.B(2)
171									

Sources: FY19 Revenue Loss estimates: Maine State Tax Expenditures Report 2018-2019. All other information: OPEGA analysis of Maine Revenue Services information and Maine Revised Statutes.

Proposed Priority by Rationale for Tax Expenditures Subject to Full Evaluation as of 2018

ID #	Rationale	Expenditure Program Name	FY19 Revenue Loss Estimate*	FY17 Revenue Loss Estimate*	Status	Red Text = changes
7	Business Incentive - Job Creation	Major Business Headquarters Expansion	Credit is not available until tax year 2020		Limited Scope Review In Progress	Enacted 2017
8	Business Incentive - Job Creation	Employment Tax Increment Financing	\$17,350,000 (includes JTIF)	\$13,860,381	In Progress	
9	Business Incentive - Equip Investment	Reimbursement For Business Equipment Tax Exemption to Municipalities (BETE)	\$42,968,623	\$36,948,340	In Progress	
10	Business Incentive - Equip Investment	Reimbursement for Taxes Paid on Certain Business Property (BETR)	\$23,420,000	\$32,000,000	In Progress	
93	Conformity with IRC	Maine Capital Investment Credit	\$5,950,000	\$11,584,000	Evaluation Parameters Approved	
4	Business Incentive - Financial Investment	Seed Capital Investment Tax Credit	\$3,320,000	\$2,679,000		
3	Business Incentive - Research Investment	Research Expense Tax Credit	\$540,000	\$498,000		
11	Business Incentive - Research Investment	New Machinery for Experimental Research	\$50,000 - \$249,999	\$50,000 - \$149,000		
6	Business Incentive - Targeted Industry	Credit for Rehabilitation of Historic Properties	\$15,340,000	\$13,172,000		
5	Business Incentive - Targeted Industry	Tax Benefits for Media Production Companies	\$499,800	\$256,000		
17	Non-business Incentive - Education	Credit for Educational Opportunity	\$24,900,000	\$9,376,000		
18	Non-business Incentive - Health & Safety	Credit for Wellness Programs	\$0 - \$49,999	\$319,000		
20	Non-business Incentive - Financial Investment	Deduction for Interest and Dividends on Maine State and Local Securities - Individual Income Tax	\$65,000	\$42,000		
21	Non-business Incentive - Financial Investment	Deduction for Interest and Dividends on U.S., Maine State and Local Securities - Corporate Income Tax	\$200,000	\$190,000		
19	Non-business incentive	Earned Income Credit	\$10,200,000	\$855,000		
38	Tax Relief - Individuals	Additional Standard Deduction for the Blind and Elderly	\$8,200,000			Enacted in 2016
30	Tax Relief - Individuals	Income Tax Credit for Child and Dependent Care Expense	\$3,920,000	\$3,676,000		
29	Tax Relief - Individuals	Adult Dependent Care Credit	\$147,000	\$142,500		
31	Tax Relief - Individuals	Deduction for Pension Income & IRA Distributions	\$32,300,000	\$26,647,000		
21	Tax Relief - Individuals	Deduction for Social Security Benefits Taxable at Federal Level	\$91,800,000	\$76,864,000		
33	Tax Relief - Individuals	Property Tax Fairness Credit	\$15,970,000	\$29,108,000		
27	Tax Relief - Individuals	Credit for Modifications to Make Homes Accessible	\$122,500	\$0 (\$73,500 in FY18)		
28	Tax Relief - Individuals	Sales Tax Fairness Credit	\$33,600,000	\$31,849,020		
36	Tax Relief - Individual or Targeted Industry	Basic Cable & Satellite Television Service		\$2,280,000		Repealed beginning 1/1/2016
37	Tax Relief - Individual or Targeted Industry	Certain Telecommunications Services	\$11,975,600	\$14,465,398		
34	Tax Relief - Targeted Industry	Railroad Track Materials	\$1,313,200	\$383,096		
35	Tax Relief - Targeted Industry	Refund of Sales Tax on Purchases of Parts and Supplies for Windjammers	\$50,000 - \$249,999	\$85,500		

Proposed Priority by Rationale for Tax Expenditures Subject to Full Evaluation as of 2018

ID #	Rationale	Expenditure Program Name	FY19 Revenue Loss Estimate*	FY17 Revenue Loss Estimate*	Status	Red Text = changes
156	Specific Policy Goal/Mandate	Partial Cigarette Stamp Tax Exemption for Licensed Distributors	\$1,390,694	\$1,368,761		
157	Specific Policy Goal/Mandate	Air & Water Pollution Control Facilities	\$500,000 - \$1,999,998	\$500,000 - \$1,999,998		
167	Administrative Burden	Sales Through Coin Operated Vending Machines	\$480,993	\$310,040		
1	Business Incentive - Financial Investment	New Markets Capital Investment Credit	\$15,232,000	\$13,509,000	Reported out 2017	
2	Business Incentive - Job Creation	Pine Tree Development Zones	\$4,570,000 - \$7,319,998	\$3,473,000	Reported out 2017	

* FY19 revenue loss estimates from Maine State Tax Expenditures Report 2018-2019.

Proposed Expedited Tax Expenditure Review Schedule as of 2018

ID #	Rationale	Expenditure Program Name	2018	2019	2020	2021	2022	2023	FY19 Revenue Loss Estimate*	FY17 Revenue Loss Estimate*	Red Text = changes
158	Specific Policy Goal/Mandate	Job Increment Financing Fund - Brunswick Naval Air Station	X						\$810,619 for Brunswick & Loring combined	\$810,619 for Brunswick & Loring combined	
159	Specific Policy Goal/Mandate	Job Increment Financing Fund - Loring	X						\$810,619 for Brunswick & Loring combined	\$810,619 for Brunswick & Loring combined	
43	Charitable - Other	Construction Contracts with Exempt Organizations	X						\$1,250,000 - \$3,999,998	\$1,000,000 - \$2,999,999	
44	Charitable - Other	Sales of Certain Qualified Snowmobile Trail Grooming Equipment	X						\$103,753	\$86,184	
45	Charitable - Government	State and Local Government Exemption from the Gasoline Tax	X						\$2,264,766	\$2,235,102	
46	Charitable - Government	State & Local Government Exemption from the Special Fuel Tax	X						\$2,266,139	\$2,815,618	
47	Charitable - Elderly	Meals for Residents of Certain Nonprofit Congregate Housing Facilities	X						\$0 - \$49,999	\$0 - \$49,999	
48	Charitable - Veterans	Certain Sales by an Auxiliary Organization of American Legion	X						\$50,000 - \$249,999	\$50,000 - \$249,999	
42	Charitable - Veterans	Certain Veterans' Service Organizations	X						\$95,954		Enacted in 2016
49	Charitable - Government	Sales to the State & Political Subdivisions	X						\$194,912,797 - \$196,912,796	\$171,178,538	
51	Charitable - Elderly	Providing Meals for the Elderly	X						\$250,000 - \$999,999	\$366,899	
53	Charitable - Elderly	Meals Served by a Retirement Facility to its Residents	X						\$250,000 - \$999,999	\$623,893	
68	Charitable - Other	Returned Merchandise Donated to Charity	X						\$50,000 - \$249,999	\$50,000 - \$249,999	
69	Charitable - Other	Merchandise Donated from a Retailer's Inventory to Exempt Organizations	X						\$50,000 - \$249,999	\$50,000 - \$249,999	
70	Charitable - Other	Free Publications	X						\$2,034,787	\$1,747,204	
50	Charitable - Education	Meals Served by Public or Private Schools		X					\$15,621,200	\$9,071,170	
52	Charitable - Youth	Meals Served by Youth Camps Licensed by DHHS		X					\$250,000 - \$999,999	\$250,000 - \$999,000	
54	Charitable - Other	Sales to Hospitals, Research Centers, Churches and Schools		X					\$6,000,000 or more	\$6,000,000 or more	
55	Charitable - Youth	Sales to Certain Nonprofit Residential Child Caring Institutions		X					\$50,000 - \$298,999	\$50,000 - \$249,999	
56	Charitable - Education	Rental of Living Quarters at Schools		X					\$7,663,600	\$6,650,000	
57	Charitable - Health & Safety	Sales to Ambulance Services & Fire Departments		X					\$50,000 - \$298,999	\$250,000 - \$999,999	
58	Charitable - Health & Safety	Sales to Comm. Mental Health, Substance Abuse & Mental Retardation Facilities		X					\$250,000 - \$1,049,998	\$50,000 - \$249,999	
59	Charitable - Education	Sales to Historical Societies & Museums		X					\$50,000 - \$298,999	\$50,000 - \$249,999	
60	Charitable - Education	Sales to Day Care Centers & Nursery Schools		X					\$50,000 - \$298,999	\$50,000 - \$249,999	
61	Charitable - Health & Safety	Sales to Emergency Shelters & Feeding Organizations		X					\$50,000 - \$298,999	\$50,000 - \$249,999	
62	Charitable - Youth	Sales to Comm. Action Agencies; Child Abuse Councils; Child Advocacy Orgs.		X					\$300,000 - \$1,249,998	\$250,000 - \$999,999	
63	Charitable - Education	Sales to any Nonprofit Free Libraries		X					\$50,000 - \$298,999	\$50,000 - \$249,999	
64	Charitable - Youth	Sales to Nonprofit Youth Athletic & Scouting Organizations		X					\$300,000 - \$1,249,998	\$250,000 - \$999,999	
65	Charitable - Education	Sales by Schools & School-Sponsored Organizations		X					\$250,000 - \$999,999	\$250,000 - \$999,999	
66	Charitable - Low Income	Sales to Nonprofit Home Construction Organizations		X					\$50,000 - \$298,999	\$50,000 - \$249,999	
67	Charitable - Low Income	Sales to Nonprofit Housing Development Organizations		X					\$50,000 - \$298,999	\$50,000 - \$249,999	
129	Interstate or Foreign Commerce	Gasoline Exported from the State			X					\$73,330,523	No longer in Tax Exp Report. Reason unknown
130	Interstate or Foreign Commerce	Special Fuel Exported from the State			X					\$17,991,845	No longer in Tax Exp Report. Reason unknown
131	Interstate or Foreign Commerce	Excise Tax Exemption on Jet or Turbo Jet Fuel - International Flights			X				\$69,085	\$146,849	
132	Interstate or Foreign Commerce	Ships' Stores			X				\$250,000 - \$999,999	\$250,000 - \$999,999	
133	Interstate or Foreign Commerce	Certain Jet Fuel			X				\$6,900,213	\$5,608,406	
134	Interstate or Foreign Commerce	Certain Vehicles Purchased or Leased by Nonresidents			X				\$250,000 - \$999,999	\$250,000 - \$999,999	

ID #	Rationale	Expenditure Program Name	2018	2019	2020	2021	2022	2023	FY19	FY17	Red Text = changes
									Revenue	Loss Estimate*	
135	Interstate or Foreign Commerce	Certain Vehicles Purchased or Leased by Qualifying Resident Businesses			X				\$1,102,072	\$933,500	
136	Interstate or Foreign Commerce	Watercraft Purchased by Nonresidents			X				\$250,000 - \$999,999	\$250,000 - \$999,999	
137	Interstate or Foreign Commerce	Property Used in Interstate Commerce			X				\$1,000,000 - \$2,999,999	\$1,000,000 - \$2,999,999	
138	Interstate or Foreign Commerce	Sales of Property Delivered Outside this State			X				\$6,000,000 or more	\$6,000,000 or more	
139	Interstate or Foreign Commerce	Sales of Certain Printed Materials			X				\$250,000 - \$999,999	\$250,000 - \$999,999	
140	Interstate or Foreign Commerce	Sales of Certain Aircraft			X				\$499,879	\$415,236	
141	Interstate or Foreign Commerce	Sale, Use or Lease of Aircraft and Sales of Repair and Replacement Parts			X				\$781,062	\$648,806	
94	Conformity with IRC	Itemized Deductions				X			\$12,900,000	\$68,941,000	
95	Conformity with IRC	Sum of All Other Conformity Provisions				X			\$768,510,000 - \$868,510,000	\$804 million - \$905 million	
145	Inputs to Tangible Products	Fuel Used in Certain Agricultural Production				X			\$291,631	\$242,250	
146	Inputs to Tangible Products	Products Used in Agricultural and Aquacultural Production & Bait				X			\$7,908,600	\$3,372,500	
147	Inputs to Tangible Products	Fuel and Electricity Used in Manufacturing				X			\$22,586,871	\$28,392,883	
148	Inputs to Tangible Products	Machinery & Equipment				X			\$50,283,800	\$51,604,000	
149	Inputs to Tangible Products	Seedlings for Commercial Forestry Use				X			\$50,000 - \$249,999	\$50,000 - \$249,999	
150	Inputs to Tangible Products	Property Used in Manufacturing Production				X			\$199,704,400	\$178,115,500	
151	Inputs to Tangible Products	Certain Sales of Electrical Energy				X			\$250,000 - \$999,999	\$250,000 - \$999,999	
152	Inputs to Tangible Products	Refund of Sales Tax on Certain Depreciable Machinery and Equipment				X			\$17,982,961	\$2,888,000	
164	Non-Taxable Services	Non-Taxable Services				X			\$2,115,083,922	\$2,343,706,905	
165	Non-Taxable Services	Repair, Maintenance and Other Labor Service Fees				X				\$45,657,000	No longer in Tax Exp Report. Reason unknown
116	Necessity of Life	Grocery Staples				X			\$178,742,200	\$171,152,000	
117	Necessity of Life	Prescription Drugs				X			\$99,156,400	\$69,369,000	
118	Necessity of Life	Prosthetic Devices				X			\$8,526,000	\$7,286,500	
119	Necessity of Life	Meals Served to Patients in Hospitals & Nursing Homes				X			\$11,045,286	\$8,987,000	
120	Necessity of Life	Fuels for Cooking & Heating Homes				X			\$53,880,000	\$73,207,000	
121	Necessity of Life	Certain Residential Electricity				X			\$21,217,000	\$25,784,045	
122	Necessity of Life	Gas Used for Cooking & Heating in Residences				X			\$11,632,600	\$15,318,750	
123	Necessity of Life	Rental Charges for Living Quarters in Nursing Homes and Hospitals				X			\$250,000 - \$999,999	\$250,000 - \$999,999	
124	Necessity of Life	Rental Charges on Continuous Residence More Than 28 Days				X			\$217,599,200	\$830,473	
125	Necessity of Life	Funeral Services				X			\$6,958,000	\$4,997,000	
126	Necessity of Life	Diabetic Supplies				X			\$1,373,936	\$1,210,797	
127	Necessity of Life	Water Used in Private Residences				X			\$15,925,000	\$21,755,000	
128	Necessity of Life	Positive Airway Pressure Equipment & Sales				X			\$250,000 - \$999,999	\$284,802	
96	Tax Fairness	Credit for Income Tax Paid to Other Jurisdiction						X		\$48,393,000	see classification
97	Tax Fairness	Deduction for Active Duty Military Pay Earned Outside Maine						X	\$900,000	\$1,985,000	
98	Tax Fairness	Deduction for Dividends Received from Nonunitary Affiliates						X		\$10,200,000	see classification
99	Tax Fairness	Exemptions of the Real Estate Transfer Tax						X	\$250,000 - \$999,000	\$250,000 - \$999,000	
100	Tax Fairness	Refund of the Gasoline Tax for Off-Highway Use and for Certain Bus Companies						X	\$960,000	\$325,000	
101	Tax Fairness	Refund of the Special Fuel Tax for Off-Highway Use and for Certain Bus Companies						X	\$4,500,000	\$4,500,000	
102	Tax Fairness	Certain Returnable Containers						X	\$1,907,824	\$1,458,310	
103	Tax Fairness	Packaging Materials						X	\$32,996,600	\$12,720,500	
104	Tax Fairness	Certain Loaner Vehicles						X	\$297,188	\$251,730	
105	Tax Fairness	Mobile & Modular Homes						X	\$33,200,193	\$26,833,025	
106	Tax Fairness	Certain Property Purchased Out of State						X	\$1,000,000 - \$2,999,999	\$1,000,000 - \$2,999,999	
107	Tax Fairness	Meals & Lodging Provided to Employees						X	\$50,000 - \$249,999	\$151,050	
108	Tax Fairness	Trade-In Credits						X	\$37,109,616	\$27,299,115	

ID #	Rationale	Expenditure Program Name	2018	2019	2020	2021	2022	2023	FY19	FY17	Red Text = changes
									Revenue Loss Estimate*	Revenue Loss Estimate*	
109	Tax Fairness	Motor Vehicle Fuel						X	\$92,946,579	\$128,817,694	

* FY19 revenue loss estimates from Maine State Tax Expenditures Report 2018-2019.

DRAFT OPEGA Response to Right to Know Committee Inquiry on Public Records
Exceptions in OPEGA's Statute

To: Senator Lisa Keim, Chair
and Members of the Right to Know Advisory Committee

From: Beth Ashcroft, Director of OPEGA

Date: November X, 2017

Re: Request for Information on Public Records Exceptions in OPEGA's Statute

OPEGA was established to examine the effectiveness, efficiency, economy, and proper use of resources related to State government programs and activities, as well as non-State entities receiving State funds or State-administered funds. A key part of our mission is to improve the accountability, oversight and performance of State government for the benefit of Maine's citizens and we fully support transparency in government. We also feel strongly, however, that the exceptions to public records contained within our statute are critical to the effectiveness of our function and other functions like ours within government. Consequently, we welcome this opportunity to bring transparency to our position and look forward to discussing it further with you or the Judiciary Committee.

Please find below the answers to questions posed in regards to 3 MRSA § 997, sub-§§ 1, 3, 4-6. Since the provisions interrelate in the conduct of our work, I am responding to the questions about each provision in one memo rather than separating them into a separate document for each provision.

Question # 1- *Please describe your agency's experience in administering or applying this public records exception. Please include a description of the records subject to the exception, an estimate of the frequency of its application, and an estimate of how frequently the exception is cited in denying a request for production of records (whether the denial occurs in response to an FOA request or in administrative or other litigation).*

Sub-§1 – This exception applies to all draft reports, draft presentations and related documents provided to the agencies under review as well as letters, memos, or electronic communications related to those documents occurring between OPEGA and the agencies. This exception applies whenever OPEGA is at the point of finalizing its work and developing a final report on an audit. OPEGA typically issues three to six reports a year. This exception is occasionally cited in response to requests by reporters or interested parties seeking an advance copy of a report that has not yet been presented to the Government Oversight Committee. In accordance with 3 MRSA § 997 sub-§2, the report becomes public

at the public meeting where it is first presented to the GOC. I would note that the records exempted by this statutory provision are also considered OPEGA “working papers”, the confidentiality of which is addressed in sub-§3 and sub-§5.

Sub-§4.B – This exception applies to any documents or information obtained by OPEGA during the course of an audit or evaluation that is privileged or confidential under law. OPEGA must treat this information in the same manner as the agency that provides it. OPEGA may only disclose this information as provided by law and with agreement of the agency subject to the audit that provided the information. It is OPEGA’s policy to refer requests for such information to the agency itself rather than provide the information. This exception to public access applies whenever OPEGA has to gather privileged and confidential information. Over the nearly 13 years OPEGA has been in operation, we have performed approximately 12 reviews where this exception applied. We have never cited this exception in addressing requests for production of records.

Sub-§§3, 5 – These exceptions apply to OPEGA’s work papers. “Working paper” is defined in 3 MRSA § 992 as “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.”

Performing reviews is OPEGA’s primary function. In accordance with the professional Government Auditing Standards issued by the United States Government Accountability Office, we maintain working papers for every review whether or not it proceeds to a full audit or study. These reviews include the preliminary research work that OPEGA performs on complaints, allegations or review requests that we receive from legislators, citizens or State employees.

Under the Standards, auditors must prepare audit documentation related to the planning, conducting and reporting of a review in sufficient detail to enable an experienced auditor, with no connection to the audit, to understand the nature, timing, extent and results of audit work performed, the audit evidence obtained and its source, and the conclusions reached. Working papers include evidence that supports the auditors’ significant judgments and conclusions. Supervisory review of audit documentation is also an essential element of ensuring audit quality. Consequently, OPEGA documents virtually all planning and audit work performed including decisions and judgments made and the basis for those decisions and judgments.

Working papers (which OPEGA maintains primarily in electronic form using a special computer application) can include a wide variety of documents obtained or prepared like:

- work plans and planning documents;
- listings of individuals contacted during the review and related contact information;
- summaries of interviews;
- summaries of meetings held amongst OPEGA staff, with the auditees or with others;
- flowcharts or narrative descriptions of processes;
- analyses of data or other information (and the original data sources the analyses were based on);
- summaries of research conducted;

- survey responses;
- email communications between OPEGA and agencies or stakeholders;
- copies of reports, policies and procedures or laws and regulations pertaining the audit subject; and
- spreadsheets of transactions or case files tested for particular attributes.

To my best recollection, the exception in sub-§3 has been cited once in OPEGA’s history in denying a request for the production of records when a citizen was seeking an advance copy of a planning document that was to be presented to the Government Oversight Committee while the audit was in progress. The exception in sub-§5 has been cited several times primarily in response to media requests seeking more detail on the support for an OPEGA conclusion or finding after a final report had been released. OPEGA typically tries to try to accommodate legitimate requests for further detail that will not jeopardize information that should remain confidential by providing it in a document prepared for the Government Oversight Committee and made public in conjunction with a public GOC meeting.

Sub-§6 – This exception protects the identities of individuals who submit complaints or allegations to OPEGA, or otherwise provide OPEGA with information relevant to potential, planned or in progress reviews, where those individuals want to remain anonymous. It applies to any documents and electronic communications received or created by OPEGA that include sufficient information to identify the individual. This may be the individual’s name, SSN, phone number, address and etc. or the specific description of a situation such that the identity of the individual could readily be deduced. Over the course of OPEGA’s history, there have been less than a dozen times that this exception applied in that an individual requested anonymity. This exception has never been cited in denying a request for records.

Question # 2 – *Please state whether your agency supports or opposes continuation of this exception, and explain the reasons for that position.*

OPEGA supports the continuation of these exceptions for the following reasons:

1. They are critical to the effectiveness of our function.
 - a. It is imperative that OPEGA have access to records that are otherwise confidential and we occasionally have to include confidential records in our documentation. Keeping OPEGA’s working papers confidential provides an extra layer of protection to ensure those records stay confidential and makes agencies more comfortable in sharing confidential records with us.
 - b. It is essential that individuals feel comfortable sharing information with us openly and candidly without fear of retribution by superiors or public scandal. Our professional standards require us to document the sources of our information (i.e. name or title) as well as what those sources provide us or tell us (if pertinent to the review). The fact that our working papers are kept confidential, and that we can keep identities confidential, allows us to assure our interviewees and informants that others will not have access to the details

of our discussions or the sources of information provided to us via a FOA request.

- c. It is also essential that our work remain as unaffected by political influence or public pressure as possible. Protecting draft reports and working papers from public access helps ensure that OPEGA and the Government Oversight Committee will not be subject to such influence and pressure by those who may not agree with the methods or results.

2. They prevent the spread of misinformation within State Government and to the public at large.

Auditing and evaluating is a process and documentation is created throughout the entire process. The information we receive and document as we proceed through later phases of that process can corroborate, contradict or otherwise add different perspectives to information gathered earlier in the review. The report we issue is the final synthesis of all information gathered with proper context and perspective gleaned over the course of the review. What we report may differ from specific information documented on any particular working paper as our end result may have been informed by many pieces of work that are documented on separate working papers throughout the project documentation. In accordance with the Government Auditing Standards, we strive to maintain and organize documentation such that an independent experienced auditor would be able to follow our process and come to the same final results. However, these same working papers taken individually could lead to specific pieces of work or individual statements being misunderstood or misused.

I would be happy to discuss specific examples with you in more detail.

Question # 3 – *Please identify any problems that have occurred in the application of this exception. Is it clear that the records described are intended to be confidential under the FOA statutes? Is the language of the exception sufficiently clear in describing the records that are covered?*

Several questions or potential issues have arisen over the years in applying the provisions for public records exceptions in OPEGA's statute. On those occasions I have sought and received guidance on statutory interpretation from the Chief Deputy Attorney General and I can discuss that guidance with your committee if that is desired. The questions that have arisen fall generally into one of the following areas:

- A. Whether OPEGA's working papers remain confidential, i.e. not subject to FOA, after the final report on an audit/evaluation is released to the Government Oversight Committee.

Sub-§5 keeps OPEGA's work papers confidential even after the report has been released. There is opportunity for confusion on this point, however, because of the language in sub-§3. Sub-§3 also covers the confidentiality of working papers but only talks about them being confidential prior to the release of a report, thus leaving the impression that they later become public documents.

- B. Whether the OPEGA Director has discretion to make work papers available to persons other than the entities subject to audit/evaluation.

Although it has been rare, there have been times when it was desirable for OPEGA to share work papers with the State Auditor and the Internal Audit function within the State Controller's office so that we could coordinate and avoid duplicating audit work on a particular subject matter. Similarly, there have been several occasions where it was desirable or necessary to share work papers with the Attorney General's Office on matters OPEGA or the GOC identified involving potential violations of law or that otherwise warranted an AG's review or investigation. Sub-§5, however, limits OPEGA's discretionary disclosure of working papers to only the State agency or other entity that was subject to review.

- C. Whether OPEGA work papers are confidential, i.e. not subject to FOA, in the hands of State agencies, or other entities, subject to OPEGA review both during the course of the review and after the report has been released.

Several agencies have asked us this question over the years and there is a lack of clarity about what the answer should be as the OPEGA statute does not directly address these issues. We have asked agencies to maintain the confidentiality of anything in their possession that met the definition of an OPEGA working paper, and to direct any requests for those records to OPEGA, both during the review and after it was completed. OPEGA thinks this could be reasonably inferred as intended by the current statutory language and the Chief Deputy Attorney General indicated this was her view of it as well. One agency's lawyer, however, interpreted the language as meaning that only OPEGA had the responsibility to maintain the confidentiality of work papers. The Chief Deputy Attorney General has advised clarifying the intent in statute.

Question # 4 – *Does your agency recommend changes to this exception?*

I would make the following recommendations:

- a. Pertinent detail from sub-§3 should be combined into sub-§5 so that the result is one sub-§ that deals with confidentiality of reports and working papers. I also believe the wording could be revised to more clear and simple.
- b. Add language to the new/combined subsection to define and expand what entities OPEGA may release work papers to at the Director's discretion. The language could be similar to what exists in 5 MRSA § 244-C sub-§3 which defines entities that the State Auditor may release working papers to after the report is released.
- c. Add language making it clear that any record meeting the definition of an OPEGA work paper is also confidential, i.e. exempt from FOA, when in the possession of agencies, and other entities, subject to OPEGA review both during and after the evaluation is completed.

I have attached proposed changes to statute that would incorporate these recommendations.

Question # 5 – *Please identify stakeholders whose input should be considered in the evaluation of this exception, with contact information if that is available.*

Under the direction of the Government Oversight Committee, OPEGA's authority and the range of subjects we might review are quite broad. Consequently, there are many stakeholder groups that may have interest in these exceptions or potentially be jeopardized by changes to them. These stakeholder groups include: the Government Oversight Committee; the various State and non-State entities that we may audit; State employees; clients and vendors of State agencies; legislators; the media; members of the public; the State Auditor's Office; the State Controller's Internal Audit Office; and the Attorney General's Office. Soliciting input from representatives of these stakeholder groups would be advisable but I have no specific individuals to suggest.

Question # 6 – *Please provide any further information that you believe is relevant to the Advisory Committee's review.*

I would like to impress upon the Committee that elimination or weakening of any of the confidentiality provisions in OPEGA's statute would have real consequences requiring thorough exploration and serious discussion. There may be questions raised about how one can judge the accuracy and quality of OPEGA's work if not allowed access to the working papers. In other words, who is in a position to audit the auditors? In fact, there are means for auditing the auditors, as well as other mechanisms that can provide sufficient assurances about OPEGA's activities, quality of work, capabilities and performance without making working papers public documents. I would welcome the opportunity to talk with you about this should you consider proposing recommendations that would eliminate or weaken the public records exceptions related to OPEGA.

Attachment

Cc: Government Oversight Committee Members
Craig Nale, Analyst, Office of Policy and Legal Analysis
Colleen McCarthy Reid, Analyst, Office of Policy and Legal Analysis

OPEGA Director's Suggested Revisions to 3 MRSA § 997

§997. Conduct and issuance of program evaluation reports

The director and the office shall adhere to the following provisions relative to conducting and issuing program evaluation reports under this chapter.

1. Review and response. Prior to the presentation of a program evaluation under this chapter to the committee by the office, the director of the evaluated state agency or other entity must have an opportunity to review a draft of the program evaluation report. Within 15 calendar days of receipt of the draft report, the director of the evaluated state agency or other entity may provide to the office comments on the draft report. If provided to the office by the comment deadline, the comments must be included in the final report when it is presented to the committee. Failure by the director of an evaluated agency or other entity to submit its comments on the draft report by the comment deadline may not delay the submission of a report to the committee or its release to the public.

All documents, writings, drafts, electronic communications and information transmitted pursuant to this subsection are confidential and may not be released to the public prior to the time the office issues its program evaluation report pursuant to subsection ~~3~~ **2**. A person violating the provisions of this subsection regarding confidentiality is guilty of a Class E crime.

2. Submission of final report to committee. The director shall issue program evaluation reports, favorable or unfavorable, of any state agency or other entity, and these reports are public records. The director shall notify the committee when each final program evaluation report under this chapter is completed. The report must then be placed on the agenda for a future committee meeting. At the meeting where a report appears on the agenda for the first time, the director will release that report to the committee and to the public simultaneously. The committee, at its discretion, may vote to endorse, to endorse in part or to decline to endorse the report submitted by the director. If the committee determines it is necessary, the committee may report out to the Legislature legislation to implement the findings and recommendations of any program evaluation report presented to it by the office.

3. Confidentiality. ~~The director shall issue program evaluation reports, favorable or unfavorable, of any state agency or other entity, and these reports are public records, except that, prior to the release of a program evaluation report pursuant to subsection 2 or the point at which a program evaluation is no longer being actively pursued, all papers, physical and electronic records and correspondence and other supporting materials comprising the working papers in the possession of the director or other entity charged with the preparation of a program evaluation report are confidential and exempt from disclosure pursuant to Title 1, chapter 13. All other records or materials in the possession of the director or other entity charged with the preparation of a program~~

evaluation report under this chapter that would otherwise be confidential or exempt from disclosure are exempt from disclosure pursuant to the provisions of Title 1, chapter 13. Prior to the release of a program evaluation report pursuant to subsection 2 or the point at which a program evaluation is no longer being actively pursued, all papers, physical and electronic records and correspondence and other supporting materials comprising the working papers in the possession of the director or other entity charged with the preparation of a program evaluation report are confidential and may not be released or disclosed by the director to the Legislative Council or an agent or representative of the Legislative Council. This subsection may not be construed to prohibit or prevent public access to the records of a state agency or other entity in the possession of the director that would otherwise be subject to disclosure pursuant to the provisions of Title 1, chapter 13. The director shall refer requests for access to those records directly to the state agency or other entity that is the official custodian of the requested records, which shall respond to the request for public records.

3-A. Confidentiality of working papers. Except as provided in this subsection, working papers related to reports released pursuant to subsection 2, or that are related to any program evaluation no longer being actively pursued, are confidential and exempt from disclosure pursuant to Title 1, chapter 13. Working papers may not be disclosed to any person, including the Legislative Council or an agent or representative of the Legislative Council. For the purposes of this subsection, "working papers" means all papers, physical and electronic records and correspondence and other supporting materials comprising the working papers in the possession of the director, other entity charged with the preparation of a program evaluation report, or the agencies and other entities subject to the program evaluation. In accordance with subsection 4, all records or materials in the possession of the director or other entity charged with the preparation of a program evaluation report under this chapter that would otherwise be confidential or exempt from disclosure also remain exempt from disclosure pursuant to the provisions of Title 1, chapter 13. The director may disclose working papers to the following entities as necessary:

- A. The department, commission, agency or other entity subject to the program evaluation;
- B. Federal agencies providing grants to the evaluated entity under paragraph A;
- C. Law enforcement agencies for the purpose of criminal law enforcement or investigations;
- D. Other auditors or evaluators in their work reviewing the office; or
- E. Other auditors existing within State Government.

Prior to the release of the final program evaluation report, the director may only disclose working papers to these entities when disclosure will not prejudice the program evaluation. If working papers are to be released to entities other than the agency subject to the evaluation, the director will notify the agency of the planned release unless to do so would jeopardize an audit or investigation of the entity the working papers are being disclosed to.

Working papers may only be released by the director. Agencies and other entities receiving requests for disclosure of working papers shall refer those requests to the office.

This subsection may not be construed to prohibit or prevent public access to the records of a state agency or other entity in the possession of the director that would otherwise be subject to disclosure pursuant to the provisions of Title 1, chapter 13. The director shall refer requests for access to those records directly to the state agency or other entity that is the official custodian of the requested records, which shall respond to the request for public records.

4. Information available to office. Upon request of the office and consistent with the conditions and procedures set forth in this section, state agencies or other entities subject to program evaluation must provide the office access to information that is privileged or confidential as defined by Title 1, chapter 13, which governs public records and proceedings.

A. Before beginning a program evaluation under this chapter that may require access to records containing confidential or privileged information, the office shall furnish a written statement of its determination that it is necessary for the office to access such records and consult with representatives of the state agency or other entity to discuss methods of identifying and protecting privileged or confidential information in those records. During that consultation, the state agency or other entity shall inform the office of all standards and procedures set forth in its policies or agreements to protect information considered to be confidential or privileged. The office shall limit its access to information that is privileged or confidential by appropriate methods, which may include examining records without copying or removing them from the source.

B. Documentary or other information obtained by the office during the course of a program evaluation under this chapter is privileged or confidential to the same extent under law that that information would be privileged or confidential in the possession of the state agency or other entity providing the information. Any privilege or statutory provision, including penalties, concerning the confidentiality or obligation not to disclose information in the possession of a state agency or other entity or its officers or employees applies equally to the office. Privileged or confidential information obtained by the office during the course of a program evaluation may be disclosed only as provided by law and with the agreement of the state agency or other entity subject to the program evaluation that provided the information.

C. If the office accesses information classified as privileged or confidential pursuant to state agency or other entity policy or procedures or by agreement, the office shall comply with the state agency's or other entity's standards or procedures for handling that information. The office may include in its working papers the excerpts from information classified as confidential or privileged as may be necessary to complete the program evaluation under this chapter, as long as the use does not infringe on department policies or procedures applicable to the original provision of information.

~~**5. Confidentiality of working papers.** Except as provided in this subsection, working papers are confidential and may not be disclosed to any person. Prior to the release of the final program evaluation report, the director has sole discretion to~~

~~disclose working papers to the state agency or other entity subject to the program evaluation when disclosure will not prejudice the program evaluation. After release of the final program evaluation report, working papers may be released as necessary to the state agency or other entity that was subject to the program evaluation under this chapter.~~

6. Confidential sources. If data supplied by an individual are needed to initiate, continue or complete a program evaluation under this chapter, the director may, by written memorandum to the file, provide that the individual's identity will remain confidential and exempt from disclosure under Title 1, chapter 13, and this written memorandum protects the identity of the person from disclosure under Title 1, chapter 13, notwithstanding any other provision of law to the contrary.

7. Disposition of final report. A final copy of a program evaluation report under subsection 2, including recommendations and the evaluated state agency's or other entity's comments, must be submitted to the commissioner or director of the state agency or other entity examined at least one day prior to the report's public release, and must be made available to each member of the Legislature no later than one day following the report's receipt by the committee. The office may satisfy the requirement to provide each Legislator a copy of the report by furnishing the report directly by electronic means or by providing notice to each Legislator of the availability of the report on the office's publicly accessible site on the Internet.

TANF Project Scope Questions
Based on GOC Direction/Approval at Oct. 18th meeting and
distributed to GOC for Review via Email on Oct. 23, 2017

1. What are the primary contributing factors to the decline in TANF basic assistance caseload since 2010?
2. How is Maine's use of federal TANF funds and the populations served with those funds changing?
3. To what extent does DHHS have effective processes for identifying and prioritizing potential uses of TANF funds and ensuring funds are spent on allowable supports and services?
4. To what extent does DHHS evaluate the effectiveness of programs and services supported with federal TANF funds?
5. To what extent is DHHS taking effective action to minimize negative fiscal impacts for failing to meet TANF's work participation requirements?

Comments Received From Senator Gratwick on Oct. 24, 2017

Question 4 is excellent and to the point. I would add "and the extent to which these programs have decreased child poverty and deep child poverty"