



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

MEMBERS:

SEN. PAUL T. DAVIS, SR.  
SEN. LISA KEIM  
SEN. NATHAN LIBBY  
SEN. LINDA SANBORN  
SEN. JEFFREY TIMBERLAKE  
REP. KATHLEEN R.J. DILLINGHAM  
REP. AMY ARATA  
REP. H. SAWIN MILLETT, JR.  
REP. MARGARET O'NEIL  
REP. TERESA PIERCE

**MAINE STATE LEGISLATURE  
GOVERNMENT OVERSIGHT COMMITTEE**

**MEETING SUMMARY  
August 14, 2019  
Accepted September 23, 2019**

**Call to Order**

The Chair, Sen. Chenette, called the Government Oversight Committee meeting to order at 9:07 a.m. in the Cross Office Building.

**Attendance**

Senators: Sen. Chenette, Sen. Davis, Sen. Libby and Sen. Sanborn  
Absent: Sen. Keim and Sen. Timberlake

Representatives: Rep. Mastraccio, Rep. Dillingham, Rep. Arata, Rep. Millett, Rep. O'Neil and Rep. Pierce

Legislative Officers and Staff: Danielle Fox, Director of OPEGA  
Ariel Ricci, Analyst, OPEGA  
Jennifer Henderson, Senior Analyst, OPEGA  
Etta Connors, Adm. Secretary, OPEGA

**Introduction of Committee Members**

The members of the Government Oversight Committee introduced themselves.

**Summary of May 10, 2019 GOC Meeting**

The meeting Summary of May 10, 2019 was accepted as written.

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## New Business

### • Briefing on 2019 Expedited Reviews of Maine State Tax Expenditures Provided to the Taxation Committee

Ms. Ricci summarized the 2019 Expedited Reviews of Maine State Expenditures Provided to the Taxation Committee. (A copy of the Briefing note on OPEGA's report is attached to the Meeting Summary.)

In reference to the lack of specific information about revenue losses due to the tax exemptions reported on, Rep. Mastraccio said, for example, if she was purchasing items for a school the business has a category that they enter the item as exempt in their computer system. She asked why that data is not available because she thinks there is a way to collect it. Director Fox noted that the report and the charts for each expenditure begs that question. The charge for OPEGA is to collect the information, give the legislative history, the estimate based on what MRS has said and the statutory reference. In terms of following up with more questions about why the data is unavailable, how it is actually collected and what it looks like when it is housed at MRS is not something OPEGA looks at. The report may draw attention to the lack of data to the Taxation Committee (TAX) when they review the report. They have MRS before them to talk about whether or not that data is collected, categorized and reported. TAX could potentially make the decision of whether it is worthwhile to require a collection and reporting of that data in a more specific form than just a range based upon how important that tax exemption is. The purpose of OPEGA's report is that it facilitates the oversight of the policy committee making sure that the ability to conduct the oversight exists and to not make policy considerations.

Rep. Mastraccio asked if TAX had met and reviewed OPEGA's report and if the GOC could draft a letter to TAX with their concerns. Director Fox said statute requires TAX to meet on this report. TAX is not required to make statutory changes, but they are required to review the report and provide a report to the Legislature that includes any recommendations for changes they may have. If there are things the GOC wants TAX to pay particular attention to, she thinks it is within the structure that has been established in statute for the GOC to do that.

Sen. Chenette asked for clarification of whether TAX received a briefing on the report. Director Fox said no, but TAX has until March to produce their report to the Legislature regarding OPEGA's report.

Rep. Pierce said, in a budget, you have data of what you actually spent and asked if TAX could get data on actual amounts. Director Fox believes that question would have to be directed to MRS about whether that data is available or collected in a form that can be sorted.

Sen. Chenette noted that Rep. Matlack, a member of TAX, was at the meeting.

Rep. Millett asked if there was any way in which the actual revenue loss is calculated by MRS after the fact. He said as you review the information in the report there are a few exemptions that use the tax micro simulation model to note revenue loss and the rest of them are based on estimates and have ranges. So, he wondered how concise the tax micro simulation model is and how close MRS's estimates are. Director Fox said that issue was not within OPEGA's charge in terms of their role in the expedited review process. He asked if TAX had information on an estimate, actual methodology or data available to them. Rep. Mastraccio said the GOC could ask for that information in the letter they send to TAX.

Sen. Chenette said the GOC was not picking on the "Charitable" tax expenditure, but more broadly on all the tax expenditures and looking for more accurate data. When talking about millions of dollars in some cases, it is a

big deal when the Legislature is going around and around every session with information that is not helpful and not able to work in reality. He suggested putting that information in the letter to TAX.

Director Fox said it would be helpful to give some specifics in the GOC's intended communication to TAX.

Sen. Chenette said TAX could use OPEGA's report as a launching off point for having a more in depth analysis of how MRS can provide more quality and accurate data that reflects, not just the range or estimate based on a model, but if there is a way to concretely assess what the loss in revenue to the State is for a particular tax expenditure initiative. There may not be a loss, but if there is something MRS can articulate to TAX and subsequently to the Legislature, he thinks that would be helpful.

Rep. Mastraccio said there was money in the recent budget passed for computer upgrades to the MRS tax management system so thinks it is critical that TAX look at this issue because it will inform what data programs be added to the new computer system. She thinks the GOC is saying they would like TAX to be specific in the data that could have been reported if they let MRS know what information they would like the computer to access. MRS and TAX and Appropriations and Financial Affairs (AFA) Committees need to be involved in that conversation.

Sen. Chenette referred to information in the report where it shows a \$7 million difference between one year and the next by one change of a model. That makes him uncomfortable and nervous and thinks the Legislature needs to understand the data they are looking at.

Rep. Pierce said the data she is interested in was touched upon by Rep. Millett earlier. She has been an executive director of a nonprofit and has worked with small businesses. When reporting information to the State you are doing it in microscopic detail so it is surprising to her that you would not have actual numbers of what happened so you could see trend lines. She wants to make sure that the information received drills down the information coming from the nonprofit, or whoever is getting the exemption, so the Legislature sees an actual number representing what happened in that fiscal year or over a two year fiscal cycle. MRS may have the information, but just has not been asked for it.

Sen. Chenette asked if Committee members agreed to sending a letter to TAX and to include the issues mentioned earlier. GOC members agreed. Director Fox noted that the members of the Committee will have an opportunity to review the draft letter to TAX before it is sent out.

Sen. Chenette asked if there was objection to taking an agenda item out of order. Hearing none, he moved to "Consideration of amendment to tax expenditure review schedule".

#### • **Consideration of amendment to tax expenditure review schedule**

Director Fox said there was legislation passed during the last session to remove the statutory date by when OPEGA would have to submit a full tax expenditure review on Pine Tree Development Zone, II (PTDZ). That review date had originally been set in statute by legislation passed in the 128<sup>th</sup> Legislature and the review was to happen in 2021. Legislation was passed in the last session to remove that date from statute. It is now on OPEGA's schedule for when they do reviews, but not sure where it falls. OPEGA added PTDZ to the Full Review Schedule based on the statutory reporting deadline. Now that the deadline for review has been removed, the GOC may want to consider whether they want to change where that review falls. She reminded the Committee that there was a full evaluation of PTDZ in 2017 with some elements not conducted because of insufficient data available, but there were several recommendations in the 2017 report which were critiques of the design based on what OPEGA understood the intended objectives of the PTDZ program to be.

Rep. Mastraccio said they could build off the PTDZ report already done which looked at a program that was going to sunset at the end 2018. The Legislature extended the program to 2021 which means that until December 31, 2021 any companies that enroll in the PTDZ program and qualify will be entitled to benefits for ten years past 2021. Director Fox agreed and said it is not a repeal of the program in 2021, it is that DECD is no longer accepting new businesses into the program. Any business that has years remaining on the benefits they were entitled to receive will still be receiving benefits up to 2031. It is not that the PTDZ program goes away, it is that new businesses will not be enrolled after 2021.

Rep. Mastraccio anticipates that in the 130<sup>th</sup> Legislature the sunset provision will become another issue and legislation will be put forth that will want to extend it. She noted there is also the issue of the long range economic development strategic plan (plan) for economic development that the Legislature has not yet seen. She anticipates seeing that plan in September, so would suggest, if it is possible for OPEGA to do without impeding on other work, to do a design assessment based on what they knew were some of the issues that were addressed from the first PTDZ program report. She would suggest going further into that to get information to inform the next Legislature, or for the GOC to introduce legislation this coming session, to address the matter. Maybe the Department of Economic and Community Development (DECD) has already done some tweaks to PTDZ that address some of the design issues or there is something that needs legislation.

Rep. Mastraccio would like any extension of the PTDZ program to be based on some real information going forward and thinks it would be helpful to DECD and the committees of jurisdiction when deciding where they want to go with PTDZ.

Director Fox said the PTDZ report in 2017 was not incomplete, but data and certain information was not available. There have since been changes to the law in terms of requiring certain reporting and that data will be collected. The data will only be from a few years, so its value in terms of an evaluation of the program and whether or not the program is achieving the objectives is something that should be taken into consideration in terms of whether it will produce the results that will help to inform a decision. The 2017 report was critical of the design of the program in terms of aligning with what OPEGA understood to be the intended objectives. OPEGA could follow-up with the departments to see whether or not there have been changes with regard to the design of the program and whether or not things line up more. There is more clarity in the statute with regard to what the objectives of the program are so OPEGA could potentially look at whether or not the design also aligns with those new objectives as they have been stated in the most recent legislation that was passed. Not only OPEGA, but many offices that do tax evaluations struggle with accurate economic modeling for a variety of reasons and the Director has articles she can share as to why that is and guidance from organizations like PEW and the Government Accountability Office (GAO) with regard to how to look at extending programs that are subject to a sunset and what may be helpful in the absence of a good “but for” answer or economic modeling.

Rep. Mastraccio asked if OPEGA could give an idea of a scope and time frame for PTDZ work. Director Fox said she would need to talk with OPEGA’s tax team to determine how long that work would take. They can follow-up on OPEGA’s past design assessment issues and maybe look at some potential new design issues in light of the objectives for the PTDZ program. OPEGA would try to get that information to the GOC in time to make a decision on whether to extend the program.

Sen. Chenette thought the above information is step one. Before you move forward with economic modeling you have to understand if the design issue has been fixed and does it align with the new objectives that the Legislature set. If it doesn’t then those have to be fixed before moving on with any further analysis of the program. He asked what other committees have had discussion around this issue and initiative? Rep. Mastraccio said when she introduced the bill that removed the evaluation date of PTDZ program, the IDEA Committee had discussion at the public hearing.

Rep. Mastraccio wanted to make sure the GOC gets the PTDZ work on OPEGA's work plan and made the following motion:

**Motion:** That the GOC add a targeted design assessment of the Pine Tree Development Zone program to the GOC's work plan. The assessment will look at changes made, if any, based on the design critiques included in the 2017 PTDZ review, as well as the newly adopted program objectives recently enacted into law by PL 2017, c. 440. (Motion by Rep. Mastraccio, second by Rep. Pierce)

**Discussion:** Rep. Millett thought Rep. Mastraccio made a good point about the politics of the 130<sup>th</sup> Legislature revisiting the sunset and her reference to the plan that is scheduled to be available when the Legislature returns in January. He is leaning toward the latter one as an opportunity sometime during the January to April period for the GOC to revisit the future standing of this issue on their long term schedule in relation to how the plan values the PTDZ program as a legitimate economic development tool. The Legislature would be better informed if they had the benefit of the plan before saying they were done with PTDZ and let the politics play out in the 130<sup>th</sup> Legislature. He thinks it would be wise for the GOC to keep it in their purview so that in the January to April period they can revisit it in the context of where it fits into the economic development plan.

Director Fox referred to the GOC's full review schedule noting it is statutorily required to be done every October but had gotten a bit off track. She would like to get that schedule back on track and although the Committee did a full review schedule in March where they agreed what the categorizations would be and what order those reviews would be done, statutorily they are required to complete that in October. At that point they will, by the statutorily prescribed process, be looking at all those evaluations, their categorizations and when OPEGA will do them so that opportunity is already built into the GOC's process and will be after the presentation of the statewide economic development plan.

Rep. Mastraccio said all of the above withstanding, the GOC can still do the follow-up review within a shorter period of time and thinks will go together nicely for a discussion in October or January about what else the Committee needs to do. The work done on the design assessment is important work and only the GOC is going to be able to do that.

Rep. O'Neil said Director Fox mentioned recommendations or information from PEW and asked if the Director could flush out how the GOC would use that information to design the tax assessment.

Director Fox said the recommendations from PEW might be helpful when the time comes in the 130<sup>th</sup> Legislature for discussion about extending the PTDZ program. For example, in the absence of a full review of PTDZ or some of the economic modeling, PEW and the GAO have guidance about how to look at extending tax expenditure programs as a Legislature. Rep. O'Neil thought the information did not pertain to obstructing the Legislature's view, but is more about the policy itself when they look at it. Director Fox agreed.

**Vote:** The above motion passed by unanimous vote.

#### • **Legislation considered in 2019 related to Child Protection Services Issues**

Director Fox referred to the Legislation considered during the First Regular Session of the 129<sup>th</sup> Legislature that related to child protection system matters document. OPEGA wanted the GOC to have the information on what actions were taken on each LD. The document can be referred back to by the GOC as they continue their work with oversight of improvements to the Child Protection Services issues and if Committee members think of other information or documents that would be helpful to incorporate OPEGA would be happy to do that. (A copy of Legislation related to child protection system matters is attached to the Meeting Summary.)

Sen. Chenette said, as discussed at a previous meeting, the GOC wants to be the clearinghouse for understanding what committees are working on related to this topic. Making sure they are providing the direct oversight and coordinating between the HHS and JUD committees because sometimes the Legislature works in silos. The ability for the GOC to be able to look at the matter from a 30 thousand foot perspective is going to be critical to not only hold the department accountable, but understand how the bills that are coming out of the Legislature impact the department's initiatives and work and where there may be identifiable gaps in what still needs to be done this coming year.

Rep. Arata said she was interested in seeing the report that is due October 1<sup>st</sup> resulting from LD 821 and hopes to receive that report for future discussions.

Rep. Millett noted that the Legislature had a change package from DHHS before the budget was reported out that was approved by the Legislature that requested a substantial number of additional child protection workers. The AFA Committee had authorized a significant increase in child protective staffing and asked if the Committee will be getting updates on that information.

Director Fox said within the next couple of months members of the HHS and JUD will come to a meeting to discuss child welfare issues. In preparation for that meeting she will prepare a prioritized chart. The left hand column will have what DHHS/OCFS is proposing as an initiative to improve the system. We will have legislation that has either already passed or been proposed, including items that were initiatives in the budget, and how they relate to those initiatives. For each one of the initiatives we will be able to say these are the things that have already been done either statutorily, are pending, were in the budget or were done by the department because they can do it without any legislation. For each initiative, OPEGA will have the update and then in the far right column will be things that may be, or have been, addressed in OPEGA evaluations so the GOC will be able to connect with each initiative that the department has said they are going to take on to improve the system, budget initiatives, actions stated by the department and evaluations by OPEGA. Hopefully, that will be something that the other committees that have jurisdiction might find useful as well. OPEGA is trying to keep a comprehensive list to provide to the GOC.

Sen. Chenette said the Committee previously decided they wanted that coordination to continue so at the September and October meetings utilizing, not just a report back from DHHS, which as of right now is sort of scheduled for late September, but also working collaboratively with the chairs and leads of the HHS and JUD Committees to not just understand the bills that passed, but those being carried over. As mentioned by Rep. Arata, to receive the report that will be coming from the legislation that was passed will be relevant to the discussions. He and Rep. Mastraccio talked about having two separate meetings. One is a more in depth analysis and report back from the department level initiatives regarding child protection services. OCFS indicated at the last meeting that they were working from a large list, were going to narrow it down and since then there has been email correspondence saying that something has been done with the RFP for the new computer system. A lot of that information will have to be flushed out and subsequently more of a well-rounded and coordinated discussion of how the other legislation that passed plays a role. As Director Fox indicated seeing a flow chart of what was in the budget, what was passed in the Legislature, how that plays a role with what the department is doing and how that plays a role with OPEGA reviews the Committee can get a sense of what comes next and what is needed to fill in the gaps. Are there bills that are being carried over that can be looked at that might assist the department and how does that play a role with solving some of the problems throughout child protection services.

Rep. O'Neil said one thing that DHHS staff talked about was hoteling and kids were having to be in staff offices during the day and in some cases that was for more than a month while waiting for a placement in a foster home. She wanted to know if that is something that is still happening based on all the changes that are being made, and would like information and data on the situation. She is sure that staff are doing their best to

make kids comfortable, but she would like to hear if the Department has made a policy or taken some kind of approach or plan and is the State doing its best to prevent harm to the kids.

Rep. Mastraccio said if the members of the Committee have specific issues they are going to want DHHS to address that it would be helpful to the department to receive the questions and concerns ahead of time. Members can email their questions/concerns to Director Fox so she can forward that information to DHHS. The Committee is going to request that whatever information is provided to the GOC be provided in writing.

Rep. Arata wanted information on unsafe sleeping practices and would like to know if, with the educational efforts, there have been any changes in statistics.

## Unfinished Business

### • Approved Projects

- **GOC discussion on status of CPS Special Project (2) - Review and assessment of initiatives proposed by previous administration in response to OPEGA information brief on child deaths**

This agenda item was talked about earlier in the meeting.

## Report from Director

### • Status of projects in process

The **Maine Citizen Initiative Process** review is entering the drafting stage. Although OPEGA is still doing some fieldwork on the **BETE and BETR** evaluation part that review is also in the drafting stage. OPEGA is in preliminary research with the **Out of Home Placements for Children removed from Care by DHHS/OCFS** and hoping to present the GOC with scope questions for the review this fall, but that depends on the information that OPEGA receives from the Department and what they are doing with the latest PCG report. The GOC will be able to determine which questions specifically they want answered by OPEGA's full evaluation. OPEGA staff is in the early stages of preliminary research on the **Maine Commission on Indigent Legal Services** review and are still in the planning stages with regard to the **Follow-up Survey: OCFS Frontline Workers**. The information OPEGA gets from the Department on what has been implemented in terms of some of the changes they have made with regard to the issues that were expressed by the frontline workers, whether they have taken hold and when it seems right to follow-up to see how those changes have impacted the frontline workers. That review is still in the planning phase. The **Maine Capital Investment Credit** tax expenditure review has moved out of the planning phase and OPEGA is beginning preliminary research. The **Follow-up on the Initiatives presented by the previous Administration** in response to OPEGA's two Child Protective Services evaluations is on pause because the GOC wanted to wait until they got a full report back and presentation from the Department. The GOC today added the review of OPEGA's past design assessment critiques and some new assessment design elements based on our understanding of the objectives of the PTDZ program as it has been changed recently.

Rep. Pierces asked how long a review takes once the parameters have been approved. Director Fox said it takes roughly a year for a tax expenditure review. Other reviews can take less time than that, but that is not always the case. OPEGA expects the GOC will receive a couple of reports to take action on during the Second Regular Session.

**•Legislation of interest to the GOC, update**

Director Fox referred the Committee to the updated chart of current legislation which may be of interest and specifically to LD 1511. In the course of their reviews the Right to Know Advisory Committee looks at exceptions to the public records, or open access laws, and OPEGA had been on that list because of its strong confidentiality provisions in statute. As part of the process some proposals to clarify the statute due to some repetitive and vague language had been approved by the sub-committee, the full Right To Know Advisory Committee and endorsed by the Judiciary Committee. There was a unanimous Committee vote, but an amendment not related to GOC, regarding remote participation at municipal government meetings, was attached to the bill. In the end, our non-substantive clarifying provisions did not take effect. She said this may be something the GOC will hear from her about in the future in terms of having a stand-alone bill now that it has been vetted through the appropriate processes and could be legislation from this Committee. (A copy of the Legislation of Interest is attached to the Meeting Summary.)

Sen. Chenette asked if the legislation should be submitted for the Second Regular Session and Director Fox said she can have the draft legislation on any GOC agenda for the Committee's discussion and review.

**Planning for upcoming meetings**

Sen. Chenette opened the discussion regarding the GOC's upcoming meetings for September and October. The Chairs had discussed a later September meeting with the official report back from DHHS's Child Protective Service. The report back will be very in depth and an opportunity for the Committee to drill down and dig deep on what the department has been working on, any updates and to respond to GOC questions. The department is going to give the GOC, in writing, everything they will be talking about.

Director Fox thought it would be helpful to send a letter from the GOC to the department with specific requests of a prioritized list of the initiatives they intend to follow through with for both short and long term, to improve the system and what those initiatives are intended to target.

Sen. Chenette added that the department had indicated where there might be priorities, but there was a laundry list of recommendations from multiple reports, so would like to know how that correlates with what they are working on and how they prioritize that list.

Rep. Mastraccio noted that the department is not done getting reports, they are still in the assessment phase, but the GOC would want to know where they are in that process because the Committee/OPEGA will need it for the scope of their Out of Home Placements for Children Removed from Care by DHHS/OCFS review. Director Fox agreed.

Rep. Mastraccio said what the GOC chairs anticipate is that the Committee will meet with DHHS/OCFS in September and then will invite the Chairs and Leads of HHS and JUD Committees to an October meeting to discuss child protection services.

Sen. Libby asked that DHHS comment on the changes that were made in statute in the fall of 2018. He would like to hear, for example, how the new money was spent, where they are in hiring case workers for the salaries that were appropriated, how the information sharing is going between agencies and how the amendment to the policy that governs child placement and unification is going. A report on how the department is handling those statutory spending changes in the three pieces of legislation.



Sen. Chenette said the earlier questions from Rep. O'Neil and Rep. Arata should also be included in the letter to the department. Any questions or concerns Committee members think of after today's meeting that they want included in the letter to the department to email them to Director Fox.

### **Next GOC meeting date**

Following Committee discussion the next meeting was tentatively scheduled for September 25, 2019 at 9:00 a.m. (Following the meeting information was received that DHHS/OCFS staff were not available on September 25<sup>th</sup> and the meeting was rescheduled to September 23, 2019 at 8:30 a.m.)

Etta will poll the GOC members for their availability to meet on October 15, 16 or 17.

### **Adjourn**

The Chair, Sen. Chenette, adjourned the GOC meeting at 10:30 a.m. on the motion of Sen. Davis, second by Rep. Dillingham, unanimous.

# Briefing note on OPEGA report “Information to Support 2019 Expedited Reviews of Maine State Tax Expenditures”

## Background

The 126<sup>th</sup> Maine State Legislature tasked OPEGA with developing a proposal for a process to provide ongoing legislative review of the State’s tax expenditures. Tax expenditures are government revenue losses due to tax provisions that allow taxpayers to reduce their tax burden. The purpose of the reviews are to inform policy choices and the policy making process.

The Taxation Committee considers the results of the reviews and submits a report to the Legislature. The Taxation Committee may recommend or initiate legislative action, as it considers warranted. The Government Oversight Committee (GOC) oversees OPEGA’s efforts, as well as the ongoing legislative review process.

## Overview

The GOC, in consultation with the Taxation Committee, previously assigned each statutorily established tax expenditure to one of three review categories: full evaluation, expedited review, no review. Tax expenditures selected by the Committees for expedited review are those intended to implement broad tax policy goals that cannot be reasonably measured.

The 17 tax expenditures selected by the Committees for expedited review in 2019 include exemptions from the sales and use tax and exemptions from the service provider tax. Each of these tax exemptions were classified under the policy area described as “Charitable.”

The information OPEGA is required to provide includes:

- a description of the tax policy under review;
- descriptions of each tax expenditure, the distribution mechanism, and intended beneficiaries;
- the legislative history of each tax expenditure; and
- the fiscal impact of the tax policy and related tax expenditures, including past and future impacts.

## “Charitable” Policy Area

OPEGA’s 2015 Proposal for Legislative Review of Maine State Tax Expenditures defined the “Charitable” policy area as:

*Charitable expenditures are expenditures which exempt charitable organizations from taxes. For purposes of this classification, charitable organizations include government, educational, nonprofit, religious, health care and other organizations that assist particular groups in need.*

The expenditures that were categorized under the “charitable” rationale are diverse and do not share a common tax policy. OPEGA has grouped the tax expenditures subject to expedited review in 2019 into groupings of similar exemptions, based on the intended beneficiaries. The groupings of expenditures described as “Charitable” are listed as:

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

### **Fiscal Impact Estimates**

The fiscal impact estimates represent estimated foregone revenue for the State. MRS uses various methods to estimate the forgone General Fund revenue loss (see below). The reported estimates are taken from the Maine State Tax Expenditure Reports (MSTER).

The four expenditures grouped into the category of “Public Support for Students, Youth and Schools” constitute the majority of these 17 tax expenditures (table 2, page 4). Estimates for each of the 17 tax expenditures in this report are generally consistent across years, with one exception. There was a variation seen in “Meals Served by Public or Private Schools” between FY17 and FY18 due to a change in the way MRS calculated the estimates (appendix B, page 26).

### **Information on Individual Tax Expenditures**

The report contains a series of tables summarizing the information OPEGA is required to provide for each tax expenditure (pages 6-23). The information included for each tax expenditure is: statutory reference, distribution mechanism, brief description, intended beneficiaries, estimated fiscal impact (and notes), and legislative history.

MRS told OPEGA they do not use the fiscal estimates to look at trends; rather, the numbers are “point in time” based on the economic forecast using the best information available at the time. Estimates are influenced by the anticipated tax rates, economic activity, policy changes, available data, and other factors. This makes it challenging to discern any trends or policy impacts over time using the revenue loss estimates published in the MSTER. Neither OPEGA nor MRS was able to identify any existing data that could be used to assess how closely MRS’ estimates reflected actual forgone revenue, or any existing data that would better illustrate trends in fiscal impact.

**Legislation considered during the First Regular Session of the 129th Legislature related to child protection system matters.**

Prepared by OPEGA for the Government Oversight Committee – August 14, 2019

LD	Title and sponsor	Committee	Disposition	Summary (including amendments if adopted)	DHHS/OCFS testimony
<b>Enacted</b>					
192	"An Act to Require an Annual Report on the Activities of the Maine Child Welfare Advisory Panel" Rep Hymanson	Health and Human Services	02.21.19 - Committee vote OTP-AM 04.11.19 - Signed by Governor, Chapter 28	The bill requires DHHS to submit an annual report to the HHS Committee on the activities of the Child Welfare Advisory Panel. The amendment removed a deadline for the annual report.	OCFS submitted testimony in support.
821	"An Act to Set Case Load Standards for the OCFS" Rep Madigan	Health and Human Services	04.08.19 - Committee vote OTP-AM 05.21.2019 Signed by Governor (Emergency Measure), Chapter 34	The bill requires DHHS to ensure caseworkers are not assigned cases exceeding a number established by department rule; the number must be recommended by a national organization with expertise in maximum caseloads; the number of caseworkers assigned to support staff must not exceed 8. The amendment replaces the bill and requires DHHS to review case load standards and develop recommendations with input from caseworkers and PCG. Requires the department to submit a report by October 1, 2019 with findings and recommendations and submit an annual report on staffing in child welfare in relation to the case load recommendations; the reports are submitted to HHS Committee and GOC.	OCFS submitted testimony neither for nor against, but providing information.

984	"Resolve, To Develop Plans to Return to the State Children Housed in Residential Treatment Systems outside of the State." Rep Gramlich	Health and Human Services	05.10.2019 - Committee vote OTP-AM 06.06.2019: Signed by Governor, Chapter 54	The resolve requires DHHS to develop plans to bring children receiving certain services out of state back to the state to receive the required services; it suspends current contracts regarding psychiatric residential treatment facilities and prohibits new contracts, with the suspension and moratorium being listed 30 days after the department submits a required report about adequacy of beds and staffing in those facilities; it provides funding to increase reimbursement rates. The amendment removes the sections relating to psychiatric residential treatment facilities and increasing the reimbursement rates; it requires DHHS to negotiate reimbursement rates.	OCFS submitted testimony neither for nor against, but providing information.
1094	"An Act to Increase Funding for Staffing and for Office Space for the Child Welfare Services Ombudsman Program" Sen Bellows	Health and Human Services	05.10.19 - Committee vote OTP-AM 06.19.2019 - Signed by Governor, Chapter 520	The bill provides funding for additional staffing for the Child Welfare Services Ombudsman Program. The amendment replaces the bill. It preserves the funding for additional staffing and adds funding for leasing office space and purchasing office supplies.	DHHS did not submit testimony.
1275	"An Act to Support Access to Health Services for Homeless Youth in Maine" Sen Sanborn	Health and Human Services	04.25.2019 - Committee vote OTP-AM 05.23.2019 - Signed by Governor, Chapter 206	The bill allows a minor to provide consent to all medical, mental, dental and other health counseling and services by proving that the minor is living separately and is independent of parental support through providing listed supporting documentation; it provides immunity to a health care practitioner who provides services to a minor if the minor consented and provided proof of living independently; it prohibits a minor from disaffirming consent given by the minor solely because they are a minor. The amendment clarifies that a health care practitioner who obtains documentation is immune from civil or criminal liability and removes the language regarding consent not being subject to later disaffirmance solely by reason of the minor's age.	DHHS submitted testimony in support.

1378	"An Act to Ensure the Provision of Medical Assessments for Youth in Foster Care" Rep Madigan	Health and Human Services	04.16.2019 - Committee vote OTP-AM 05.28.2019 - Signed by Governor, Chapter 162	The bill requires that, when a child is ordered into DHHS custody, the department must provide the foster home in which the child is placed an overview of the child's medical condition and the contact information of the child's health care provider, if known; it requires the department to ensure that a child receives an appointment for a medical exam within 3 working days (reduced from 10 days) and requires the department to inform the foster parent of the appointment. The amendment replaces the bill and clarifies that DHHS shall ensure that a child ordered into its custody receives a medical examination by a licensed physician or nurse practitioner within 10 working days after the department's custody of the child commences; requires the department to adopt routine technical rules to allow for reimbursement under MaineCare for a comprehensive medical, dental, educational and behavioral assessment.	OCFS submitted testimony neither for nor against, but providing information.
1526	"An Act to Increase the Availability of Foster Homes" Sen Keim	Health and Human Services	05.06.2019 - Committee vote OTP-AM 06.20.2019 - Signed by Governor, Chapter 444	The bill eliminates the requirement that the State Fire Marshal inspect a family foster home and certify that it meets all elements of the fire safety code before DHHS may issue a license; moves the inspection responsibility to DHHS, which is directed to adopt rules governing the inspection. The amendment adds an appropriations and allocations section.	OCFS submitted testimony in support.
195	"An Act to Continue MaineCare Coverage for Parents During the Rehabilitation and Reunification Process" Rep Hymanson	Health and Human Services	02.14.19 - Committee vote OTP-AM 05.19.19 - Became law without Governor's Signature, Chapter 130	The bill requires DHHS to submit a waiver request to the USDHHS to continue to provide MaineCare coverage to a parent who is participating in rehabilitation and reunification efforts in accordance with a plan; sets a timeline to report progress on seeking the waiver and implementing new rules. The amendment clarifies that parents who are eligible for MaineCare prior to having their minor children removed from the home remain eligible if they are engaged in rehabilitation and reunification efforts, regardless of any other provision of law; requires DHHS to provide an annual report from 2021 on the number of individuals and families who benefit from this provision.	OPI submitted testimony neither for nor against, but noted that the department believes that the bill is unnecessary considering existing policy.

1792	"An Act to Ensure Compliance with Federal Family First Prevention Services Legislation" Rep Madigan	Health and Human Services	06.03.19 - Committee vote OTP-AM 06.19.19 - Signed by the Governor, Chapter 399	The bill requires DHHS to adopt rules for children's residential care facilities that include procedures for fingerprint-based background checks and child abuse and neglect registry checks for all staff working in the facility to ensure compliance with requirements in federal family first prevention services legislation. The amendment strikes and replaces the bill to be consistent with criminal history record check practices; incorporates provisions that address existing technical conflicts; allows fingerprinting of applicants for employment as well as employees of children's residential care facilities.	DHHS submitted testimony in support.
<b>Carried over</b>					
115	"An Act to Appropriate Funds for Home Visiting Services to provide Child Development Education and Skills Development for New Parents" Rep Craven	Health and Human Services	03.28.19 - Committee vote OTP-AM 06.20.2019 - Carried over on the Special Appropriations Table to any Special or Regular Sessions of the 129th.	The bill appropriates funds for home visiting services to provide child development education and skills development for new parents. The amendment directs the Board of the Maine Children's Trust Inc to use state funds it receives to maximize its receipt of federal funds; it adds an appropriation of funds to stabilize the workforce by bringing salaries of home visitors in line with comparable positions; it reduces the additional funding provided in the bill for home visiting services from \$4m for FY10-20 and \$3m for FY20-21 to \$500,000 for each year.	OCFS submitted testimony neither for nor against, but providing information.
633	"An Act to Create a Permanent Navigator Position within the Department of Health and Human Services" Rep Warren	Health and Human Services	04.04.2019 - Committee vote OTP-AM 06.20.19 - Carried over on the Special Appropriations Table to any special or regular sessions of the 129th.	The bill requires the Commissioner of HHS to appoint one person to administer all issues related to the placement of a child with a relative. The amendment replaces the bill; it establishes within DHHS the kinship care navigator program to provide resources and information to persons providing kinship care to children in the State; it requires one person to administer the program; it adds an appropriations and allocations section.	DHHS submitted information in response to Committee questions.

1039	"Resolve, To Establish and Fund Intervention for At-Risk Families and Children" Rep Madigan	Health and Human Services	05.06.19 - Committee vote OTP-AM 06.20.19 - Carried over on the Special Appropriations Table to any Special or Regular Sessions of the 129th.	The resolve requires DHHS to provide grants to behavioral health providers to fund costs to attract, retain and train new professionals to provide specific types of therapy to children and families involves in child protective services; requires the department to develop a rate of reimbursement under MaineCare; requires the department to seek federal funding for grants or, if not available, use general funds. The amendment adds an appropriations and allocations section.	OCFS submitted testimony neither for nor against, but providing information
1417	"An Act to Expand Access to Head Start to Assist Opioid-Affected and Other At-Risk Families" Rep McCreight	Health and Human Services	04.22.19 - Committee report - Divided report 05.16.2019 - Passed by House as amended 05.21.2019 - Passed by Senate as amended (roll call) 06.20.19 - Carried over on the Special Appropriations Table to any special or regular sessions of the 129th.	The bill establishes eligibility standards for the Head Start program that allows participation for a child up to 5 years of age whose family is affected by substance use disorder or whose family income is below a specified amount; provides appropriations to be distributed to nontribal Head Start program service providers. The amendment clarifies that eligibility for the Head Start program is limited to children who have not met the minimum age requirement to enroll in a school.	DHHS did not submit testimony.
1554	"Resolve, Establishing a Commission to Reform Child Protective Services" Sen Diamond	Judiciary	05.21.19 - Committee Work Session, Tabled 06.03.19 - Carry Over Approved 06.20.19 - Carried over to any special or regular session of the 129th pursuant to Joint Order HP 1322	This resolve establishes the Commission To Reform Child Protective Services. The commission is required to submit a report, including suggested legislation, for presentation to the Second Regular Session of the 129th Legislature.	DHHS submitted testimony in opposition.



**Died between bodies (some report accepted)**

187	"An Act To Restore the Laws Governing the Reunification of Parents and Children" Rep Gramlich	Judiciary	05.21.19 - Committee vote, Divided report 06.06.19 - House Motion to accept majority ONTP failed (roll call); House motion to accept minority OTP accepted 06.10.19 - Senate motion ONTP report accepted; House insisted on acceptance of minority OTP report 06.12.19 - Senate insisted acceptance of majority ONTP in non-concurrence. Placed in legislative files (DEAD)	Recently enacted law eliminated language that established as a priority under the Child and Family Services and Child Protection Act family rehabilitation and reunification. This bill restores family rehabilitation and reunification as a priority under the laws governing child protective services.	DHHS submitted testimony neither for nor against, but providing information.
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**ONTP or LTW**

646	"An Act to Improve Trust with Regard to Home Visitation by DHHS by Requiring that Certain Visits be Videotaped" Rep Doudera	Health and Human Services	03.28.19 - Committee vote ONTP 04.23.19 - Died pursuant to Joint Rule 310.3	The bill requires DHHS staff who visit the home of a child to investigate or assess and allegation of abuse or neglect to videotape all interviews conducted during the visit.	OCFS submitted testimony in opposition.
838	"Resolve, To Ensure the Continuation of Services to Maine Children and Families" (Emergency) Rep Beebe-Center	Health and Human Services	05.01.19 - Committee vote ONTP 05.21.19 - Died Pursuant to Joint Rule 310.3	The resolve amends a previous resolve and require DHHS to extend certain contractual agreements between the department and Community Partnerships for Protecting Children from January 31, 2019 to the termination date specified in the original contractual agreement.	DHHS submitted information in response to questions for the work session.
1225	"An Act to Increase Funding for Home Visiting Programs" Rep Berry	Health and Human Services	03.28.19 - Committee vote ONTP 04.23.19 - Died pursuant to Joint Rule 310.3	The bill increases the State's funding for home visiting programs in the State in order to stabilize the workforce and expand eligibility to foster families caring for infants.	OCFS submitted testimony neither for nor against, but providing information.

1595	"An Act to Enhance the Child Welfare Ombudsman Program" Rep Mastraccio	Health and Human Services	05.10.19 - Committee vote ONTP 05.21.19 - Died pursuant to Joint Rule 310.3	The bill changes the Child Welfare Ombudsman program to provide that the program is in independent program operated as a nonprofit organization, requires the program to provide oversight of child welfare practice and policy, specifies staffing for the program, provides for appointment procedures and a 7 year term in office, requires a budget recommendation, provides full-time employees benefits, requires the program to provide services directly to individuals and families, requires the department to inform the ombudsman of policy/practice changes, allows the ombudsman to participate in activities conducted by the department, requires the ombudsman to provide information about child welfare issues, authorized the ombudsman to disclose confidential information to a committee meeting in executive session.	OCFS submitted testimony neither for nor against, but providing information.
584	"An Act to Convert Stipends to Base Pay for Child Protective Workers" Rep Gattine	Labor and Housing	04.03.19 - Committee vote ONTP 04.11.2019 - Died pursuant to Joint Rule 310.3	The bill requires that the \$5 per wage-hour stipend provided to child protective services employees and the \$1 per wage-hour stipend paid to such employees who hold or obtain a relevant master's degree be considered part of the base pay for purposes of calculating retirement benefits.	DHHS did not submit testimony.
1185	"An Act to Facilitate Intervention by and Provision of Services Through the DHHS for Certain Families Affected by Substance Use" Rep Brennan	Health and Human Services	05.01.19 - Committee vote ONTP 05.21.2019 - Died pursuant to Joint Rule 310.3	The bill requires DHHS to provide and pay for services relating to substance use disorder treatment in cases in which it does not file a child protection petition but does open a case to provide services to the family and to provide and pay for those services as part of the rehabilitation and unification plan when a child has been removed from the home; the department is not financially responsible if the person is insured by MaineCare or other insurance and that insurance covers the cost of the services; establishes a program within the department for families affected by substance use disorder; the department is required to create a process to identify families engaged in rehabilitation and reunification plan in which substance use disorder is a barrier to the return of the child to the home and ensure the family receives intervention and treatment for the disorder.	OCFS submitted testimony neither for nor against, but providing information.

328	"An Act to Institute Safe Children Court Team Programs" Rep Madigan	Judiciary	05.21.19 -Committee vote ONTP 06.03.19 - Died pursuant to Joint Rule 310.3	The bill authorizes the Judicial Department to establish safe children court team programs, modeled on the "Safe Babies Court Team" approach supported by the Quality Improvement Center for Research-based Infant-Toddler Court Teams funded by the US DHHS, Administration for Children and Families, Children's Bureau. The purpose is to develop a community-based system to provide local systems and services for children and families that interact with the State's child protection system.	DHHS supported the implementation of the program but noted that it would likely require significant resources.
471	"An Act to Amend the Child and Family Services and Child Protection Act To Require the Department of Health and Human Services to Make Best Efforts to Prevent Removal of a Child from a Home" Rep Hymanson	Judiciary	05.21.19 - Committee vote ONTP 06.03.19 - Died pursuant to Joint Rule 310.3	This bill amends the Child and Family Services and Child Protection Act to require that best efforts, rather than reasonable efforts, be made by the Department of Health and Human Services to rehabilitate and reunify families as a means of protecting the welfare of children	DHHS did not submit testimony.
787	"An Act To Support Victims of Child Sexual Abuse" Sen Diamond	Judiciary	04.25.19 - LTW approved by Chairs 05.23.19 - Died pursuant to Joint Rule 310.3	This bill provides for the admissibility in a criminal trial of a recording of a statement of a child under 16 years of age who is a victim of sexual abuse if certain requirements are met. The child must be available at the trial for cross-examination, unless the court finds certain grounds to determine that the child is unavailable to testify. The person who interviewed the child for the recording must be available at trial.	No public hearing was held. DHHS did not submit testimony.
916	"An Act To Improve the Child Protective Court System" Sen Bellows	Judiciary	05.21.19 - Committee vote ONTP 06.03.19 - Died pursuant to Joint Rule 310.3	This bill is a concept draft pursuant to Joint Rule 208. This bill would establish a process within the court system to ensure, to the greatest extent possible, that child protective cases involving the same child are assigned to and heard by the same judge throughout the entire process while the child is a minor.	DHHS did not submit testimony. The Judicial Branch provided testimony opposing the bill.

Current legislation which may be of interest to the Government Oversight Committee

Updated by OPEGA for GOC June 21 2019

LD #	Title and sponsor	Summary	Current Status and Comment
<b>Bills that amend Title 3 chapter 37 (GOC/OPEGA governing statute)</b>			
1511	<b>An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Public Records Exceptions (Rep. Bailey)</b>	The bill amends the statutes governing the confidentiality of the working papers of the Office of Program Evaluation and Government Accountability to clarify that the working papers, whether in the possession of the office or an entity with which the office director has contracted, remain confidential even after the report is released to the public. It removes duplicative language that is already captured in the definition of "working papers."	Died in Non-concurrence 6/19/19
<b>Potentially similar to current work of the GOC</b>			
1554	<b>Resolve, Establishing a Commission To Reform Child Protective Services (Sen. Diamond)</b>	This resolve establishes the Commission To Reform Child Protective Services. The duties of the 13-member Commission are to study and hold public hearings on reforms to the laws governing the protection of vulnerable children in state care. The commission is required to submit a report by February 2020, including suggested legislation, for presentation to the Second Regular Session of the 129th Legislature. In making appointments, presiding officers must consider members from HHS and CJPS.	Carried over to any special or regular session, or both, of the 129 <sup>th</sup> Legislature pursuant to Joint Order 6/20/19
<b>Amending the tax expenditure review process</b>			
1069	<b>An Act To Amend the Tax Expenditure Review Process (Rep. Tipping)</b>	Changes date by which OPEGA provides information to TAX for tax expenditure reviews, category B (expedited). Current law requires that information be provided by July 1. Beginning in 2019, the information must be submitted by December 15 <sup>th</sup> . (Due to the fact that this is not yet law, and not proposed as an emergency, OPEGA will have information ready to provide by July 1.)  Current law requires TAX review of the information and submission of report by December 1 (after info received from OPEGA). LD 1069 changes the date to March 1 <sup>st</sup> .	Enacted PL 2019, c. 161
1629	<b>An Act Regarding Future Evaluations of the Pine Tree Development Zone Program (Rep. Mastraccio)</b>	Removes the specific date (January 2021) which required OPEGA to conduct a (second) full tax expenditure review which requires consideration of newly established policy objectives and performance measures.	Enacted PL 2019, c. 305

Directing OPEGA to complete a full tax expenditure review or program design assessment			
1200	<b>An Act To Amend the Maine Seed Capital Tax Credit Program (Emergency) (Sen. Pouliot)</b>	<p>Committee amendment directs OPEGA to complete full tax expenditure review by <b>February 1, 2023</b> and requires consideration of specific policy objectives and enumerated performance measures (established in the amendment).</p> <p><i>*Unanimous committee report which removed date for OPEGA report was adopted prior to being placed on the table.</i></p>	Carried over on the Special Appropriations Table to any special or regular session, or both, of the 129 <sup>th</sup> Legislature pursuant to Joint Order 6/20/19
1520	<b>An Act To Create and Sustain Jobs through Development of Cooperatives and Employee-owned Businesses (Sen. Libby)</b>	<p>Requires OPEGA, by <b>February 28, 2027</b> to conduct an evaluation of a program deductions provided to retain jobs in qualifying businesses that would otherwise cease operations by reducing the tax impact to business owners from qualifying sales of ownership interests in order to encourage conversion of businesses to employee and cooperative ownership and thereby allow the businesses to continue operations and retain jobs</p> <p>The deduction excludes from Maine income tax the amount of gain, up to a maximum of \$750,000 recognized by a business owner in transferring the business to an employee stock ownership plan, eligible worker-owned cooperative, consumer cooperative or affordable housing cooperative.</p> <p><i>*Unanimous committee report which removed date for OPEGA report was adopted prior to being placed on the table.</i></p>	Carried over on the Special Appropriations Table to any special or regular session, or both, of the 129 <sup>th</sup> Legislature pursuant to Joint Order 6/20/19
1586	<b>An Act To Promote Major Food Processing and Manufacturing Facility Expansion and To Create Jobs in Maine (President Jackson)</b>	<p>Directs OPEGA to conduct a design assessment of the tax expenditure program (similar to what was done for MBHE) by <b>February 1, 2024</b>. Credits under the program can be claimed beginning with tax year 2022.</p> <p><i>*P.L. chapter 386 does not require OPEGA evaluation to be completed by a specific date.</i></p>	Enacted as Emergency PL 2019, c. 386 (effective 6/19/19)
1645	<b>An Act To Create Affordable Workforce and Senior Housing and Preserve Affordable Rural Housing (Rep. Fecteau)</b>	<p>Establishes a new tax credit and requires OPEGA to conduct a full tax expenditure review by <b>February 1, 2024</b>.</p> <p><i>*Unanimous committee report which removed date for OPEGA report was adopted prior to being placed on the table.</i></p>	Carried over on the Special Appropriations Table to any special or regular session, or both, of the 129 <sup>th</sup> Legislature pursuant to Joint Order 6/20/19

**Specific reference to previously submitted OPEGA reports**

50	<b>An Act To Implement the Recommendations of the Government Oversight Committee To Improve the Development of a Long-range Strategic Plan for Economic Improvement in the State (Rep. Mastraccio)</b>	<p><b>Re-submission of GOC bill, LD 367 from the 128<sup>th</sup></b> (died on Special App. Table). Bill is based on <b>2006 OPEGA</b> report of economic development programs in the State.</p> <p>This bill provides additional clarity, requirements and resources for the Maine Economic Growth Council's efforts to fulfill its current statutory mandate to develop, monitor and maintain a long-range strategic economic improvement plan for the State. It also includes provisions to support the State's achievement of the goals and objectives in that plan by establishing requirements for the Governor, Legislature and agencies with relevant programs and activities to consider the long-range strategic economic improvement plan and provide information to the Maine Economic Growth Council at the request of the council.</p>	Died pursuant to Joint Rule 310.3 6/6/19
1628	<b>An Act To Implement Recommendations of the Department of Environmental Protection Regarding the State's Container Redemption Laws (Rep. Tucker)</b>	ENR committee bill submitted to implement recommendations of DEP report which references and incorporates recommendations from 2018 OPEGA report	Passed to be Enacted 6/20/19
25	<b>An Act To Implement the Recommendations of the Government Oversight Committee Regarding Bureau of Alcoholic Beverages and Lottery Operations Reporting Requirements (Rep. Mastraccio)</b>	Public Law 2019, c. 13 implements recommendations of the Government Oversight Committee based on the report on the Maine State Lottery issued by the Office of Program Evaluation and Government Accountability in April 2017. The law modifies the BABLO director's annual reporting requirements must include specific information on lottery activities and finances and marketing and advertising efforts and a listing of decisions made by the State Liquor and Lottery Commission and actions taken as a result. It makes similar changes with regard to liquor reporting for consistency.	Enacted PL 2019, c. 13