



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**

December 10, 2019

Accepted January 10, 2020

**Call to Order**

The Chair, Rep. Mastraccio, called the Government Oversight Committee meeting to order at 9:00 a.m. in the Cross Office Building.

**Attendance**

Senators: Sen. Chenette, Sen. Keim, Sen. Libby and Sen. Sanborn  
Joining the meeting in progress: Sen. Davis  
Absent: Sen. Timberlake

Representatives: Rep. Mastraccio, Rep. Millett, Rep. O'Neil and Rep. Pierce  
Joining the meeting in progress: Rep. Arata and Rep. Dillingham

Legislative Officers and Staff: Danielle Fox, Director of OPEGA  
Matthew Kruk, Principal Analyst, OPEGA  
Amy Gagne, Analyst, OPEGA  
Ariel Ricci, Analyst, OPEGA  
Etta Connors, Adm. Secretary, OPEGA

**Introduction of Committee Members**

The members of the Government Oversight Committee introduced themselves.

**Summary of October 15, 2019 GOC Meeting**

The Meeting Summary of October 15, 2019 was accepted as written.

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## New Business

- **OPEGA's Proposed Project Direction for the Review of Maine Commission on Indigent Legal Services**

Director Fox summarized the proposed project direction for the review of Maine Commission on Indigent Legal Services. (A copy is attached to the Meeting Summary.)

Rep. Mastraccio asked if the Commissioners of the Maine Commission on Indigent Legal Services (MCILS) were paid. Director Fox believes the members are paid per diem, but will check to confirm if that is correct.

Rep. Pierce anticipates the Legislature forging ahead on some of the issues raised by the Sixth Amendment Center's (Center) report and will be interested in digging into that report at several different levels. She asked if the Legislature's work would interact with OPEGA's work on the MCILS review.

Director Fox said OPEGA will be working on and evaluating the financial oversight aspects, but because there are a multitude of issues, it depends on what areas the Legislature was proposing to consider or amend. OPEGA recognizes that MCILS itself has been changed and enhanced and expects the Legislature will be looking at some of those changes, but at this time, we do not have a sense of whether they will overlap with what OPEGA has proposed in their scope.

Rep. Pierce asked if it would be better served to see some of the previous changes to MCILS payout before the GOC agrees to take a deeper dive, or does OPEGA think they can go a lot deeper and have a lot better understanding of MCILS' processes.

Director Fox said OPEGA is proposing reviewing MCILS' financial oversight and economic use of resources.

Sen. Libby asked what the timeline was for completing the MCILS review. Director Fox was hesitant to promise a completion date for the review of anything less than a year. There could be discussions of what OPEGA moves forward with in terms of other reviews and priorities, so it depends on the GOC's will.

Rep. Mastraccio said if something comes up that is egregious, she is not saying there is, but saying that when OPEGA is looking at some of the financial aspects, you don't know what you are going to find, so thinks Sen. Libby's concern is that OPEGA would not wait to act should that happen. She asked if the Director could explain that process if that should occur.

Director Fox said there is no specific process, but if OPEGA found something that rose to the level of egregious and felt they needed to consult with the AG's Office, they would do that. They would not necessarily bring their concern before the GOC prior to releasing a report because, depending on what the issue is, it may be something that the AG's Office decides to investigate so OPEGA would not want to release the information publicly. OPEGA would consult with the AG's Office first and then decide whether the information needed to come to the Committee's attention prior to the evaluation being completed.

Sen. Libby noted that the upcoming Legislative Session was expected to end middle of April and there is interest in moving some changes forward. He asked if OPEGA could present some information to the GOC at a March meeting if it could help inform some policy creation.

Director Fox said the statute is fairly clear in terms of what it directs OPEGA to do and that reports are confidential until they are complete. If there is a very narrow focus that the GOC wants OPEGA to look at, there is always the potential for that. OPEGA has identified areas where they think there are potential risks, but would want to make sure that they were thorough in their investigation. They would want to involve all of the entities in the review and

ensure the work we report is evidenced based and are confident of what they report. We would not feel comfortable reporting something out based on speculation and would not report anything out until the information is backed up by evidence that they have verified, reviewed and ensured is correct and have run it by the appropriate evaluated entities.

Sen. Libby said, for example, if there is a bill coming out of the Judiciary Committee, would it make sense to have OPEGA staff review that bill before it goes through the final enactment. Director Fox said that would be a policy consideration and not sure what value OPEGA would provide in reviewing a piece of legislation. It would be an unusual departure from their process.

Rep. Arata said the Center's report has been out for a number of months and asked if anybody else was investigating MCILS beside the GOC. It appears to be welfare fraud and if there were any other type of welfare fraud, justice would be swift so wants to make sure the matter is being taken seriously.

Director Fox said no other investigations regarding MCILS has been brought to her attention. She thinks it is important to point out that what OPEGA is looking at is the systems that the Commission and the Commission's staff have in place for billing practices and financial oversight. We will be looking at whether or not their system would be able to identify overbilling or prevent it in the first place. OPEGA is examining the Commission, the Commission's staff and its systems. That is what OPEGA's project direction is proposing to look at and, in doing so, may be able to identify those cases that have garnered some attention, whether or not there are potential actual overbilling occurrences, or there are other explanations for some of the reported overbilling. OPEGA would evaluate MCILS' billing procedures and how they provide financial oversight.

Rep. Arata asked if the AG's office is aware of the Center's report that talks about the overbilling? Director Fox said that information has been public for a while, but doesn't know of any formal complaint that has been filed, but OPEGA would not be included in the distribution of that information.

Sen. Keim noted that the Judiciary Committee has often asked screeners who make recommendations how often are they accepted, or how often a judge over-rules them. Is there any solid framework as to why one screener's recommendation would be accepted and another would be over-ruled? What is the parody between the different courts. She asked if that would be included in OPEGA's review. Director Fox said it is included in the realm of Evaluation scope # 2.

Sen. Keim said the Working Group's recommendation 5 is that MCILS not be in the business of collecting from the indigent because there is a conflict of interest for them to represent someone and then hold them over the rails to be paid. She asked, if in the course of OPEGA's review, they might come up with recommendations regarding that. Director Fox said that is included in # 3 of the Evaluation scope.

Sen. Keim asked if OPEGA would be looking at whether the work that was billed for was actually completed.

Director Fox said that is not within the scope at this point. OPEGA would be looking at how MCILS verifies vouchers and how they themselves look at whether or not those services were provided. OPEGA might not be looking at that on an individual case by an attorney, but will be looking at the procedures and the systems used by MCILS staff to verify those sorts of things.

Sen. Keim asked if OPEGA would be able to open the books of private attorneys to review if they have other billable hours in addition to their indigent work.

Director Fox said that is not within the proposed scope at this time, but that is not to say that there would not be some thread that OPEGA may see that they might potentially look at. Generally, the statute that governs OPEGA could potentially allow for a review of attorneys' records as those attorneys are considered vendors of the State as roster

attorneys. OPEGA would want to consult the AG's Office on that matter to determine what access they would have and what they could look at, but generally speaking she thinks that the law does anticipate that they would be able to look at those attorneys' books as a third-party vendor or contractor. The specifics of what they could look at she would not speak to exactly because she thinks there are some legal issues that OPEGA would want to get advice on before she answers that question.

Sen. Keim referred to a case of a private attorney being found to have overbilled and MCILS did not require that attorney to repay the amount he overbilled. He did get some sort of sanction from the Bar. More recently there was another attorney overbilling and MCILS is keeping the name of that attorney private, but requiring that attorney to repay the funds. Although the overbilling was found in 2018, he/she still has not repaid, but MCILS is going to expect repayment. There is a disparity there and it seems unusual that any contractor who did work for the State of Maine that overbilled would have privacy in the matter, but also that they would not be required to repay the overbilling, whether it was intentional or not, also seems very problematic. She asked if that would be something that OPEGA would look into.

Director Fox thinks Sen. Keim's concerns would be addressed in # 4 of the Evaluation scope.

Sen. Keim asked if OPEGA would be looking through the recent past to see where changes have been made to increase oversight and what their policies are to give the GOC a timeline like they added a policy here because they saw this or that kind of thing. Director Fox said she hoped so.

Rep. Millett said he remembered when the Judicial Department, the Court System, handled the indigent legal cases and the frequent over-runs when they would come to the Appropriation and Financial Affairs (AFA) Committee at the end of the session with a major funding request that came out of nowhere and, at that time, he wondered about the conflict of interest. In the 124<sup>th</sup> Legislature a proposal to change that oversight by the Court was introduced. In one of his caucuses a retired Supreme Court justice came before them and made the case that it was a conflicting role for the Courts and the proposal to create an independent system made a lot of sense to him, so he voted for it. Since then his concern has grown every year, both from the point of view of the budgetary concerns, as well as the material summarized by OPEGA today. He would like to know if in the course of the reviews by the Working Group, the auditor's comments and the Center, were there any findings of failure, serious misrepresentations or inadequate controls that lead to the recommendations and concerns. Rep. Millett asked if Director Fox could provide the GOC members with a copy of the Working Group findings, who received their report, did anything happen as a result of their report, were there specific findings, and did the legislature deal with them in any concrete way. Also, could the GOC be brought up to speed on what the Controller found, if anything, because like the other questions, he is getting more concerned when he reads the media's comments that they are not being responded to adequately. He is trying to balance the rights of the truly indigent with a system that seems to be fraught with failure and yet he does not want to draw conclusions without having a lot better understanding of what preceded to this point in time.

Director Fox said OPEGA can provide the GOC with copies of the Working Group report. She thinks the 2017 Working Group's report resulted in at least the Center's report happening and also the changes to the makeup of MCILS. Those are a few things she can say happened off the top of her head. She will provide a copy of the Working Group's report and what was enacted pursuant to the authority that the report had for reporting out legislation.

Rep. Millett referred to Chair Mastraccio and said maybe a question to the members who served on the 128<sup>th</sup> GOC is whether anything legislatively ever happened from the Working Group or from any other legislation that has percolated prior to the 129<sup>th</sup>. He wanted to know what is pending, whether the Legislature has ever contemplated any action based on the increasing concerns and, if there are findings, were they ever dealt with.

Rep. Mastraccio said the 128<sup>th</sup> GOC put the request for a MCILS' review on their "On Deck" list because knew there was a Center's report that the Judiciary Committee was working on. She would refer to Sen. Keim, a member of the Judiciary Committee, as to what they have done.

Sen. Keim said she Chaired the Working Group and they were pleased that the outcome of their work was to get the Center's report and also to change the makeup of MCILS. Previously, MCILS' Commissioners were working for Indigent Legal Services themselves and sometimes also their spouses, so there were significant concerns about the makeup of MCILS and their ability to oversee the people who actually pay them. That change is very good. Also, part of the recommendations that the Working Group has made already speaks to some of the concerns Sen. Libby mentioned. Statutorily the Commission has the ability to make the changes to create greater oversight right now, but that has not been done and is why we are here. There is a lack of will power to create accountability in the system.

Sen. Keim said there isn't anything more critical than ensuring justice in our society, in addition to it being a constitutional obligation. MCILS' very role is to ensure that there is justice for everyone so is critical for the GOC to create accountability. MCILS is working to make changes and would not suggest that they hold back on their work to do that because of an OPEGA review. The Center said when they did their review work they had never seen a State with such bad oversight. She also noted that ACLU is threatening to sue us. Whenever that has happened the new system put in place is done by the Courts and not the Legislature or MCILS. It also ends up costing a lot more money, so is imperative to move on this quickly. Sen. Keim plans to attend MCILS' meeting next week to give them that same push. We cannot sit back on this any longer, we have known about the problems and have just waited for someone else to act, but that cannot happen any longer. She is thrilled that the GOC is discussing moving forward with a MCILS review.

Rep. Mastraccio asked if by OPEGA beginning the MCILS review that might incentivize MCILS to do what they are already statutorily able to do.

Sen. Keim thinks that generating heat around the issue is very helpful because they have to create accountability in their peer group and that is difficult. We have the media's attention and starting a more in-depth review is very good because even if MCILS starts to make changes, this report will only help them fine tune those changes. The Commissioners do not have the resources that OPEGA has to do the deep dive and it is currently messy enough that a deep dive is necessary.

Sen. Chenette said there are two reports already regarding MCILS, but clearly this matter has risen to the level of OPEGA recommending, as Sen. Keim said, a deeper dive into MCILS. He knows OPEGA cannot speak to the conversations they have had during their preliminary research phase, but asked if the Director could give a sense of why OPEGA feels the need to go beyond the two reports to actually get some additional information for the GOC and Legislature. He asked the Director if she could speak at all on the perception they got from OPEGA's conversations with the variety of folks in their preliminary research.

Director Fox said she would not confine OPEGA's recommendation for a review to conversations specifically, but to the totality of everything that OPEGA looked at. Their preliminary research is preliminary in that it is early on in the process, but it is exhaustive, extensive and thorough. They have developed processes in which they look for areas and themes that emerge that represent potential future risks to the program, specifically in the context of financial oversight and economic use of resources. If OPEGA did not see that there were potential future risks to the program, they would not recommend a full review.

Sen. Chenette added that OPEGA's concerns go above and beyond the two previous reports. Director Fox agreed and said OPEGA has greater access to information pursuant to their statute so thinks they may be able to provide a more detailed analysis, a more thorough analysis because will have access to different and more detailed information. We are not saying that we will necessarily find something different, but will have a change to look at things that maybe others did not look at when they did their reviews.

Sen. Keim said when she listened to MCILS' public hearing a couple of weeks ago, one of the lawyers was asked how she kept track of her hours. The response was she didn't and then said there was a ton of time that was not logged. The system is set up so attorneys are supposed to bill in a tenth of an hour increment. If they are not keeping track of their time, it begs the question, how are they coming up with this record. One of the recommendations that has been made a few different times, is that lawyers keep time sheets and this is good for financial oversight, but really for substantive oversight as well because you can actually say I made a phone call to my client or I went to see my client at the jail. That shows the constitutional obligation to make sure that people are getting adequate representation and puts the weight of responsibility onto the lawyer to be truthful. She said there is a lot of push back around the idea of time sheets from lawyers who do not want to do the work of keeping up with a log and asked if that was something in the scope that OPEGA is looking at. Could OPEGA make recommendations regarding time logging because it would be good for oversight and substantive oversight as well.

Director Fox said OPEGA's understanding of what the statutory requirements are for MCILS is to provide high quality representation and that they do it in an economically or fiscally responsible manner. Those statutorily prescribed requirements mean MCILS, the 9-member body, as well as the staff, must ensure that systems are in place where they can verify that and is something OPEGA would look at. We would also likely look at practices that are employed by similar institutions in other States and maybe compare them so you can foresee recommendations if indeed there is some inadequacy found. Those are areas where OPEGA might look to say that this is the best practice, or is where MCILS was not doing that sort of work. OPEGA has not done that work yet, so could not say it now, but it is clear in terms of the statute, that is what MCILS is required to do. OPEGA would look at how MCILS is structured and what they are doing to meet their statutory obligation.

Sen. Keim thinks that will also get at the other concern that has surfaced of attorneys billing under one name and you don't know who does the work. That also seems very problematic. If a court is appointing attorney "x" to a client you would expect that attorney would do the work, not just hand it off with a lost trail. She thinks that will also help with oversight both substantive and economic.

**Motion:** That the Government Oversight Committee directs OPEGA to conduct a full review of the Maine Commission on Indigent Legal Services with the scope as defined in 1 through 5, with no changes, as recommended in OPEGA's project direction statement. (Motion by Sen. Davis, second by Rep. Pierce. Motion passed by unanimous vote 12 – 0.) (Sen. Timberlake voted on the motion in the allowed time frame in accordance with the GOC's Rules.)

- **OPEGA's Proposed Project Direction for the Updated Design Assessment: Pine Tree Development Zones**

Director Fox summarized OPEGA's proposed project direction for the Updated Design Assessment for Pine Tree Development Zones Program (PTDZ). (A copy of the project direction is attached to the Meeting Summary.)

Director Fox anticipates that this information will be available well in advance of when the PTDZ Program is set to stop accepting new entrance into the Program so there would be time for the Legislature to act should they choose to do so.

Rep. Mastraccio reported that she had just spoken to Heather Johnson, Commissioner, Department of Economic and Community Development (DECD), and was informed that DECD is releasing their strategic plan for the State's economy tomorrow (December 11<sup>th</sup>) so the GOC will have the opportunity to review their report along with OPEGA's project direction report.

Rep. Millett assumed the PTDZ review design is picking up on LD 1529 and removal of dates from the next steps and asked if OPEGA's time line is short enough to be able to bring information back to the Legislature this coming year.

Director Fox said, as she understands it, the Program will stop accepting new applicants in December of 2021, so she thinks the GOC will have the information regarding PTDZ a year prior to that date.

Rep. Mastraccio anticipates that the 130<sup>th</sup> Legislature will see bills proposed that will extend the PTDZ expiration date and is hoping that, with DECD's economic development plan and whatever OPEGA's report includes, that will be a Legislature that can actually decide what action to take based on concrete information.

Director Fox does not currently have the whole universe of things that OPEGA will be looking at over the next year to 18 months, but when those parameter documents are provided she thinks that will be helpful. If the Committee has other work they would like to have OPEGA put ahead of PTDZ, that would be a useful discussion to have.

Rep. Mastraccio noted that the GOC can introduce legislation at any time after an OPEGA report is presented to them so this Committee can submit legislation for the 130<sup>th</sup> Legislature.

Rep. Pierce thinks it would be beneficial, in the early part of the session, to review the GOC's Work Plan and reprioritize when the Committee is going to receive information based on legislation that they know. Also, to receive information from Committee members regarding their expertise in the areas being discussed so that OPEGA's work is lining up to ensure that they have the information in advance of what might be coming down the pike. She thought the GOC would not be seeing the PTDZ information until 2021, but because of the Committee discussion now knows the information will be provided in 2020. She commented that they may not change anything in the Program, but it will be interesting to re-evaluate PTDZ based on some decisions that the Legislature has made recently. If the Committee wants to introduce legislation to the 130<sup>th</sup> Legislature, they could do that prior to the start of that Session.

**Motion:** That the Government Oversight Committee accepts OPEGA's Recommendation for Project Direction regarding the Limited Scope Review of the Design of the Pine Tree Develop Zones (PTDZ) Program. (Motion by Rep. O'Neil, second by Sen. Davis. Motion passed by unanimous vote 12 – 0.) (Sen. Timberlake voted on the motion in the allowed time frame in accordance with the GOC's Rules.)

#### • Tax Expenditure Review Schedule 2020

Director Fox explained that statute requires the GOC to review the tax expenditure review schedule. OPEGA looks at all the tax expenditures listed in the Maine Revenue Services' (MRS) MSTER Report and if there are changes, new expenditures added, it is up to the GOC, with input from the Taxation Committee (TAX), to decide if they get a full, expedited or no review. She referred members to the Proposed Tax Expenditure documents in their notebooks. (A copy of the Tax Expenditure documents is attached to the Meeting Summary.)

Sen. Libby referred to page 2 of the Proposed Expedited Tax Expenditure Review Schedule saying he noticed "ID # 115 to 127 – Necessity of Life" are all scheduled for 2022 and asked if OPEGA's analysts will evaluate all of the programs at once or will the GOC receive 12 reports.

Director Fox said the programs mentioned by Sen. Libby are not full evaluations, but expedited, so the GOC will receive one sheet of information for all of them. TAX then reviews the program information more specifically and substantively. OPEGA compiles the information, the GOC reviews it and sends it to TAX.

Rep. Mastraccio recalled that the GOC sent a more detailed letter to TAX regarding the tax expenditures, but the GOC has not heard back from them yet. Director Fox will follow-up on that response.

Rep. Pierce said every expedited tax expenditure ends up in TAX. Director Fox said that is correct. The GOC cannot pick and choose, they all go to TAX. OPEGA compiles the information, presents it to the GOC and the GOC can make recommendations to TAX. She gave the example of last year's "Charitable Expenditures". The GOC said there was a lot of expenditures that said "information not available" and asked if TAX could explore if there was a

way to get the information. The GOC raised that issue at the point of sales people having to show their tax ID number, if there is a way to record that information so the Legislature knows exactly what the revenue loss has been for that exemption.

**Motion:** That the Government Oversight Committee accepts OPEGA's Recommended Changes for the 2020 Tax Expenditure List. (Motion by Sen. Chenette, second by Sen. Libby. Motion passed by unanimous vote 12 – 0.) (Sen. Timberlake voted on the motion in the allowed time frame in accordance with the GOC's Rules.)

## Unfinished Business

None

## Report from Director

Director Fox reported that OPEGA's new office space is still being worked on so does not have a moving date at this time.

### • Status of projects in process

Director Fox said the **Maine Citizen Initiative Process** topic had previously been moved down the list of review work by the GOC when prioritizing OPEGA's work. OPEGA is currently in fieldwork and expects the GOC to have the report this coming Session and in time to take any action prior to adjournment. The GOC approved OPEGA's plan for the continuation of the preliminary research phase for the **CPS: Out of Home Placements for Children Removed from Care by DHHS/OCFS** and that work will continue just as the GOC has directed. OPEGA will be working on and providing the GOC with an updated project direction statement by the end of the year. The GOC just now approved the Project Direction Statement on OPEGA's full review of the **Maine Commission on Indigent Legal Services** focused on financial oversight and economic use of resources. One of the other topics the Director will be talking to the GOC about in the future is the **Follow-up Survey: OCFS Frontline Workers**. That topic is still on the Work Plan, but is currently in a holding pattern. OPEGA will likely come to the GOC during the next Session to talk about some suggestive objections for pursuing that review and what might be most useful in terms of the information they are hoping to get with regard to improvements for frontline workers and how things have changed with all the other changes that have been going on at DHHS. OPEGA anticipates the **BETE/BETR Tax Expenditure Evaluation** will be presented to the GOC early in the next Session. Also, the Committee can expect to receive, sometime before the Session adjourns, the **Maine Capital Investment Credit** report. OPEGA will begin work on the **Updated design assessment: Pine Tree Development Zones** topic. At the next GOC meeting, January 10, 2020, they will be reviewing OPEGA's proposed parameters, which is similar to a project direction statement, for the tax expenditure of **Seed Capital Investment Tax Credit** evaluation. The tax reviews are more specific and are outlined in statute in terms of what information is provided to the GOC by OPEGA. One thing not on the Work Plan is that OPEGA will be talking to the Committee about prioritizing the reviews, whether or not there are additional subjects or issues that the members would like OPEGA to review beyond what is currently on the Work Plan. Those will be discussions for the GOC early in the coming Session. Also, the Committee will be receiving information on the Quasi-Independent agency reviews. Director Fox explained that the agencies, for example FAME, submits a report to the policy committee pursuant to statute who has oversight of the agency. The policy committee reviews the reports, asking a set questions to the agency, and forwards their information to the GOC.

Sen. Libby asked when OPEGA's data collection information for Child Protective Services Out of Home Placement will be completed. Director Fox said, based on the action of the Committee at the last meeting, they asked OPEGA to look at data over the course of a year, so is from about now. Sen. Libby asked if there was going to be an interim report? Director Fox said there will not, however, OPEGA does have the tracking document. Although that is a bit



separate from out of home placements, there is information that DHHS posts monthly on their data dash board so there is information about out of home placements. OPEGA would not be providing information to the GOC until they have collected all of it and examined trends. Should an issue rise to a high concern, they would inquire about it.

### **Planning for upcoming meetings**

Rep. Mastraccio reminded the Committee to hold the second and fourth Fridays on their calendars for their meetings in January, February and March. Because the coming Session is to adjourn in April, meetings for that month will be discussed at a later time.

### **Next GOC meeting date**

The next GOC meeting is scheduled for January 10, 2020 at 9:00 a.m.

### **Adjourn**

The Chair, Rep. Mastraccio, adjourned the GOC meeting at 10:27 a.m. on the motion of Sen. Chenette, second by Sen. Davis, unanimous.

**Project direction statement: Maine Commission on Indigent Legal Services  
Presented by OPEGA to the Government Oversight Committee - 129<sup>th</sup> Maine Legislature  
December 10, 2019**

**Purpose of a project direction statement in the course of a full review**

After the Government Oversight Committee (GOC) added a review of financial oversight and economic use of resources related to the Maine Commission on Indigent Legal Services (MCILS) to the Approved Project List, OPEGA assigned a team of Analysts to conduct preliminary research. The preliminary research stage of the evaluation process provides the team with a broad, but comprehensive understanding of the program. Once preliminary research is complete, the team reviews themes that have emerged and identifies areas that may be of future concern to the program. This work results in a proposed project direction statement for the GOC to consider. The statement suggests a framework that will guide OPEGA in the next phase of the evaluation process, fieldwork. This document represents that work and is respectfully presented for the GOC's consideration.

OPEGA recommends that the GOC direct a full evaluation of MCILS specifically related to financial oversight and the economic use of resources, and within the scope described in this statement.

**Overview of MCILS**

Establishment of MCILS and Organizational Structure

MCILS is a Commission that was established in 2009. The Commission is currently made up of nine members and is supported by an office staff of 4 who conduct the day-to-day operations. Its statutory purpose is to provide efficient, high-quality representation to indigent criminal defendants, juvenile defendants, and children and families in child protective cases. This representation is provided in accordance with requirements established in statute and both the federal and state constitutions. Maine statute specifies that the Commission shall work to ensure the delivery of indigent legal services by qualified and competent counsel in a manner that is fair and consistent throughout the state and to ensure adequate funding of a statewide system of indigent legal services, which must be provided and managed in a fiscally responsible manner. MCILS assumed responsibility for providing indigent legal services on July 1, 2010. Prior to MCILS, indigent legal services were arranged and funded by the Judicial Branch.

An amendment to statute in 2018 increased the number of members appointed to serve on the Commission from five to nine. The membership must include one member with experience in administration and finance, one member with experience in child protection proceedings, and two members (non-voting) who are attorneys providing indigent legal services.

MCILS staff includes an Executive Director, Deputy Director, Accounting Technician, and an Office Associate, working in an office in Augusta; eight financial screening staff, who work at various courthouses across the state; and one investigator, who works part-time remotely.

#### Determination as indigent or partially indigent

In Maine, services for those who have been determined indigent, or partially indigent, are provided by attorneys in private practice. The Court assigns representation to a person by selecting an attorney from a roster maintained by MCILS. In order to be listed on the roster, attorneys must meet certain requirements. If they provide specific types of services, or have a defense specialty, they are listed on specific rosters accordingly.

A client's status as indigent or partially indigent is determined by a judge based on financial information provided by the person requiring representation. In some Courts, a financial screener may be available. The screener interviews the client, gathers financial information, including the client's assets, income and expenses and makes a recommendation to the judge based on this information. The judge can deny representation at the public expense or make a determination that the person is indigent or partially indigent. A person determined partially indigent is ordered to make payments toward the assigned attorney's fees.

#### Attorney payments

MCILS is responsible for paying counsel fees and expenses to attorneys who have been assigned to indigent or partially indigent clients. Attorneys submit a voucher to MCILS through the electronic case management program, DefenderData. The MCILS Director and Deputy Director review vouchers and approve attorney payments. Services provided by vendors hired by the attorney such as investigators, interpreters, and medical and psychological experts require advance notice and approval by MCILS. The vendor sends an invoice for the services provided to the attorney which is then submitted to and processed by MCILS who makes payment to the vendor.

Until June 30, 2019, one fixed fee contract existed to facilitate providing representation in Somerset County. MCILS contracted with three private attorneys to provide indigent legal services, paying the attorneys a fixed monthly rate. Additionally, the attorneys were reimbursed for case related expenses, such as investigators and expert witnesses. At this time, MCILS has no contracted attorney services.

#### MCILS General Fund budget

The Legislature appropriated approximately \$17.7 million for MCILS in FY20, and \$17.6 for FY21.

### **GOC decision to consider review of MCILS**

During the 128th legislative session, OPEGA received a request for a review of MCILS from a GOC member with concerns related to the application of financial eligibility requirements for court-

appointed counsel, attorney billing practices, and billing and collection efforts for clients who are required to pay a portion of counsel fees. On February 17, 2017, the GOC voted unanimously to place the MCILS review request on OPEGA's Standby List.

### The 2017 Working Group

While this topic was on the Standby List, the 128th Legislature created the Working Group to Improve the Provision of Indigent Legal Services (the Working Group) as part of the biennial budget. The purpose of the Working Group was to develop recommendations to improve the delivery of indigent legal services to eligible people by focusing on:

- ensuring adequate representation;
- increasing the efficiency in delivering legal services;
- verifying eligibility throughout representation; and
- reducing costs while still fully honoring the constitutional and statutory obligations to provide representation.

In December 2017, the Working Group issued its report containing nine recommendations—the following four are related to the current scope of this request.

- Recommendation 2: Enhance the MCILS staff to provide better financial accountability and quality assurance by establishing specific responsibilities for a Chief Financial Officer and a Training and Quality Control Director.
- Recommendation 4: Strengthen the financial eligibility screening procedure.
- Recommendation 5: Remove the collections function from the MCILS and have the Judiciary Committee explore alternative methods of collecting from those recipients of legal services who have been ordered by the court to contribute to the costs of those services.
- Recommendation 7: Commission an outside, independent, nonpartisan study of Maine's current system of providing indigent legal services and whether alternative methods of delivery would increase quality and efficiency.

### Sixth Amendment Center report

Recommendation 7 directly led to a report from the Sixth Amendment Center evaluating the services provided by MCILS. Issued April 2019, this report contained eight findings and seven recommendations—the following, from that report, relate to the current scope of this request.

- Finding 8: A significant number of attorneys bill in excess of eight hours per day, five days per week, for 52 weeks per year. MCILS does not exert adequate financial oversight of private attorneys.

- Recommendation 4: MCILS should use its current statutory power to promulgate more rigorous attorney qualification, recertification, training, supervision, and workload standards. The State of Maine should statutorily require financial oversight by requiring that MCILS limit the number of permissible billable hours, subject to waiver only upon a finding of need for additional capacity. The State of Maine should fund MCILS at a level to ensure rigorous training and effective substantive and financial oversight of attorneys.

While the Sixth Amendment Center report was being finalized, a GOC member brought forward a request for a review of MCILS noting concerns with the administration of the program, its efficiency, and its oversight of the quality and effectiveness of representation, and the screening procedure used to determine eligibility for legal services.

On April 12, 2019, the GOC voted to move a review of MCILS to OPEGA's Approved Projects List, with the scope limited to financial oversight and economic use of resources.

### **Preliminary research conducted by OPEGA**

During the preliminary research phase OPEGA:

- sought input from GOC members and Judiciary Committee members and staff on their questions and concerns regarding MCILS;
- reviewed statute, legislative history, rules and guidance related to MCILS;
- interviewed the State Auditor to understand any identified areas of concern;
- interviewed the MCILS Director, Deputy Director, Accounting Technician, a selection of screeners, and the screener/investigator;
- interviewed the Chief Justice and a selection of Judges;
- interviewed a selection of MCILS rostered attorneys working in different areas of law;
- reviewed the data provided to the Sixth Amendment Center on voucher payments based on assigned attorney;
- reviewed data on work performed over three years by nine attorneys and considered correspondence related to MCILS' investigation into high earning attorneys;
- considered the Sixth Amendment Center report "The Right to Counsel in Maine" (April 2019) and interviewed the Executive Director;
- considered the report of the Legislative Working Group to Improve the Provision of Indigent Legal Services (December 2017);
- reviewed a State Controller's report on MCILS' case management system; and
- reviewed reports regarding the provision of indigent legal services in other states.

## Evaluation scope

OPEGA examined the various themes that emerged from preliminary research and identified the following areas which potentially pose future risks to the elements of the program that are associated with financial oversight and economic use of resources.

1. Adequacy of systems and procedures used by MCILS staff to process payments and expenditures associated with providing legal representation to clients who have been determined to be indigent or partially indigent.
2. Reasonableness of and consistency in the application of standards, criteria and procedures which inform the determination of whether a defendant/client is indigent.
3. Reasonableness of and consistency in the application of criteria and procedures used in determining, ordering and monitoring payments towards counsel fees by those who have been determined to be partially indigent.
4. Sufficiency of response by MCILS, or MCILS staff, to internally identified concerns and to recommendations made in reports which examined or evaluated the operations of the Commission regarding financial oversight.
5. Adequacy of the oversight structure of MCILS in ensuring that operations align with and accomplish the organization's purpose.

If the GOC wishes to direct OPEGA to begin fieldwork for the purpose of conducting a full evaluation of, and report on, the financial oversight of MCILS, OPEGA proposes the areas listed above for the scope of that work. If approved, OPEGA Analysts will examine the effectiveness of MCILS' financial controls in the prevention, detection and correction of inappropriate or unnecessary expenditures and if those controls are adequate to guard against fraud, waste and abuse. Analysts will evaluate if the practices employed by MCILS staff (including screeners) relative to financial operations are being conducted in accordance with statute, rule and best practices, as well as whether they are effective, applied consistently, and when an appropriate standard, with efficiency. Generally, fieldwork will also evaluate the structure and management of the financial elements of the program and if the structure and management are appropriate and in alignment with the organization's purpose(s).

Although some of the areas noted in this statement have been examined to some degree by the Sixth Amendment Center Report and the 2017 Working Group, OPEGA's review will add to that work. With access to additional data, OPEGA will perform a more detailed analysis of attorney billing and expenditures made by MCILS for legal services. It is possible that this comprehensive analysis might allow for us to separate potential actual overbilling from outliers that may have been due to error or that just appear to be instances of overbilling. This work may also allow for a closer examination of the current systems employed to review billing and make expenditures to identify where such systems may not be adequate for an appropriate level of scrutiny and oversight.

In consideration of the parameters cited when the GOC voted to include a review of the financial operation and oversight of MCILS onto the Approved Projects List, it is important to be clear about what this review will not evaluate. The proposed scope does not include an evaluation of:

- standards for attorneys to be on the MCILS rosters;
- quality of representation provided;
- attorney rates of pay; or
- whether or not a public defender office should be introduced.

OPEGA thanks the Committee for their consideration of this project direction statement for a full review of the financial oversight and economic use of resources by the Maine Commission on Indigent Legal Services.

## **OPEGA Recommendation for Project Direction**

### **Limited Scope Review of the Design of the Pine Tree Development Zones (PTDZ) Program Presented by OPEGA to the Government Oversight Committee – 129<sup>th</sup> Maine Legislature December 10, 2019**

#### **Background**

The Government Oversight Committee (GOC) added a limited scope review of the design of the Pine Tree Development Zones Program to OPEGA's Work Plan on August 14, 2019.

Following the OPEGA report on PTDZ, presented in August of 2017, the Legislature enacted LD 1654 An Act To Protect Economic Competitiveness in Maine by Extending the End Date for Pine Tree Development Zone Benefits (PL 2017, c. 440). The PTDZ Program, which provides benefits to qualifying businesses for 10-years, was set to stop accepting applications in 2018 from new businesses seeking to qualify. Chapter 440 extended that date to 2021, meaning the benefits under the program would end in 2031 rather than 2028. Additionally, the law required OPEGA to report out a full evaluation of PTDZ to the GOC and TAX committee by January 15, 2021. Chapter 440 also provided language stating the specific public policy objective of the program and the performance measures to be used in future evaluations of PTDZ.

Completing the evaluation by the deadline set in Chapter 440, would have allowed only two years' of newly required program data to be collected by the Department of Economic and Community Development (DECD) and analyzed by OPEGA. The GOC determined that 2 years' worth of data might not be useful in showing trends and providing the information necessary for evaluating future decisions about PTDZ. With this in mind, and considering the limited OPEGA resources available for tax expenditure reviews and the current schedule of full reviews, the GOC reported out LD 1629 (PL 2019, c. 305). That bill removed the deadline for a future OPEGA evaluation from PTDZ's statute. It was passed during the First Regular Session of the 129<sup>th</sup> Legislature.

Subsequent to the removal of the PTDZ evaluation deadline from statute, the GOC considered how to best direct OPEGA's resources to provide additional information about the PTDZ Program prior to December 31, 2021 – the date at which the program is currently set to stop accepting new applicants. Given the newly stated public policy objective, the Committee directed OPEGA to conduct a limited scope review of the PTDZ Program to assess the degree to which the program's design – as altered by PL 2017, c. 440 – supports the program objectives designated in the law. Committee members also suggested the limited scope review include an assessment of changes to the program in response to OPEGA's initial PTDZ report, and an assessment of how the PTDZ Program's objectives align with the State economic development plan expected to be finalized late in 2019.

Below are the scope questions OPEGA proposes to address that direction. PL 2019, c. 305 and PL 2017, c. 440 are attached.

#### **OPEGA Recommendation on Project Direction**

OPEGA recommends this limited scope review of the PTDZ Program be conducted with a focus on the following:

1. The extent to which the PTDZ Program's current design effectively targets the program's newly stated objectives and intended beneficiaries.
2. The degree to which the recommendations of OPEGA's 2017 PTDZ report have been addressed.
3. The alignment of the PTDZ Program with the State's strategic economic development plan under development by the Strategic Planning Task Force led by DECD.



State of Maine  
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Recommendation	ID #	Rationale	Review Category	Tax Type	Expenditure Type	Expenditure Program Name	Brief Description	FY20 Revenue Loss Estimate*	FY21 Revenue Loss Estimate*	Statutory Cite: Title 36	OPEGA Notes
no change	1	Business Incentive - Financial Investment	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.	\$12,423,000	\$6,569,000	5219-HH	
no change	2	Business Incentive - Job Creation	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.	\$4,260,000 - \$7,009,998	\$3,030,000 - \$5,809,998	§2016 §1760.87 §5219-W	
no change	3	Business Incentive - Research Investment	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.	\$610,000	\$630,000	5219-K	
no change	4	Business Incentive - Financial Investment	A	Income	Credit	Maine Seed Capital 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.	\$4,250,000	\$4,500,000	36 MRS §5216-B & 10 MRS §1100-T	
no change	5	Business Incentive - Targeted Industry	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.	\$190,000	\$190,000	5219-Y, 6902	
no change	6	Business Incentive - Targeted Industry	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.	\$11,650,000	\$11,550,000	5219-BB	
no change	7	Business Incentive - Job Creation	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	\$760,000	5219-QQ	
no change	8	Business Incentive - Job Creation	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.	\$11,400,000 longer includes JTIF programs)	\$12,000,000 (No longer includes JTIF programs)	Chapter 917	
no change	9	Business Incentive - Equipment Investment	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.	\$44,300,000	\$48,750,000	Chapter 105, subc. 4-C	
no change	10	Business Incentive - Equipment Investment	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.	\$25,600,000	\$23,600,000	Chapter 915	
no change	11	Business Incentive - Research Investment	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	
Recommend Adding to Category A Fiscal Note estimates: FY'22 = \$33K FY'23 = \$1.1M	185	Business Incentive - Targeted Industry	A	Income	Credit	Major Food Processing & Manufacturing Facilities Expansion Credit	Refundable income tax credit for construction or expansion of a qualifying food processing and manufacturing facility in Maine. Credit amount is equal to 1.8% of the taxpayer's qualified investment.	\$0	\$0	5219-VV	Recommend Adding to Category A Fiscal Note estimates: FY'22 = \$33K FY'23 = \$1.1M
no change	14	Business Incentive - Targeted Industry	A	Income	Deduction	Deduction for Contributions to Capital Construction Funds for maintenance or replacement of fishing vessels	Deduction for contributions to a capital construction fund for maintenance or replacement of fishing vessels.	\$410,000	\$410,000	5122.2.I	Promoted to A in 2019
no change	16	Non-Business Incentive - Education	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.	\$28,800,000	\$35,100,000	5217-D	
no change	18	Non-Business Incentive	A	Income	Credit	Earned Income Credit <i>Note: The amount shown is the General Fund Revenue loss from EITC net of reimbursements from TANF funds for the EITC. The gross revenue reduction from the EITC is approximately \$10.2 million in FY 2018.</i>	Tax credit equal a percentage 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.	\$2,770,000	\$2,800,000	5219-S	

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no change	19	Non-Business Incentive - Financial Investment	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	\$70,000	5122.2.N	
no change	20	Non-Business Incentive - Financial Investment	A	Income	Deduction	Deduction for Interest and Dividends on U.S., Maine State and Local Securities	Corporate income tax deduction for interest or dividends on securities issued by the State and its political subdivisions.	\$20,000 - \$100,000	\$20,000 - \$100,000	5200-A.2.A, 5200-A.2.K	
no change	27	Tax Relief - Individuals	A	Income	Credit	Sales Tax Fairness Credit	Tax credit to provide sales tax relief to low and middle income families.	\$24,550,000	\$24,300,000	5213-A & 5403.5	
no change	29	Tax Relief - Individuals	A	Income	Credit	Income Tax Credit for Child & Dependent 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.	\$4,000,000	\$4,000,000	5218	
no change	30	Tax Relief - Individuals	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.	\$30,600,000	\$30,900,000	5122.2.M	
no change	31	Tax Relief - Individuals	A	Income	Deduction	Deduction for Social Security Benefits Taxable at Federal Level	Deduction for social security benefits and railroad retirement benefits.	\$95,300,000	\$103,000,000	5122.2.C	
no change	32	Tax Relief - Individuals	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.	\$24,900,000	\$24,900,000	5219-KK	
no change	33	Tax Relief - Targeted Industry	A	Sales & Use	Exemption	Railroad Track Materials	Tax exemption on sales of railroad track materials for installation on railroad lines within the State.	\$1,330,000	\$1,380,000	1760.52	
no change	34	Tax Relief - Targeted Industry	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	\$50,000 - \$249,999	2020	
no change	36	Tax Relief - Individual or Targeted Industry	A	Service Provider	Exemption	Certain Telecommunications Services	Tax exemption on sales of interstate and international telecommunications services.	\$11,700,000	\$12,100,000	2557.33, 2557.34	
no change	37	Tax Relief - Individuals	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.	\$9,000,000	\$9,600,000	5124-A	
no change	92	Conformity with IRC	A	Income	Credit	Maine Capital Investment Credit	Tax credit for depreciable property placed in service in Maine.	\$19,900,000	\$18,350,000	5219-GG, 5219-JJ, 5219-MM & 5219-NN (Conflict)	
no change	154	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)	\$1,821,144	\$1,784,721	4366-A.2	
no change	155	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	
no change	165	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.	\$480,000	\$490,000	1760.34	
no change	171	Business Incentive	A	Income	Credit	Shipbuilding Facility Credit	Creates a nonrefundable income tax credit for 15 years (from tax years beginning on or after January 1, 2020) for major investments in a shipbuilding facility when criteria are met. Requires the credit to be reviewed by 2024 by OPEGA.	\$0	\$2,850,000	5219-RR	Added to Category A by GOC on 3/22/2019
no change	172	Non-Business Incentive - Health & Safety	A	Income	Credit	Employer credit for family and medical leave	Creates a tax credit (for tax years beginning in 2018 and 2019) under the income tax and insurance premium tax equal to the federal credit for employer-paid family and medical leave. The credit is nonrefundable.	\$2,860,000	\$1,700,000	5219-UU & 2536	Added by GOC on 3/22/2019
no change	41	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.	\$97,000	\$100,000	1760.100	
no change	42	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	\$1,250,000 - \$3,999,998	1760.61 & 2557.31	
no change	44	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)	\$2,300,000	\$2,370,000	2903.4.C	
no change	45	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)	\$2,620,000	\$2,680,000	3204-A.3	

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no change	47	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	
no change	48	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.	\$221,420,000 - \$223,419,999	\$221,420,000 - \$223,419,999	1760.2 & 2557.2	
no change	49	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.	\$7,690,000	\$7,990,000	1760.6.A	
no change	50	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	\$250,000 - \$999,999	1760.6.C	
no change	51	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	
no change	52	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	\$250,000 - \$999,999	1760.6.G	
no change	53	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	
no change	54	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 - \$298,999	1760.18-A & 2557.4	
no change	55	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.	\$7,650,000	\$7,880,000	1760.19	
no change	56	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.	\$250,000 - \$1,049,998	\$250,000 - \$1,049,998	1760.26 & 2557.5	
no change	57	Charitable	B	Sales & Use and Service Provider	Exemption	Sales to community mental health facilities, community adult developmental services facilities and community substance use disorder facilities	Tax exemption on sales to community mental health, adult developmental services and substance abuse services facilities.	\$50,000 - \$299,998	\$50,000 - \$299,998	1760.28 & 2557.6	
no change	58	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 - \$299,998	\$50,000 - \$299,998	1760.42 & 2557.8	
no change	59	Charitable	B	Sales & Use and Service Provider	Exemption	Sales to Child Care Facilities	Tax exemption on sales to licensed nonprofit nursery schools and day care centers.	\$50,000 - \$299,998	\$50,000 - \$299,998	1760.43 & 2557.9	
no change	60	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 - \$299,998	\$50,000 - \$299,998	1760.47-A & 2557.12	
no change	61	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	\$300,000 - \$1,249,998	1760.49 & 2557.13	
no change	62	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 - \$249,998	\$50,000 - \$249,998	1760.50 & 2557.14	
no change	63	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	\$300,000 - \$1,249,998	1760.56 & 2557.18	
no change	64	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	
no change	65	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 - \$249,998	\$50,000 - \$298,998	1760.67 & 2557.23	
no change	66	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 - \$249,998	\$50,000 - \$298,998	1760.72 & 2557.27	
Delete due to Repeal (combined with \$1864)	67	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	
no change	68	Charitable	B	Sales & Use	Exemption	Merchandise Donated from a Retailer's Inventory to Exempt Organizations	Sales tax exemption on donations of merchandise by a retailer to an organization from retailer's inventory (including that which has been returned to a retailer).	\$50,000 - \$249,999	\$50,000 - \$249,999	1864	

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no change	69	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.	\$2,010,000	\$2,050,000	1760(14-A)	
no change	90	Charitable	B	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.	\$80,000	\$81,000	1760.95	Promoted to B in 2019
no change	91	Charitable	B	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.	\$2,080,000	\$2,163,200	1760.101	Enacted in 2017; Promoted to B in 2019
no change	93	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.	\$9,400,000	\$10,100,000	5125	
no change	94	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.	\$756,300,000 - \$866,850,000	\$797,500,000 - \$920,050,000	5102(1-D) & 5162(2)	
no change	96	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.	\$860,000	\$860,000	5122.2.LL	
no change	98	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	
no change	99	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)	\$290,000	\$300,000	2908, 2909	
no change	100	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)	\$4,545,000	\$4,590,000	3215, 3218	
no change	101	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.	\$1,920,000	\$1,940,000	1760.12	
no change	102	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.	\$32,950,000	\$33,930,000	1760.12-A	
no change	103	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.	\$290,000	\$300,000	1760.21-A	
no change	104	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.	\$32,670,000	\$33,160,000	1760.40	
no change	105	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	
no change	106	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	\$50,000 - \$249,999	1760.75	
no change	107	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.	\$37,230,000	\$38,500,000	1765	
no change	108	Tax Fairness	B	Sales & Use	Exemption	Motor Vehicle Fuel	Tax exemption on sales of motor fuels on which motor fuel taxes have been paid.	\$94,810,000	\$96,700,000	1760.8.A	
no change	115	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.	\$178,870,000	\$186,740,000	1760.3	
no change	116	Necessity of Life	B	Sales & Use	Exemption	Prescription Drugs	Tax exemption on sales of prescription medicines for humans, excluding marijuana.	\$102,630,000	\$106,290,000	1760.5	
no change	117	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.	\$6,590,000	\$6,880,000	1760.5-A	
no change	118	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.	\$11,300,000	\$11,920,000	1760.6.B	
no change	119	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.	\$53,250,000	\$53,250,000	1760.9	
no change	120	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.	\$27,420,000	\$27,970,000	1760.9-B	
no change	121	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.	\$17,990,000	\$18,350,000	1760.9-C	

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no change	122	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	
no change	123	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.	\$224,780,000	\$229,730,000	1760.20	
no change	124	Necessity of Life	B	Sales & Use	Exemption	Funeral Services	Tax exemption on sales of funeral services.	\$7,320,000	\$7,600,000	1760.24	
no change	125	Necessity of Life	B	Sales & Use	Exemption	Diabetic Supplies	Tax exemption on sales of equipment and supplies used in diabetes diagnosis or treatment.	\$1,370,000	\$1,410,000	1760.33	
no change	126	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.	\$16,760,000	\$17,410,000	1760.39	
no change	127	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	\$250,000 – \$999,999	1760.94	
no change	128	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)	\$66,950,000	\$68,290,000	2903.4.A (2903)	
no change	129	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)	\$16,390,000	\$16,720,000	3204-A.5	
no change	130	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)	\$120,000	\$120,000	2903.4.D	
no change	131	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	
no change	132	Interstate or Foreign Commerce	B	Sales & Use	Exemption	Certain Jet Fuel	Tax exemption on sales of fuel to propel jet engine aircraft.	\$4,990,000	\$5,120,000	1760.8.B	
no change	133	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	
no change	134	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.	\$1,090,000	\$1,110,000	1760.23-D	
no change	135	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	
no change	136	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	
no change	137	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	
no change	138	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.	\$510,000	\$530,000	1760.88	
no change	139	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.	\$1,290,000	\$1,360,000	1760.88-A	
no change	143	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.	\$290,000	\$300,000	1760.9-H	
no change	144	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.	\$7,400,000	\$7,750,000	1760.7-A, 1760.7-B, 1760.7-C	
no change	145	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.	\$21,920,000	\$22,360,000	1760.9-D	
no change	146	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.	\$50,620,000	\$52,570,000	1760.31	
no change	147	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	
no change	148	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.	\$203,270,000	\$213,430,000	1760.74	
no change	149	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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no change	150	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.	\$18,250,000	\$19,110,000	2013	
no change	156	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.	\$130,735	\$140,000	5 MRSA §13083 S-1 (not in Title 36)	
no change	157	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.	\$508,887	\$520,000	5 MRSA Ch.383 Art. 1-C	
no change	162	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.	2.33 billion	\$2.43 billion	1752.11, 1752.17-B	
no change	173	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 (Rep) 1760.41A (Enact)	Added by GOC on 3/22/2019
no change	175	Tax Fairness	B	Income	Credit	Dependent exemption tax credit	Creates a tax credit equal to \$300 for each qualifying child and dependent for whom the federal child tax credit was claimed for the same taxable year. The credit is nonrefundable. Applicable to tax years beginning on or after January 1, 2018.		no estimate in MSTER	5219-SS	No estimate in Current MSTER - Further Research Needed - Promoted to Category B by GOC on 3/22/2019 - Added to Expedited Schedule in 2023.
no change	176	Conformity with IRC	B	Income	Deduction	Net operating loss subtraction modification	Creates a modification that reserves, for Maine tax purposes, the effects of the new federal limitation on the net operating loss deduction. Applicable for tax years beginning on or after January 1, 2018.		no estimate in MSTER	5200-A (2)(BB)	No estimate in current MSTER - Needs further Research
no change	177	Conformity with IRC	B	Income	Deduction	Global intangible low-taxed income subtraction modification	Creates a modification in the amount of the global intangible low-taxed income deduction claiming in accordance with federal code. Applicable for tax years beginning on or after January 1, 2018.		no estimate in MSTER	5200-A (2)(EE)	No estimate in current MSTER - Needs further Research
no change			C	Sales	Exemption	Business Purchases of automobiles for the purpose of rentals for less than one year.	The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented for a period of less than one year. For the purposes of this subparagraph, "automobile" includes a pickup truck or van with a gross vehicle weight of less than 26,000 pounds. (This is an exemption by defining it as "not a retail sale".)			1752(11)(B)(3)	This expenditure is not on OPEGA's list since it was not in any MSTER. It was flagged on 5/16/2019 for possible inclusion in next year's expedited review.
Delete due to Repeal	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 - \$49,999	5216-D	
no change	15	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.	\$0 - \$49,999	\$0 - \$49,999	5219-OO	
no change	17	Non-Business Incentive - Health & Safety	C	Income	Credit	Credit for Wellness Programs	Tax credit to employers with 20 or fewer employees for expenditures on wellness programs up to \$2,000.	\$15,000	\$14,000	5219-FF	Demoted to C in 2019
no change	21	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.	\$71,000	\$111,000	5219-DD	
no change	22	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.	\$0	unspecified potential liability	5219-EE	
no change	23	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 - \$49,999	5122.2.2	

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no change	24	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.	\$170,000	\$311,000	5219-LL (relocated from 5219-KK)	
no change	26	Tax Relief - Individuals	C	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.	\$11,000	\$21,000	5219-PP	Created in 2016 with a statute conflict. Assigned a new citation last session. Demoted to C in 2019
no change	28	Tax Relief - Individuals	C	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.	\$16,000	\$15,000	5218-A	Demoted to C in 2019
no change	38	Tax Relief	C	Income	Deduction	Deduction for Holocaust Victim Settlement Payments	Deduction for settlement payments received by Holocaust victims.	\$0 - \$10,000	\$0 - \$10,000	5122.2.O	
no change	39	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.	\$20,000 - \$69,999	\$21,000 - \$70,999	1760.98 & 2557.37	
no change	40	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 - \$99,998	1760.99 & 2557.38	
no change	43	Charitable	C	Sales & Use	Exemption	Sales of Certain Qualified Snowmobile Trail Grooming Equipment	Tax exemption on sales of snowmobile trail grooming equipment to incorporated snowmobile clubs.	\$30,000	\$37,000	1760.90	Demoted to C in 2019
no change	46	Charitable	C	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	Demoted to C in 2019
no change	70	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	
no change	71	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	\$0 - \$49,999	1760.22	
no change	72	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	
no change	73	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 - \$99,998	1760.37 & 2557.7	
no change	74	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 - \$99,998	1760.44 & 2557.10	
no change	75	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 - \$99,998	1760.46 & 2557.11	
no change	76	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 - \$99,998	1760.51 & 2557.15	
no change	77	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 - \$99,998	1760.53 & 2557.16	
no change	78	Charitable	C	Sales & Use and Service Provider	Exemption	Sales to Hospice Organizations	Tax exemption on sales to nonprofit hospice organizations.	\$0 - \$99,998	\$0 - \$99,998	1760.55 & 2557.17	
no change	79	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	
no change	80	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	
no change	81	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 - \$99,998	1760.59 & 2557.19	
no change	82	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	
no change	83	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 - \$99,998	1760.62 & 2557.20	

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no change	84	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 - \$99,998	1760.63 & 2557.21	
no change	85	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	
no change	86	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 - \$99,998	1760.66 & 2557.22	
no change	87	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 - \$99,998	1760.69 & 2557.24	
no change	88	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 - \$99,998	1760.70 & 2557.25	
no change	89	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 - \$99,998	1760.77 & 2557.28	
no change	110	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	
no change	111	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)	\$20,000	\$24,000	2910	
no change	112	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 - \$99,998	1760.71 & 2557.26	
no change	113	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	
no change	114	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	
no change	140	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	
no change	141	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	
no change	142	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	\$0 - \$49,999	1760.25-C	
no change	151	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	
no change	152	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	
no change	153	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	
no change	158	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	
no change	159	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 - \$99,998	1760.84 & 2557.29	
no change	160	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.	\$40,000	\$41,000	1760.93	
no change	161	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	
no change	166	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	
no change	167	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)	
no change	168	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)	
no change	169	Administrative Burden	C	Sales & Use	Exemption	Sales tax exemption for Paint Stewardship Program fee	Exempts from sales and use tax the fee imposed to fund the paint stewardship program. Effective December 1, 2018.	\$0	\$72,000	1752.14.B(12) conflict	Added by GOC on 3/22/2019



State of Maine  
**2020 Tax Expenditure Classifications by Rationale and Legislative Review Category**  
 Approved by GOC on XX / XX / 2020

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

Recommendation	ID #	Rationale	Review Category	Tax Type	Expenditure Type	Expenditure Program Name	Brief Description	FY20 Revenue Loss Estimate*	FY21 Revenue Loss Estimate*	Statutory Cite: Title 36	OPEGA Notes
no change	170	Charitable	C	Sales & Use	Exemption	Sales tax exemption for nonprofit heating assistance organizations	Exempts from sales and use tax the service organizations that have been determined by the US IRS to be exempt from taxation under §501(c)(3) of the federal Internal Revenue Code of 1986 and whose primary purpose is to provide residential heating assistance to low-income individuals. Effective October 1, 2018.	\$0	\$475	1760.102 (conflict)	Added by GOC on 3/22/2019
no change	174	Charitable	C	Sales & Use	Exemption	Sales tax exemption for certain nonprofit organizations supporting veterans	Exempts from sales and use tax the service provider tax for incorporated nonprofit organizations organized for the primary purpose of operating a retreat in the State for combat-injured veterans and their families free of charge. Effective October 1, 2018.		\$2,600	1760.102 (conflict) & 2557.39	Added in 2019
no change	178	Charitable	C	Sales & Use	Exemption	Cellular or wireless services supported by Federal universal support funds	Telephone services available to income-eligible Maine consumers and supported by federal universal service support funds are not subject to the service provider tax. Effective January 1, 2019.		no estimate in MSTER	1752(14)(B) & 2551(15)(F)	No estimate in current MSTER - Needs further Research
no change	179	Tax Relief	C	Income	Exemption	Military annuity payments made to survivor	To the extent included in Federal AGI, annuity payments made to the survivor of a deceased member of the military who died as a result of service in active or reserve components of the United States Army, Navy, Air Force, Marines or Coast Guard under a survivor benefit plan or reserve component survivor benefit plan pursuant to 10 U.S. Code Chapter 73 are exempt from Maine income tax.		\$0 - \$50,000	5122(2)(HH)	Added in 2019 - missed in prior MSTERS as per MRS.
no change	180	Tax Relief	C	Income	Exemption	Family development account proceeds	Individuals whose family income is below 200% of the poverty level may open a family development account in connection with an approved community development organization. Account balances and withdrawals are exempt from Maine individual income tax to the extent included in Federal AGI.		\$0 - \$10,000	10 MRSA §1077	Added in 2019 - missed in prior MSTERS as per MRS.
no change	181	Tax Relief	C	Income	Exemption	Municipal property tax benefits for senior citizens	A municipality by ordinance, may adopt a program that permits claimants who are at least 60 years of age to earn benefits up to a maximum \$1000 by volunteering to provide services to the municipality. The amount of benefits received during the tax year are exempt from Maine individual income tax.		\$0 - \$10,000	5122(2)(EE)	Added in 2019 - missed in prior MSTERS as per MRS.
no change	182	Tax Relief	C	Income	Deduction	Deduction for gain on sales of eligible timberlands	A subtraction modification is allowed on the Maine individual income tax return equal to the applicable percentage of the gain from the sale of sustainably managed, eligible timberlands that is included in Federal AGI.		\$20,000 - \$100,000	5122(2)(U)	Added in 2019 - missed in prior MSTERS as per MRS.
Add - based on PL 2019 c.530 §C-1	183	Non-Business Incentive - Education	C	Income	Deduction	Student Loan Payment Subtraction Modification of AGI	A subtraction modification is allowed for a taxpayer who is a qualified health care employee and whose employer pays the employee's student loans directly to a lender.		\$133,000	5122(2)(QQ)	
Add - based on PL 2019 c.343 Pt. YYYY	184	Charitable	C	Sales & Use	Exemption	Sales tax exemption for watercraft by certain nonprofit transportation companies	Exemption if company operates pursuant to a written understanding with municipality that the watercraft will be available at all times to transport emergency medical patients from an island to the mainland.		Fiscal note says "very minor"	1760(26)(A)	

Sources: FY19 & 21 Revenue Loss estimates: Maine State Tax Expenditures Report 2020-2021. All other information: OPEGA analysis of Maine Revenue Services information and Maine Revised Statutes.