TAX EXPENDITURE REVIEW

FINAL REPORT

Business Equipment Tax Reimbursement (BETR) & Business Equipment Tax Exemption (BETE) – Programs Lower the Cost of Owning Business Equipment but May Have Limited Influence on Capital Investment Decisions

Report No. TE-BETR_BETE-17

Findings include:

- Municipalities and businesses are impacted by challenges in determining asset eligibility for BETR and BETE.
- Goals and intended outcomes against which BETR and BETE are to be evaluated are unclear.
- Municipalities are not adequately reimbursed for mandated expenses.
- Maine Revenue Services (MRS) has not provided the Department of Administrative and Financial Services (DAFS) information on the BETE mandates that they administer as required by statute.
- MRS' documentation that supports adjustments to BETE payments is inadequate.

February

2020

a report to the
Government Oversight Committee and Taxation Committee
from the
Office of Program Evaluation & Government Accountability
of the Maine State Legislature

GOVERNMENT OVERSIGHT COMMITTEE OF THE 129TH LEGISLATURE

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ABOUT OPEGA & THE GOVERNMENT OVERSIGHT COMMITTEE

The Office of Program Evaluation and Government Accountability (OPEGA) was created by statute in 2003 to assist the Legislature in its oversight role by providing independent reviews of the agencies and programs of State Government. The Office began operation in January 2005. Oversight is an essential function because legislators need to know if current laws and appropriations are achieving intended results.

OPEGA is an independent staff unit overseen by the bipartisan joint legislative Government Oversight Committee (GOC). OPEGA's reviews are performed at the direction of the GOC. Independence, sufficient resources and the authorities granted to OPEGA and the GOC by the enacting statute are critical to OPEGA's ability to fully evaluate the efficiency and effectiveness of Maine government.

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Requests for OPEGA reviews are considered by the Government Oversight Committee in accordance with a standard process. Requests must be made in writing and must be initiated or sponsored by a legislator. Individual legislators or citizens should review the process and FAQ that are posted on OPEGA's website at http://legislature.maine.gov/opega/request-for-a-review. There is also a form there to help facilitate the GOC's consideration of the request. Legislative committees can request reviews directly through a written communication to the Government Oversight Committee.

DANIELLE D. FOX
DIRECTOR

MAINE STATE LEGISLATURE

OFFICE OF PROGRAM EVALUATION AND
GOVERNMENT ACCOUNTABILITY

February 14, 2020

Sen. Justin M. Chenette, Chair
Rep. Anne-Marie Mastraccio, Chair
Members Government Oversight Committee

As directed by the 128th Legislature's Government Oversight Committee (GOC), and in accordance with the parameters approved by the Committee, OPEGA has completed a review of the Business Equipment Tax Reimbursement (BETR), and Business Equipment Tax Reimbursement Exemption (BETE) programs. The approved project parameters, included in Appendix C, establish the goals, intended beneficiaries, and base performance measures considered in this evaluation. The scope and methods for this review can be found in Appendix A.

OPEGA conducts reviews of tax expenditures in accordance with Title 3 §§998 and 999. The statutory tax expenditure review process ensures that tax expenditures are reviewed regularly according to a schedule approved by the GOC. The process is detailed in Appendix D.

OPEGA would like to thank the management and staff of Maine Revenue Services as well as the members of the municipal assessor community and representatives of participating businesses for their time and cooperation throughout this review.

In accordance with Title 3 §997, OPEGA provided Maine Revenue Services within the Department of Administrative and Financial Services an opportunity to review the report and submit an agency response.

Sincerely,

Danielle D. Fox
Director, OPEGA

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Acronyms Used in This Report

BETE – Business Equipment Tax Exemption
BETR – Business Equipment Tax Reimbursement
CAFR – Comprehensive Annual Financial Report
DAFS – Department of Administrative and Financial Services
DECD – Department of Economic and Community Development
GAO – Government Accountability Office
GDP – Gross Domestic Product
GOC – Government Oversight Committee
ICA – Investment Consulting Associates
MRS – Maine Revenue Services
MVR – Municipal Valuation Return
NAICS – North American Industry Classification System
OPEGA – Office of Program Evaluation and Government Accountability
PPF – Personal Property Factor
REMI – Regional Economic Models Inc.
TIF – Tax Increment Financing

Terms Used in this Report

Bill-back. A term denoting MRS requesting that a municipality pay back the State for an erroneous BETE reimbursement.

Municipal Valuation Return (MVR). An annual report showing numerous aspects of municipal property valuation provided to Maine Revenue Services by municipalities in Maine.

Personal Property Factor (PPF). The basis upon which a higher than minimum BETE reimbursement is calculated. It is the proportion of taxable personal property plus exempt personal property to the total taxable property plus exempt personal property.

Tax Commitment. The amount of the municipality's assessed value of property and its associated tax owed by each taxpayer that is committed to the tax collector by the tax assessor.

Tax Increment Financing (TIF) Districts. A local financing mechanism which allows new property taxes generated by a specific project, or projects, within a defined geographic area, to be used to finance public or private projects or to be returned to businesses responsible for the projects.

Unorganized Territory (UT). An area of Maine having no local, incorporated municipal government. Duties related to providing services and property tax administration in the UT, are shared among various state agencies and county government

Business Equipment Tax Reimbursement (BETR) & Business Equipment Tax Exemption (BETE) – Programs Lower the Cost of Owning Business Equipment but May Have Limited Influence on Capital Investment Decisions

About the BETR and BETE Programs

Program Overview and Funding

The BETR and BETE programs were established in 1995 and 2006 respectively. Both programs reduce, or eliminate, the personal property tax owed on qualifying business equipment.

Maine's Business Equipment Tax Reimbursement program (BETR) was established in 1995 and is governed by Title 36 Chapter 915. The Business Equipment Tax exemption program (BETE) was enacted in 2006 and is governed by Title 36 Chapter 105, Subchapter 4-C. Maine Revenue Services (MRS) bears primary responsibility for administration of both programs, with municipalities filling a necessary supporting administrative role. Because the goals and intents of the two programs are the same, OPEGA is reviewing both programs as one evaluation.[1]

Programs' Intent:

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

Programs' Goals:

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

To encourage growth of capital investment by businesses in Maine

Primary Intended Beneficiaries:

Businesses investing in qualifying property

Secondary Intended Beneficiaries:

The people of the State of Maine

Other Impacted Parties:

Municipalities

BETR and BETE are not tax expenditures based on the definition in 5 MRSA §1666. Instead they might better be classified as off-budget statutory appropriations.

Statute (5 MRSA §1666) defines a tax expenditure as any "state tax revenue losses attributable to provisions of Maine tax laws that allow a special exclusion, exemption or deduction or provide a special credit, a preferential rate of tax or a deferral of tax liability." BETR and BETE are not traditional tax expenditure programs in accordance with this definition. BETR reimburses businesses directly for local personal property taxes paid, while BETE partially reimburses municipalities for municipal taxes exempted. They might better be classified as off-budget statutory appropriations. MRS includes BETR and BETE in its biennial Maine State Tax Expenditure Report along with other tax expenditures because BETR and BETE payments offset General Fund revenues. Consequently, the programs are included on the schedule of OPEGA tax expenditure evaluations established by the Government Oversight Committee.

[1] Both BETR and BETE are funded by General Fund undedicated revenue with amounts transferred by the State Controller to the BETR reserve account. These transfers are authorized by 36 MRSA §6656, for BETR, and §700-B, for BETE.

Both BETR and BETE lower the cost of owning qualifying business equipment by affecting the municipal personal property tax. For BETR, the State reimburses businesses for personal property taxes paid to municipalities for qualifying business equipment. Under the BETE program, the State completely exempts qualifying equipment from being taxed in the first place – allowing the business to keep the money that would otherwise have been paid to the local jurisdiction. The State then reimburses the municipality for a portion of the amount of personal property taxes not collected from the participating business.

Under BETR, businesses are reimbursed for personal property taxes paid to municipalities for qualifying equipment.

For BETE, the State exempts eligible property from municipal taxation in the first place.

BETR vs BETE

	BETR	BETE
Benefit for Business	Reimbursement of municipal personal property tax paid on qualified business equipment	Exemption from municipal personal property tax on qualified business equipment
Reimbursement by the State	Direct reimbursement to the business	Partial reimbursement to the municipality

Under the BETE program, the State completely exempts qualifying equipment from being taxed in the first place.

Qualifying Equipment

BETR reimbursement or BETE exemption is granted for depreciable business equipment that is used exclusively to further the purpose of the business. Equipment that is not directly used to further the business purpose, such as office furniture and lighting fixtures, is ineligible for the programs. Equipment that is already exempted from property tax for other reasons and real property (land, most buildings, parking lots, etc.) are also ineligible for BETR reimbursements or BETE exemption. Even with these exceptions, the vast majority of business equipment in the State is eligible for the BETR or BETE programs.

The vast majority of business equipment in Maine is eligible for BETR or BETE.

Individual pieces of business equipment may only qualify under either BETR or BETE, but not both. Which program an individual piece of equipment qualifies under depends on when it was purchased and what type of business owns the equipment. Even though particular pieces of equipment cannot be eligible for both BETR and BETE, a single business can benefit from both programs. A business with eligible assets placed in service after 2007 can claim exemptions under BETE and also seek BETR reimbursements for other assets purchased between 1995 and 2007 because of grandfathered eligibility under the BETR program.

Individual pieces of equipment may qualify under BETR or BETE, but not both. But an individual business may benefit from both programs.

Table 1 (below) shows the categorization of eligible assets for the two programs including the variances afforded to certain larger retail businesses. Most new equipment from large, retail sales facilities is not eligible for either program, although there are some specific statutory exceptions noted in the table.

Table 1. Differences in Equipment Eligibility are Based on When the Asset was Placed in Service in Maine and What Type of Business Owns the Equipment

Eligible Business	Eligible Equipment	
	BETR	BETE
Non-Retail Businesses & Retail-Service Businesses	Eligible equipment first placed into service in Maine **after April 1, 1995 and before April 1, 2007**. The business must be current on property tax payment to be eligible.	Eligible equipment first placed in service in Maine **after April 1, 2007**.
Large Retail Sales Facilities (exceeding 100,000 square feet of interior sales space)	All eligible equipment first placed in service from **1995 until April 1, 2006**. Eligible equipment first placed in service **after April 1, 2006** for large retail businesses that derive less than 50% of their total annual revenue (nationwide) from sales that are subject to Maine sales tax.	Eligible equipment first placed in service **after April 1, 2007** for large retail businesses whose Maine-based operations **derive less than 30% of their total annual** revenue from sales that are made at retail facilities located throughout Maine.
Small Retail Sales Facilities (100,000 square feet or less of interior sales space)	Eligible equipment placed into service any time **after April 1, 1995.**	None.

Equipment eligibility is based on when the asset was placed in service and what type of business owns it.

BETR Reimbursement Rates for Businesses

Under BETR, businesses may receive reimbursement from the State for a percentage of taxes assessed and paid on eligible property. The reimbursement percentage – or rate – changes for each piece of equipment depending on how many years reimbursement has been claimed. Since 2006, the standard reimbursement percentages have been:

Under BETE, eligible equipment is exempt for the life of the asset.

- For years 1 through 12 of BETR reimbursement, 100%;
- For year 13 of reimbursement, 75%;
- For year 14 of reimbursement, 70%;
- For year 15 of reimbursement, 65%;
- For year 16 of reimbursement, 60%;
- For year 17 of reimbursement, 55%;
- For year 18 and all subsequent years of reimbursement, 50%

Reimbursement for the life of the asset in BETR was added at the same time BETE was enacted in 2006. Prior to that, BETR did not reimburse beyond the 12th claim year.

BETE Reimbursement Rates for Municipalities

Under the BETE program, businesses are exempt from paying municipal personal property tax on eligible equipment for the life of the asset. Municipalities are partially reimbursed by the State for that loss in tax revenue. The partial reimbursement by the State was phased in over the first six years of the BETE program. The reimbursement percentage started at 100% in tax year 2008 and then dropped by 10% per year until it reached 50% on April 1, 2013. This percentage applies as the minimum reimbursement rate for all subsequent tax years.

Approximately two thirds of the municipalities that receive BETE reimbursements receive the standard or minimum reimbursement percentage. The other third receive alternate reimbursement rates.

Phase-in of BETE Municipal Reimbursement Percentages	
Tax Year Beginning	Minimum Percent Reimbursement
2008	100%
2009	90%
2010	80%
2011	70%
2012	60%
2013 and subsequent	50%
Source: 36 MRSA §694(2).	

Alternate Reimbursement Rates

BETE exemptions for business equipment affect municipalities to different degrees. The program addresses these impacts by providing an enhanced reimbursement percentage under certain conditions, as well as providing a different reimbursement amount for certain property located within tax increment financing (TIF) districts.

Municipalities may be eligible for an enhanced reimbursement percentage if they have a personal property factor (PPF) greater than 0.05.

$$PPF = \frac{(taxable\ personal\ property\ valuation\ +\ BETE\ valuation)}{(taxable\ real\ and\ personal\ property\ valuation\ +\ BETE\ valuation)}$$

A higher PPF indicates that a municipality receives a greater proportion of its tax revenue from personal property and would therefore suffer a greater loss from BETE exemptions than a municipality whose finances are less dependent on personal property taxes.

BETE reimbursement rates can exceed 50% when a municipality has a high personal property factor or a retention TIF district.

If a municipality's PPF exceeds 0.05, it has the option to request an enhanced reimbursement rate. The enhanced rate is equal to 50% plus half of the municipality's PPF. For example, a municipality with a personal property factor of 0.12 will receive an enhanced reimbursement rate of 56%, which is the 50% minimum rate + (0.12/2). A municipality that is even more dependent upon personal property taxes might have a PPF equal to say, 0.4 which would provide an enhanced reimbursement of 70%.

A municipality that includes a certain type of TIF district may also be eligible for a greater BETE reimbursement rate. A TIF district is a geographic area where a portion of municipal taxes are used by the local government to finance public or private projects for a defined length of time, up to 30 years. One type of TIF - called a municipal retention TIF by MRS - uses municipal taxes paid within the TIF district to fund defined projects that enhance municipal services. BETE eligible property within these municipal retention TIFs authorized prior to April 1, 2008 are reimbursed at a higher rate, up to 100%. This allows for continued funding of these municipal projects, which often include debt service, that were negotiated prior to BETE's enactment.

Provisions of the Maine Constitution that Affect BETR & BETE

There are two sections of the Maine Constitution which directly impact the BETR and BETE programs. These sections require the State to partially reimburse municipalities for mandated property tax exemptions and reimburse municipalities for municipal expenses incurred due to State-mandated programs.

Local property tax exemptions or credits enacted by the Legislature after April 1, 1978 must be reimbursed by the State pursuant to Article IV, Part Third, Section

23 of the Maine Constitution. This provision requires the annual reimbursement to municipalities to come from State tax revenue in an amount not less than 50% of the loss realized by the municipality.

When the State enacts property tax exemptions, the Maine Constitution requires the State to reimburse municipalities for at least 50% of the loss realized by the municipality.

BETR does not trigger this provision because the municipality sees no loss in revenues from the program. BETR reimburses the business after the taxes due on eligible equipment have been paid to the municipality. In contrast, the BETE program grants a full municipal property tax exemption for qualified business equipment, which means the State must reimburse the municipality for no less than 50% of its revenue loss.

The Maine Constitution (Article IX, section 21) also requires the Legislature to pay 90% of the costs to a local unit of government resulting from legislation which expands or modifies that unit's activities, necessitating additional expenditures. This section is commonly known as the municipal mandate provision. It further provides an exception to the 90% requirement when the legislation is enacted upon a vote of two thirds of all elected members. Statute (30-A MRSA §5685(3)(F)) further provides that:

The Maine Constitution requires the State to pay municipalities for 90% of additional costs incurred as a result of mandated activities unless the enacting legislation is passed by a two thirds majority and includes a mandate preamble specifying an exception to the Constitution.

> "Legislation, even though enacted by a 2/3 vote of each House of the Legislature, may not be construed to override the funding requirements of the Constitution of Maine, Article IX, Section 21, unless the legislation contains specific language indicating that it is the intent of the Legislature to create an exception to the Constitution of Maine."

Upon enactment, BETR included the specific language noted above in the legislation's preamble. Consequently, municipal reimbursement for administrative expenses was not included in BETR statute, meaning municipal governments absorb the costs associated with their role in administering the program. BETE, on the other hand, did not include a mandate preamble and so the State is required to reimburse municipalities for at least 90% of their expanded costs for administering the BETE program. (See Finding 3 on page 31.)

Administration of BETR and BETE

Both BETR and BETE are administered primarily by MRS. However, both programs also rely heavily on the assistance of municipal officials such as tax assessors employed by the town, contracted assessors, or in some cases, a town selectperson.[2] Administration of the programs relies on these municipal officials because business entry to the programs begins with the assessment of personal property taxes.

Local Personal Property Tax Assessment

Every year, municipal officials send each business in their jurisdictions a personal property declaration form to begin the process of determining the taxable value of all personal property within the municipality. Generally, for each asset, the form requires a description, purchase date, and original purchase price. Businesses provide this information for all potentially taxable personal property, including

[2] For the Unorganized Territory, the State Tax Assessor fills the role that would typically be filled by municipal tax assessors for all BETR and BETE processes.

assets that may be eligible for BETR or BETE. Forms must be returned prior to a date set by the individual town or, if the business will be applying for BETE, prior to May 1st.

MRS is primarily responsible for administering both BETR and BETE with a heavy reliance on municipal assessors.

Upon receiving the personal property declaration form from a business, the person responsible for municipal assessment records the personal property assets as either BETE-eligible, or not. Information from the forms helps assessors catalogue all business property within a municipality and is used to determine the current value of the property. The value of BETE-eligible equipment is recorded as exempt property, while all other business equipment (including BETR-eligible property) becomes part of the municipality's taxable valuation. A municipality's taxable valuation is the total value of all property in a municipality for which a property tax is assessed.

BETR and BETE: Advertising and Outreach

BETR and BETE application forms and guidance are available on the MRS website. However, municipalities report that new businesses – particularly small businesses – are often not aware of the BETR or BETE benefits they may be eligible to receive. Some municipal assessors provide businesses with information about the BETR and BETE programs along with the annual personal property tax notice and personal property declaration form. Two town assessors interviewed by OPEGA go so far as to fill out both the BETR and BETE applications for all businesses with eligible business equipment in their mid-sized towns. The businesses review and sign the applications, but the tax assessors complete the forms using what the business submitted in the personal property declaration.

Municipal assessors provide varying levels of assistance to businesses to aid in understanding and complying with the requirements of BETR and BETE.

Municipal assessors have stated to OPEGA in interviews that providing information about the program benefits to their taxpayers has eased the discussion regarding the requirement for businesses to declare their personal property. Some enterprising assessors have related to OPEGA that they have used the programs to persuade certain taxpayers to declare property. In this sense, the programs can have the effect of slightly broadening the municipal tax base.

BETE: How Businesses Receive the Tax Exemption

Business Applies to Municipal Assessor Annually for Tax Exemption

To receive the BETE tax exemption, a taxpayer must file a BETE application with the municipal assessor. Applications are submitted annually, even if assets are unchanged. A business with property in more than one municipality must file a separate application for each jurisdiction.

BETE applications require a business to provide the following data for each asset for which the exemption is being requested:

- a description of the business equipment;
- the date the equipment was placed in service in Maine;
- the equipment's current age (for depreciation purposes);
- the equipment's purchase price, including installation costs;
- an estimate of the equipment's current value; and
- the physical address of the equipment (for leased equipment only).

BETE applications must be submitted to the local assessor by April 1st of each year. Statute provides assessors the authority to grant extensions upon written request.

Municipal assessors told OPEGA that evaluating every BETE asset is time-consuming. Occasionally, it can also be difficult to determine asset eligibility.

Municipal Assessor Evaluates Application

Municipal assessors[3] examine each item on the BETE application to determine whether the property listed qualifies for exemption. If a piece of equipment is found ineligible for exemption under BETE, the municipal assessor must notify the equipment owner. This notice must include the reason for denial, and must be made by personal delivery or certified mail (36 MRSA §695). A denial of eligibility may be contested by the equipment owner by appealing to a Board of Assessment Review using procedures set out in statute.

In interviews with OPEGA, municipal assessors state that evaluating every BETE asset is time-consuming. It can also be occasionally difficult to determine if the asset is eligible, and for which program. Even with the substantial amount of program guidance produced by MRS, assessors told OPEGA that they must often confer with MRS when evaluating certain assets. (See Finding 1 on page 29.)

BETE: How Municipalities Receive Reimbursement

MRS audits BETE reimbursement claims by conducting field audits of every municipality which claims BETE reimbursement – every year.

Municipality Applies to MRS for Reimbursement

Municipalities request State reimbursement for BETE from MRS via the Municipal Valuation Return (MVR) form, which must be filed by November 1st or within 30 days of commitment, whichever occurs later. "Commitment" refers to the assessor's report of the assessed value of the municipality's taxable property to be used by the tax collector for that particular tax year. The MVR serves other purposes related to the administration of taxation as well as facilitating the application for BETE reimbursement.

MRS Reviews and Distributes Payment of BETE Reimbursements to Municipalities

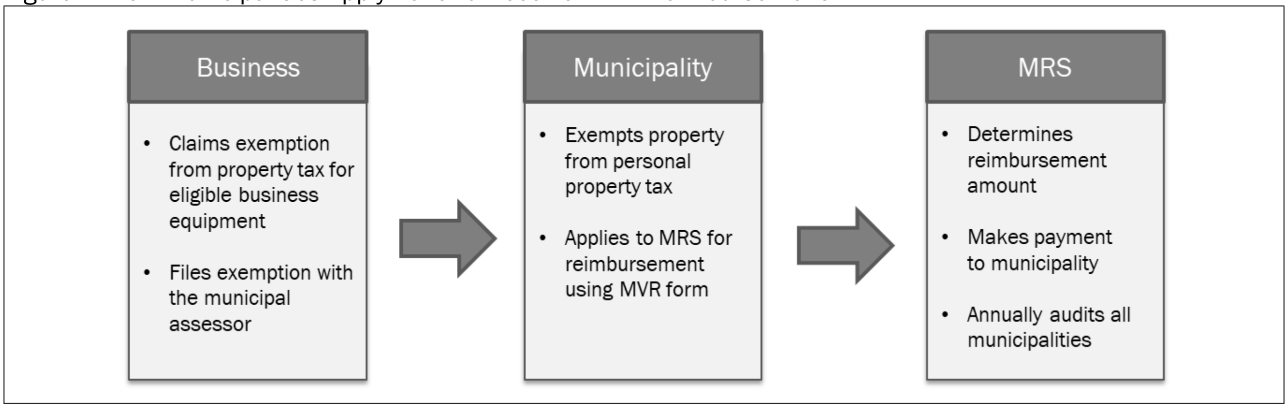
MRS must make BETE payments to municipalities by December 15th of each year.

Once Maine Revenue Services receives the MVR from the municipality, MRS staff reviews the forms and determines the reimbursement amount for the municipality. If MRS finds an error affecting the requested BETE reimbursement, MRS notifies the municipality and changes the reimbursement accordingly. MRS is required to issue BETE payments to municipalities by December 15th of each year.

MRS audits BETE reimbursement claims by municipalities by conducting field audits of every municipality in the State which claims BETE reimbursement - every year. MRS uses these audits to uncover and correct issues as well as provide feedback to assessors. When equipment is found to be ineligible after the fact, it means that the town has received an overpayment by the State. In such cases, the town is required to return BETE funds received in connection with the ineligible equipment.

[3] Unless otherwise noted, "municipal assessor" refers to the persons performing the assessment function for the municipality. This could refer to a municipal employee, an assessor under contract to the municipality, a selectperson, or in the case of the Unorganized Territory, an employee of MRS.

Figure 1. How Municipalities Apply For and Receive BETE Reimbursement



MRS data shows 79 overpayments totaling approximately $1.1 million for the 5 years between FY14 and FY18. These overpayments are the result of errors that impact BETE payments, whether they are the result of improper determinations for an asset exemption, or the result of other mistakes in the MVR that affect the reimbursement amount. See page 20 for further discussion of BETE overpayments due to error.

Between FY14 and FY18, there were 79 overpayments under BETE totaling $1.1 million.

When seeking to identify the reasons for MRS either adjusting a payment prior to the December 15th distribution; or billing a municipality for an overpayment found in a subsequent audit; OPEGA found that the process for documenting these errors is neither consistent nor adequate. (See Finding 5 on page 33).

BETR: How Businesses Receive the Tax Reimbursement

Business Submits Application to MRS

Under BETR, the State provides reimbursement to a business for property taxes already paid to a municipality on eligible equipment. A business may file a claim for reimbursement of those taxes as soon as MRS makes claim forms (801A and 801B) available - typically in August. The claim is made for taxes paid in the prior year. Before the claim can be submitted to MRS, a business must provide the municipal assessor with a list of the eligible equipment to be included in the claim. The assessor returns that list to the business after completing the claim form by providing the depreciated value for each piece of equipment listed.

Forms 801A and 801B ask for the following details for each piece of equipment for which BETR reimbursement is being claimed:

- a description of the equipment;
- the original cost of the equipment;
- the date the equipment was placed in service;
- the number of years the equipment has been claimed for BETR; and
- the state of origin (only for pre-owned equipment).

Completed forms are sent to MRS along with proof of payment and a copy of the associated tax bill.

Unlike the BETE program, the municipal assessor is not responsible for determining if assets listed on the BETR application are eligible. The assessor is only responsible for providing the current, depreciated value of the personal property being claimed. However, some assessors reported to OPEGA in interviews that they review the assets and tell businesses when the claimed property may not be eligible. Representatives from businesses related in interviews that determining eligibility for the proper program is sometimes difficult, but becomes easier with time.

MRS reports that approximately one third of BETR claims require adjustments of reimbursement amounts.

MRS Reviews BETR Claims and Makes Payments to Businesses

MRS reviews the BETR claims it receives and determines the amount of eligible reimbursement. If MRS determines that a business qualifies for a different BETR reimbursement than was requested, the State Tax Assessor has authority to adjust the claim. Adjustments to claims may be required when claims include property that is not qualified or have inaccurate calculations.

BETR payments are made to businesses by November 1st, or 90 days after receipt of the application, whichever is later.

When an adjustment is made, MRS notifies the BETR claimant of the adjustment and its justification in writing. MRS reports that approximately one third of annual BETR claims require adjustment, and that the magnitude of adjustments can be substantial (see page 20 for further discussion). Once BETR reimbursement amounts have been approved, businesses then receive checks for their reimbursements. Payments must be made by November 1st, or 90 days after receipt of the application, whichever is later.

BETR and BETE Compared to Other States

OPEGA found no other states with tax expenditures that have similar reimbursement mechanisms to BETR or BETE. However, according to a publication from the National Conference of State Legislatures, most states have enacted provisions which limit the scope of personal property taxes or simplify their administration, and several states have eliminated personal property taxes altogether.[4]

BETR and BETE are Maine's answer to reducing the cost of owning business equipment by reducing the effect of, or by eliminating, personal property tax on qualifying equipment. Maine's BETE program has been cited along with other states who have reduced reliance on personal property tax as noted in a 2019 report from the Tax Foundation:

> "Since 2006, states like Connecticut and Kentucky have markedly increased the relative share of personal property in their property tax bases, while Colorado, Georgia, Maine, North Carolina, and Utah have markedly reduced the relative share that personal property makes up in the property tax base."[5]

Since participants continue to pay personal property tax under BETR, even though

[4] NCSL 2016. *Principles for the Taxation of Business Personal Property - Executive Committee Task force on State and Local Taxation, National Conference of State Legislatures, January 9, 2016.*

[5] Watson, G. 2019. *States Should Continue to Reform Taxes on Tangible Personal Property,* Tax Foundation Fiscal Fact #668, (Washington D.C.; August, 2019).

they are reimbursed, reductions associated with the BETR program are not always counted in multi-state surveys.

States employ diverse methods to lower business equipment costs.

To reduce the cost of owning business equipment, BETR and BETE target personal property paid by businesses. Other states have reduced personal property taxes and have employed other methods to lower business equipment costs as well. Methods range from sales tax exemptions to income tax investment credits. A few specific examples are described in Table 2.

Table 2. Efforts by Other States to Reduce the Cost of Owning Business Equipment

State	Type of Tax Relief
CT	Machinery and Equipment Expenditure Credit is a business income tax credit based on a percentage of the amount spent on machinery and equipment that is greater than the prior year.
CT	100% credit for property tax on electronic processing equipment including computers, printers and other peripheral computer equipment and bundled software.
CO	Recently repealed its income tax credit for tangible personal property and replaced it with a refundable credit for business personal property taxes paid on up to $18,000 of the value of the property.
ID	Provides a personal property tax exemption for businesses by exempting the first $100,000 of valuation including equipment, machinery and furniture. It also provides an income tax credit for up to 3% of the value of qualified investments in personal property made in that year.
IN	Recent changes enhance abatements and allow local councils to exempt new business personal property.
KS	Provides a one-time machinery and equipment deduction in the year the equipment is placed into service. The deduction can be carried forward for 10 years.
MI	Reduced tangible personal property taxes for businesses and replaced a portion of the lost revenue by including a use tax and a statewide special assessment on businesses claiming the tangible personal property exemption.
NJ	Provides a credit for investment in qualified manufacturing equipment for up to 3 years that is tied to employment in years 2 and 3. In year 1, the credit is 2% and increases to 3% in years 2 and 3. The credit can be carried forward for 7 years.
NY	Includes an investment tax credit equal to 5% of investment up to $350 million in buildings and tangible personal property in certain industries.
OH	Exempts the first $10,000 of business property.
TN	Taxes commercial and industrial personal property at 30% of assessed value.

Program Similarities and Coordination

OPEGA did not identify any programs that are duplicative of BETR or BETE. In fact, the two programs are specifically designed not to be duplicative of each other. Equipment eligible for BETE is statutorily ineligible for BETR. Some programs have similar goals, reducing the cost of owning business property and encouraging capital investment, but they are neither complementary nor similar to BETR or BETE. For one program – the Municipal TIF program – BETR statute acknowledges the potential for program benefits to overlap and limits that overlap.

The potential overlapping benefits of TIF districts and the BETR and BETE programs were completely phased out by 2019.

Until recently, a business could potentially receive reimbursement, via BETR and a TIF district. When combined, these reimbursements could exceed the total property tax the business had actually paid. This could happen because a business could receive reimbursement via BETR – and through certain TIF districts – receive personal property tax rebates on the same piece of equipment. However, the duplicate reimbursements were only possible in TIF districts that required all, or a portion of, new property taxes paid by a business in the TIF district to be returned to the business.

This issue was addressed by the Legislature in a 2006 amendment to BETR statute and further clarified in a 2010 amendment.[6] However, these statutory amendments did not immediately eliminate the opportunity for a business to be reimbursed by BETR and the TIF district in excess of the total property tax paid. The change phased that opportunity out over time with full elimination by tax year 2019.

State Costs of BETR and BETE

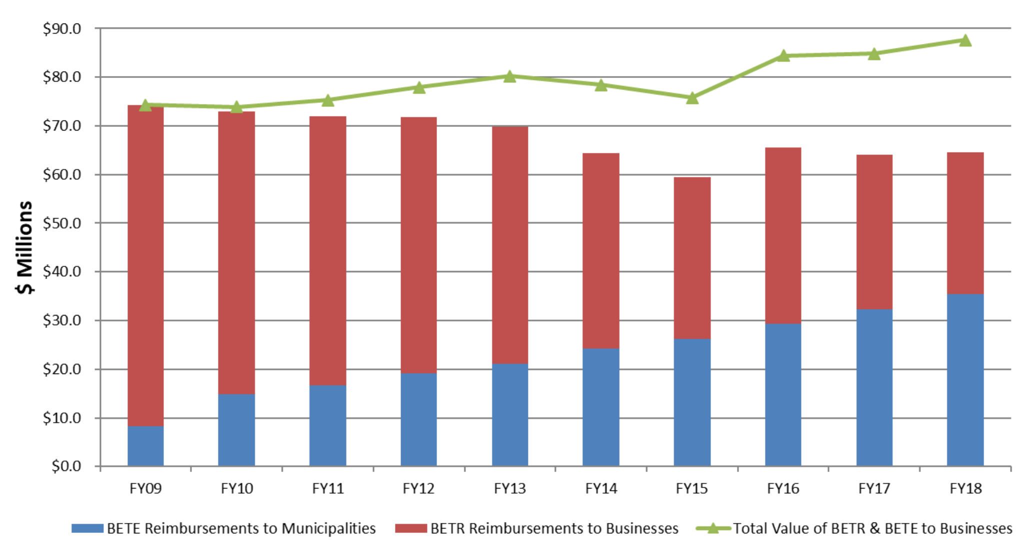
Direct State Costs of BETR and BETE through Fiscal Year 2018

Program Reimbursements

The total value of reimbursements and exemptions to businesses has increased while costs to the State have decreased.

Reimbursements paid by the State are the largest portion of direct State cost of the BETR and BETE programs. Looking at the programs individually, from FY09 through FY18, BETE almost quadrupled; growing from about $8.3 million to approximately $35.5 million. Over the same period, BETR dropped by more than half, from a high of about $66.0 million to a low of about $29.2 million. The cost of BETR is decreasing because the only new property eligible under the program is property owned by small, retail sales facilities. (See page 2.) Consequently, more BETR-eligible property is depreciating and retiring than is entering into the program. The cost of BETE, on the other hand, continues to grow.

Figure 2. Value of BETR and BETE to Businesses and the Cost of State Reimbursements FY09-FY18



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

[6] P.L. 2005, c.623 §3 (p. 1649) and P.L. 2009, c.496 §27 (p.1669)

Combined, the cost of the program reimbursements to the State has decreased while the value to businesses – tax reimbursements under BETR, and tax value of exemptions under BETE – has continued to increase. In FY18, State reimbursements to businesses and municipalities for the two programs were approximately $64.6 million. This is a decrease of almost $10 million from the programs' combined total ten years earlier. Over the same period, the total value of BETR and BETE to businesses has increased by over $13 million. Value to business is increasing while the cost to the State is decreasing because the State pays only a portion of the cost of the growing BETE program while it pays the entire direct cost of the shrinking BETR program.

State administrative costs for BETR and BETE are generally consistent with other tax expenditures OPEGA has evaluated.

Administrative and Other Costs for the State

State agency administrative costs were estimated by MRS to be approximately $46,100 and $88,500 annually for BETR and BETE respectively. This represents about 0.20% and 0.25% of the State cost of direct benefits provided under each program. This level of administrative cost is generally consistent with other tax expenditure programs OPEGA has evaluated.

Additional State costs of the BETE program include:

- An annual General Fund transfer to the Disproportionate Tax Burden Fund, and
- Reimbursement of municipal administrative costs associated with BETE.

BETE statute provides for an additional, annual transfer to the Disproportionate Tax Burden Fund – a further cost to the State.

The annual General Fund transfer to the Disproportionate Tax Burden Fund is required as part of the BETE program under 36 MRSA §700-A. This section requires that the State Treasurer transfer $4 million annually to the fund established to enhance revenue sharing for municipalities with disproportionate tax burdens. The additional funding is mandated by BETE statute, but its manner of distribution to municipalities through revenue sharing is not directly influenced by whether a municipality is involved in the BETE program.

Under BETE (36 MRSA §700), the State must compensate each municipality in the manner prescribed in statute for reimbursement of municipal mandate costs which are outlined in 30-A MRSA §5685. Section 5685 provides for compliance with the Maine Constitution, which requires that 90% of the mandated costs incurred by a municipality to administer a program be reimbursed by the State. When BETE was enacted, the reimbursement rate associated with the municipal cost was set to $2 per application. That figure continues to serve as the rate for reimbursement to municipalities for mandated costs. Total administrative reimbursements to all municipalities for BETE mandate costs totaled just over $14,000 for FY18. See page 21 (and also Finding 3 on page 31) for a discussion of the adequacy of this reimbursement.

Table 3. State Costs of BETR and BETE over the 10 Years between FY09 and FY18

	BETR	BETE	Combined
Program Reimbursements	$451.2M	$227.7M	$678.9M
Estimate of State Administration	$0.5M	$0.9M	$1.3M
Municipal Mandate Reimbursements	$0	$0.1M	$0.1M
Statutory Contribution to Disproportionate Tax Burden Fund	$0	$31.0M	$31.0M
Total State Expenditures	**$451.7M**	**$259.7M**	**$711.3M**

Source: OPEGA compilation of data supplied by Maine Revenue Services and 36 MRSA §700-A.
Totals may not sum due to rounding.

Economic Effects that Offset Program Costs

OPEGA estimates a net increase in tax revenue of $51.5 million over a ten-year period as a result of business cost reductions provided by BETR and BETE.

OPEGA used the Regional Economic Models Inc. (REMI) economic modeling software to predict the cascading economic effects of providing the BETR and BETE cost reduction to businesses.[7] Because Maine requires a balanced budget, the model also accounted for the opportunity cost associated with government not having the funds for other uses. In using the model, OPEGA assumed that government spending on items other than employment or wages was reduced as a result of appropriating State funds for the BETR and BETE programs. Based on the REMI analysis, OPEGA estimates that over a ten-year period, the State realized a net increase in tax revenue of $51.5 million associated with the impact of business cost reductions provided by BETR and BETE. This figure factors in the effects of less government spending due to providing the business benefit. The extra State tax receipts reduced the combined cost to the State of both programs from $711.3M over 10 years (Table 3), to $659.8M. This estimate likely overstates the cost of both programs because data related to incidental employment growth and any capital investment that may have occurred as a result of the personal property tax reduction were not available as inputs to the model. These additional inputs would show an increase in expected State tax receipts over what OPEGA was able to calculate, further reducing the costs of the programs.

Impact on Intended Beneficiaries

From FY09 to FY18, businesses benefited from both programs through estimated tax savings and reimbursements totaling $792.7 million.

The primary intended beneficiaries of the BETR and BETE programs are businesses investing in qualifying property. The secondary intended beneficiaries are the people of the State of Maine. The degree to which OPEGA finds each intended beneficiary actually benefits from the program is discussed below. Municipalities are not a targeted beneficiary of the programs, but are impacted by BETR and strongly impacted by BETE. These municipal impacts are discussed beginning on page 19.

Intended Beneficiary: Businesses Investing in Qualifying Property

Business Equipment Eligible for BETR

For FY18, the State distributed BETR reimbursements totaling $29.1 million to 1,396 businesses statewide. Reimbursements to individual businesses for FY18 ranged from a few dollars to nearly $1.5 million, and averaged $20,851. These figures are down from FY09, when total reimbursements of $66.0 million were

[7] See Appendix B for model description.

distributed to 1,863 businesses, with individual payments ranging from a few dollars to $5.5 million. Because new personal property is now BETR-eligible for only small retail sales facilities, more property is retiring from BETR than is entering into the program.

Table 4. BETR Beneficiary Statistics, Fiscal Years 2009 - 2018

Year of BETR Claim	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Fiscal Year of Payment	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18
BETR Direct Benefits (millions)	$66.0	$58.1	$55.3	$52.8	$48.7	$40.2	$33.1	$36.2	$31.8	$29.1
Number of Businesses	1863	1794	1806	1816	1679	1549	1415	1422	1430	1396
Average Payment	$35,427	$32,368	$30,595	$29,055	$29,004	$25,980	$23,427	$25,423	$22,210	$20,851
Lowest Payment	$11.00	$5.00	$11.00	$3.00	$3.00	$2.70	$2.40	$3.00	$5.00	$3.90
Highest Payment (millions)	$5.5	$4.8	$4.3	$4.1	$3.8	$3.2	$2.4	$1.9	$1.5	$1.5

Source: OPEGA analysis of data obtained from MRS.

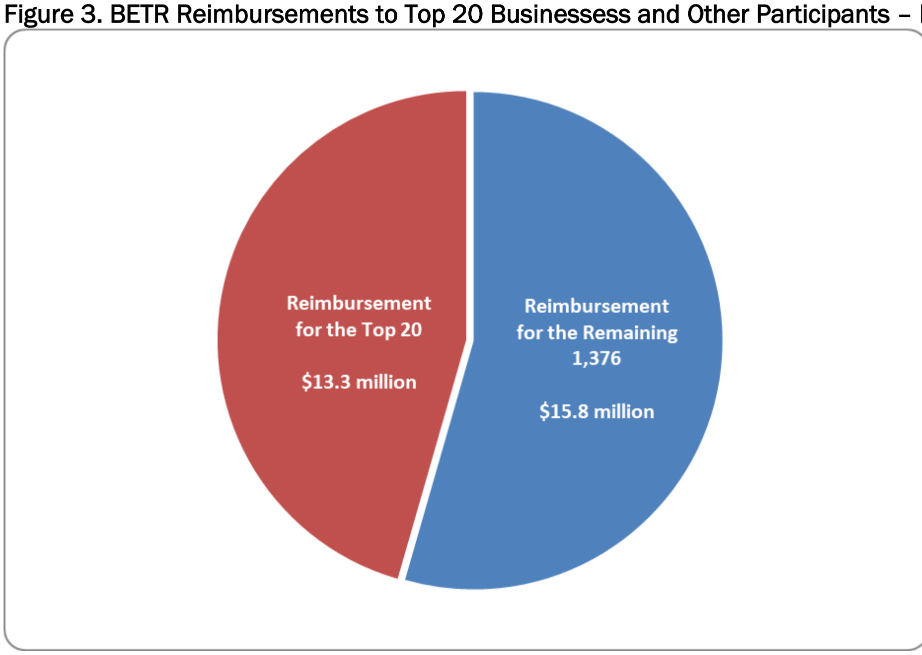
BETR reimbursements to businesses ranged from a few dollars to nearly $1.5 million.

The lowest and highest payments in Table 4 show the large difference in the amount of benefits that can be obtained from the BETR program. Because the magnitude of BETR's benefits is tied to the property taxes that a business pays on equipment, smaller businesses, with lower personal property taxes, will typically receive a lower benefit. In contrast, large businesses with more equipment have higher personal property tax bills and hence, stand to gain more from the program.

A small number of large businesses receive the majority of BETR benefits. As shown in Figure 3, 20 businesses with the highest BETR payments received about 46% of the reimbursements in FY18 compared to the 1,376 businesses which received the rest of that year's reimbursements. This ratio has not changed significantly over the time period OPEGA examined.

In FY18, 20 businesses received almost half of the total BETR tax reimbursements. This ratio has not changed significantly over the 10-year period OPEGA reviewed.

Figure 3. BETR Reimbursements to Top 20 Businessess and Other Participants – FY18



Business Equipment Eligible for BETE

In FY18, BETE exemptions resulted in property tax savings for businesses of $58.5 million.

OPEGA estimated that in FY18, the State, under BETE, provided businesses personal property tax exemptions on approximately $3.1 billion of business equipment, resulting in property tax savings for businesses of about $58.5 million. These figures are up from the FY09 estimates of $8.2 million in property tax savings for business on almost $600 million in qualifying business equipment valuation.

Because businesses receive BETE benefits as an exemption from municipal taxes and thus, don't have to apply to MRS for reimbursement, data about the level of benefits received by individual businesses is collected and retained at the municipal level. OPEGA did not attempt to collect this data from the several hundred municipalities in the State. Individual business data is stored in multiple formats and municipalities report the data to MRS only in aggregate. OPEGA used this aggregate data to analyze benefits to BETE participating businesses to the degree possible.

Table 5. BETE Beneficiary Statistics, Fiscal Years 2009 – 2018

Tax Year of Exemption	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Fiscal Year of Payment	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18
Valuation Exempted from Property Tax (billions)	$0.6	$1.1	$1.3	$1.6	$1.9	$2.2	$2.4	$2.6	$2.9	$3.1
Total BETE Property Tax Savings (millions)	$8.3	$15.8	$20.0	$25.2	$31.5	$38.2	$42.6	$48.3	$53.1	$58.5
Number of Business Establishments	N/A	N/A	N/A	N/A	4,376	4,719	4,863	5,336	5,966	6,315
Average BETE Property Tax Savings	N/A	N/A	N/A	N/A	$7,192	$8,093	$8,750	$9,048	$8,899	$9,267

Note: Counts of approved business applicants were not reported to MRS by municipalities before tax year 2012, so analysis before that year is limited. Businesses may have multiple establishment or locations.
Source: OPEGA analysis of data obtained from MRS.

In FY18 6,315 business establishments participated in BETE. Since businesses may own personal property in multiple municipalities, this statewide establishment count includes some businesses more than once, and thus is not a count of unique businesses. Using aggregate data, the average property tax savings per business establishment was $9,267 in FY18.

BETR vs BETE – Value to Businesses

A high-level comparison shows that BETE provides a greater benefit to businesses than BETR. The first advantage is that BETE's benefit is a tax exemption as opposed to a reimbursement. This exemption provides a business an immediate benefit, while a BETR reimbursement for taxes paid, ties up the business' funds for a year or more.

Businesses perceive BETR as less reliable compared to BETE.

Compared to BETE, businesses see BETR as a less stable benefit. Statute was modified five times to temporarily lower the amount of BETR reimbursement to businesses. Representatives of the business community told OPEGA that these temporary, and unplanned, reductions in reimbursements create the perception that the BETR program is not entirely stable or reliable.

A further advantage of BETE, especially for businesses with longer-lived assets, is that the full annual exemption remains in effect for the entire life of the asset. On the other hand, reimbursements for assets under BETR are subject to reductions after 12 years.

Intended Beneficiary: People of the State of Maine

The people of the State of Maine are the secondary intended beneficiaries of BETE and BETR. However, there is nothing in the design of either program that specifically directs benefits to the people of the State or clearly defines the benefits that the people of Maine are intended to receive.

Outcomes in Relation to Program Design

The program goals that the GOC directed OPEGA to use in evaluating BETR and BETE are:

- To reduce the cost of owning business property in Maine, particularly in comparison to other states and countries;
- To encourage the growth of capital investment by businesses in Maine; and
- To overcome the disincentive to growth of capital in Maine stemming from the high cost of business property, thereby promoting the general welfare of the people of the State of Maine.

Reducing the Cost of Owning Business Property in Maine, Particularly in Comparison to other States and Countries

OPEGA finds that the designs of the BETR and BETE programs guarantee that participating businesses will experience a reduction in ownership costs.

OPEGA finds that the designs of the BETR and BETE programs guarantee that participating businesses will experience a reduction in ownership costs by eliminating or reducing the personal property taxes associated with owning qualifying equipment in Maine. While costs in Maine must be lower than without the programs, it remains unclear how Maine compares to other states and countries. As illustrated in Table 2 (page 10), other states reduce ownership costs in a number of ways. Even though the cost of owning business equipment in Maine is guaranteed to be lower under BETR and BETE than without the programs, the variety of other methods to reduce ownership costs elsewhere does not allow for direct comparison.

To estimate the degree of business cost savings produced by BETR and BETE, OPEGA analyzed the reduction in ownership costs as a percent of total cost of owning a piece of equipment. For the purpose of this analysis we assumed that total cost was the purchase price of the equipment, plus property taxes due (absent the programs) for all years of the equipment's useful life. We found that BETR could result in cost savings from as little as 1.1% to as much as 9.5% over the lifetime of an asset, while BETE could result in cost savings ranging from 1.2% to 10.8%.[8]

[8] The annual value of tax savings from reimbursement or exemption is discounted at 10% as an estimate of the business' cost of capital in order to calculate the present value of the

The potential percent reduction in cost varies significantly for both programs because of two factors.

- Tax rate – The higher the local property tax rate, the larger a business' property tax bill will be. A business with a larger property tax bill for equipment will be saving more by having that property exempted, or the tax reimbursed.
- Asset life – The more years a business would owe property tax for a piece of equipment the greater the potential savings from having the property exempted from tax or having the tax reimbursed.

The common element among these factors is that the more property tax a business would owe on a piece of qualifying equipment – due to property tax rate or asset life – the greater the business' potential cost savings due to BETR or BETE.

Neither BETR nor BETE have design elements that specifically encourage growth of capital investment in Maine, other than reducing the overall cost through the programs' reimbursement or exemption.

Encouraging Growth of Capital Investment by Businesses in Maine

Neither BETR nor BETE have design elements that specifically encourage growth of capital investment in Maine, other than reducing the overall cost through the programs' reimbursement or exemption. Without BETR and BETE, the present cost of personal property taxes on business equipment is estimated to range between 1% and 11% of the total cost of owning the asset. While a benefit equal to an 11% discount on the purchase price of an asset might be an incentive towards capital investment, a benefit equal to a 1% discount likely would not.

A minority of BETR participants see a cost reduction substantial enough to likely encourage a business to make a capital investment they would not otherwise. In FY18, BETR participants received an average benefit of $20,851, yet:

In FY18, 31% of BETR participants received less than $1,000 in reimbursement.

- 8% of the businesses received 75% of the $29.1 million total BETR reimbursements; and
- the average reimbursement to these 108 businesses was $202,604.

Most businesses received a much smaller benefit under BETR. In FY18:

- 92% of businesses received an average reimbursement of $5,611; and
- 434 businesses, 31% of all BETR participants, received less than $1,000.

In FY18, the average property tax savings per business establishment under BETE was $9,267. The average BETR reimbursement was $20,851 per business.

Although OPEGA does not have a similar breakdown by business for BETE, we know that the average value of municipal exemptions under the BETE program in FY18 was $9,267. This amount is less than half of the average BETR benefit. It is smaller partly because the average for BETE is per establishment while the average for BETR is per business (including businesses with multiple locations in different municipalities). Assuming that the distribution of benefits among BETE participants is similar to BETR, the majority of business establishments would be receiving a relatively small benefit compared to the average. Thus, while a relatively small percentage of the businesses participating in the programs may have been encouraged to purchase business equipment by the existence of BETR and BETE,

savings. In these calculations, BETR includes a one-year delay in reimbursement for all asset purchases, as well as, lower reimbursement percentages for asset lives beyond 12 years.

the majority of businesses receive too small a benefit to likely influence such investments. This analysis aligns with recent academic research on economic development incentives reviewed by OPEGA,[9] as well as, the opinions expressed to us by stakeholders we interviewed.

Based on their work with business owners in their communities, some assessors and town managers believe that the tax breaks have no effect at all regarding whether a business buys new equipment. OPEGA heard from assessors about businesses that were happy to find out about the programs *after* they had purchased equipment and realized they owed personal property taxes. Other municipal officials have a more ambivalent view of whether the BETR and BETE tax benefits are a factor in a business' decision to purchase equipment. They expressed that even though firms primarily base their purchasing decisions on business needs, they respond to the complete business environment, which may include taxes as a component.

Participants say purchase decisions are influenced primarily by business and market considerations rather than personal property taxes.

Program participants interviewed by OPEGA also provided a nuanced view of whether the purchase of new equipment is due to the tax-relief programs. Personal property tax, or the lack of it, was not cited as a factor in deciding to buy new equipment by anyone we interviewed. Rather, we heard that purchase decisions are influenced primarily by business and market considerations rather than personal property taxes. However, a few representatives of businesses with multi-state locations expressed the opinion that while each purchasing decision may not be affected by BETR or BETE, the decision about where to locate the new equipment can depend on a state's total tax environment, including incentives.

Overcoming the Disincentive to Capital Investment in Maine

OPEGA sees the goals of encouraging the growth of capital investment in Maine, and overcoming the disincentive to capital investment as closely related, but somewhat different. If property tax on business equipment represents a disincentive to capital investment, then the designs of BETR and BETE effectively overcome this disincentive by essentially removing the tax.

This intent of the programs assumes that overcoming the disincentive to the growth of capital will promote the general welfare of the people of the State. It is unclear from statutory language how the people of the State are expected to specifically benefit from increasing capital investment. Certainly, capital investment can promote economic development which can benefit some people in the State. However, any tax preference by nature will affect segments of the population differently. For example, BETE's exemption for personal property tax on business equipment shifts tax burden from businesses with personal property to other taxpayers within the municipality. Thus, it does not necessarily follow that all the people in the State will necessarily benefit from the BETR and BETE programs.

[9] Bartik, Timothy J. 2018. *"But For" Percentages for Economic Development Incentives: What percentage estimates are plausible based on the research literature?,* Upjohn Institute Working Paper 18-289. Kalamazoo, MI: W.E. Upjohn Institute for Employment Research.

Assessing Program Impacts on Municipalities

Municipal impacts are unavoidable when it comes to BETR and BETE. To achieve the objective of reducing the cost of owning equipment for businesses across Maine, these State programs embedded a municipal function – collecting taxes on personal property. The impacts on municipalities, as a result of BETE, are substantial. The impacts on municipalities, as a result of BETR, are relatively minor. BETR impacts on municipalities are minor because businesses deal primarily with the state to receive the program's benefit and the municipality continues to receive the taxes due on the BETR-eligible equipment.

Municipal impacts are unavoidable because the BETR and BETE programs are reliant upon a municipal function – personal property taxation.

BETE Limits a Municipality's Authority to Tax Personal Property

The potential for BETE to have significant financial impacts on a municipality is great because BETE's exemption preempts a municipality from collecting tax revenue on (eligible) business equipment. Those impacts are reduced as a result of the following:

The State attempted to mitigate BETE's financial impacts on municipalities by providing a phased application of the minimum reimbursement, and including several design elements which increase reimbursements for some municipalities.

- Constitution of Maine: Article IV, Part Third, Section 23 of the Constitution recognizes the severity of impacts on a municipality when a state policy provides credits or exemptions for local taxes by requiring the State to reimburse municipalities for at least 50% of the lost revenue created by the exemption or credit.
- Careful initial roll out of the program: When BETE was implemented, only newly acquired assets were eligible for exemption. Additionally, the State provided for a 100% reimbursement to municipalities, which was gradually reduced over a period of years. The new asset provision means that municipalities did not lose tax revenue on assets that had been included previously in the tax base,[10] while the 100% reimbursement rate eased any potential losses from projected personal property tax revenue on future equipment purchases. Combined, these factors ensured that municipalities did not realize an actual loss from one year to the next.
- Certain elements of BETE's design: Application of the personal property factor in calculating a municipality's reimbursement and higher reimbursement rates for eligible equipment in TIF districts are design elements of BETE which also reduce the financial impacts of BETE's exemption.

Table 6. Degree to Which the State Reimbursed Municipalities for the First 10 Years of the BETE Program

Fiscal Year	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Estimated Value of Personal Property Tax Foregone ($M)	$8.3	$15.8	$20.0	$25.2	$31.5	$38.2	$42.6	$48.3	$53.1	$58.5	$341.4
State Reimbursement to Municipalities ($M)	$8.3	$14.9	$16.7	$19.1	$21.1	$24.2	$26.3	$29.4	$32.3	$35.5	$227.7
State's Average Reimbursement Percentage of Personal Property Tax Foregone	100%	94%	84%	76%	67%	63%	62%	61%	61%	61%	67%

Source: OPEGA analysis of Municipal Valuation Returns and BETE entitled reimbursements provided by MRS on 02/06/2019 and 03/07/2019.

[10] An exception to this design element occurred as a result of P.L. 2017, c.211 §A10 which had the effect of transferring retail services from BETR eligibility to BETE eligibility; thereby causing a one-time decrease in municipal tax revenue from one year to the next.

Although BETE's potential to have a substantial financial impact is reduced, complete mitigation is not achieved and financial impacts remain. As seen in Table 6, as of FY18, municipalities were reimbursed for 61% of the potential revenue that could have been collected from the personal property tax on BETE-eligible equipment. As with any property tax exemption targeted at a particular group of taxpayers or taxable property, the burden to make up for the municipality's lost revenue is borne by those not receiving the exemption. Of course, BETE is not the only tax exemption that results in such a shift. Arguably, other exemptions benefitting taxpayers, who are not BETE participants; may offset the shift caused by BETE. The variety of exemptions and their varying levels within municipalities make it difficult to quantify the tax burden shift caused by BETE.

As of FY18, municipalities were reimbursed for 61% of the potential revenue that could have been collected from the personal property tax on BETE-eligible equipment.

BETR and BETE Expand Municipalities' Administrative Responsibilities

Because the foundation of both BETR and BETE is the municipal personal property tax, the State relies heavily on municipal officials for implementation of the programs. Business applications for the programs are not ready for submission to MRS without municipal involvement to complete them. Evaluating each of the assets for which businesses claim exemption under BETE creates a significant administrative burden for municipal assessors. Each asset must be reviewed to ensure that it is a type that qualifies under the program and that it was purchased within the correct timeframe to be claimed under BETE. For every application, each listed asset's current, depreciated valuation must also be determined and recorded on the form. The application is maintained for MRS audits. For BETR, the application form also requires current depreciated value for assets. The municipality provides this on the application by copying the values used when the municipality taxed the BETR-eligible equipment. BETE's exemption removes the ability of the municipality to tax the eligible business equipment, yet municipalities do the work of valuation as if they were assessing the tax. Thus, with regard to processing applications, the administrative impact on municipalities is greater under BETE than BETR.

Under BETE, municipalities simultaneously serve in the role of administrator and program recipient.

The sheer number of assets that must be evaluated or, at the least recorded, can be a significant burden for some municipalities. In addition, determining the eligibility of an asset and for which program can be challenging due to the complexity of BETR and BETE's definitions of eligible equipment.

Because BETE uses a municipal function (taxing personal property) to achieve the program's goals, the municipality necessarily shares administrative responsibilities with the State. BETE's exemption also triggers the provision in the Constitution requiring the State to reimburse municipalities for a portion of lost revenues. This means that under BETE, municipalities simultaneously serve in the role of administrator and program recipient.

Errors in Determining BETE Reimbursement Can Have Significant Impact

BETE errors can result in municipalities being required to return funds to the State, and when these returned amounts are high, the impacts on municipal finances can be significant.

Because of the complexity of the programs' requirements and because the number of assets requiring detailed evaluation as part of the application process is high, so is the opportunity for error. When asked by OPEGA, MRS estimated that one third of BETR applications contain an error. BETR errors have no financial impact on municipalities because they are resolved between the State and the business. Municipalities are not involved in this transaction.

However, BETE errors can result in municipalities being required to return funds to the State, and when these returned amounts are high, the impacts on municipal finances can be significant. When a municipality has to return funds because an asset was claimed for BETE, and later found by MRS to be ineligible, it means that the municipality has allowed an exemption on the asset, but can get no State reimbursement for that lost revenue. In these cases, the municipality has the authority to issue a supplemental tax bill to the business that erroneously received the exemption.

Table 7. The Distribution of MRS Bill-Backs to Municipalities

Time Period	Statistic	Magnitude of Difference as a percent of Original Reimbursement			Total
		<10%	10-20%	>20%	
FY14 – FY18	Number of Bill-Backs	43	12	24	79
	Amount of Bill-Backs	$289,014	$481,661	$293,042	$1,063,717
	Average	$6,721	$40,138	$12,210	$13,465

Source: OPEGA summary of data from Maine Revenue Services (Data from FY19 is incomplete).

Between FY14 and FY18, 79 errors were identified in BETE claims and required municipalities to return funds to the State. Most of these municipalities had to repay less than 10% of their original BETE reimbursement. However, as seen in Table 7, there were 24 instances where a municipality was directed to return an amount greater than 20% of the original reimbursement received for that year.

Municipalities are Inadequately Compensated for BETE-mandated Activities

When BETR was enacted, the legislation included a mandate preamble, exempting the State from paying 90% of mandated municipal costs. BETE legislation did not include a mandate preamble.

Not surprisingly, upon enactment, BETR and BETE were determined to create new or expanded activities for municipalities – a municipal mandate. When the Legislature enacts a law with a municipal mandate, Article IX, Section 21 of the Constitution of the State of Maine requires the State to cover 90% of the costs associated with the new or expanded activity unless the legislation is enacted with a vote by two thirds of the elected membership. In accordance with this provision, statute provides for this exception to be asserted in the legislation (30-A MRSA §5685 (3) (F)). The Legislature makes this assertion by adding a mandate preamble to the legislation. When BETR was enacted, the legislation included a mandate preamble, exempting the State from paying 90% of the associated municipal costs. The legislation establishing the BETE program did not include a mandate preamble, meaning the Legislature has to provide an appropriation to cover 90% of municipal costs of BETE. The expanded administrative activities mandated by BETE are broader than those mandated by BETR.

To arrive at the rate to reimburse municipalities for BETE's mandated costs, MRS consulted with the Maine Municipal Association as a representative of local units of government. Legislation enacted around that time which imposed similar administrative requirements on municipalities used a rate of $2 per application. The fiscal note for BETE's enacting legislation used this rate as the basis for the mandate reimbursement appropriation and it continues to serve as the reimbursement rate today. OPEGA finds that compensation provided to municipalities by the State using this rate is inadequate to cover 90% of the costs of the expanded activities mandated by BETE's statute.

Applying the median wage for assessors in Maine, $2 reimburses for only 5.5 minutes of an assessor's time.

Applying the median wage for assessors in Maine, $2 per application affords only 5.5 minutes of an assessor's time per application.[11] A single application could contain from one to several hundred assets potentially requiring much more than 5.5 minutes of an assessor's time. As noted previously, every asset listed in an application is verified for eligibility based on purchase date and the program's definition of eligible business equipment. Additionally, the assessor determines the current, depreciated value for every asset claimed in the BETE application. Administering BETE can be time consuming, labor-intensive and costly to municipalities.

In addition to labor costs, any time an asset is denied eligibility under BETE, the applicant must be notified by certified letter, which costs approximately $6. Just one denied asset triggers a municipal cost to equivalent to the value of state reimbursement for 3 applications. (See Finding 3 on page 31).

[11] The median wage of municipal assessors in the State of Maine according to recruiter.com is $21.59 per hour as of October 2019. https://www.recruiter.com/salaraies/assessors-salary/?id=assessors&statewages=Maine

Summary of Key Differences Between BETR and BETE: Costs and Impacts

The BETR and BETE programs have key differences with respect to their costs and how they impact various stakeholders. OPEGA developed Table 8 to express the most important differences between the programs related to their designs, administration and impacts in the State.

Table 8. Key Difference Between BETR and BETE Regarding Costs and Impact to Stakeholders

	BETE	BETR
Eligible New Equipment	Equipment in most industries including retail services.	Generally, only small retail sales facilities selling retail goods.
Impact on Business Location Decisions	Possible. Non-retail industries more likely to consider personal property taxes as a critical cost factor in location decisions.	Unlikely. Retail decisions commonly based on local demand, not personal property taxes.
Cost Reduction for Business	100% exemption for equipment life. Immediate benefit.	100% reimbursement for new equipment for 12 years; drops to 50% over time. Benefit delayed.
Business Perception of Stability	Perceived as stable. Statutory exemptions less susceptible to changes in biennial budget process.	Perceived as less stable. Reimbursement funding susceptible to temporary reductions when budget balance options are needed.
Impact on Municipal Personal Property Tax Revenue	No personal property tax collected on eligible equipment. State reimbursement for at least 50% of foregone tax value.	No impact. Personal property tax is collected as it would be absent the program.
State Mandate Reimbursement for Municipalities	Inadequate to cover 90% of administrative costs.	No reimbursement. Enacted with a mandate preamble.
State Share of the Cost of the Benefit	State pays a constitutionally prescribed minimum of 50% foregone tax value.	State pays 100% of business benefits.
Other State Costs	• Relatively minor cost for State administration. • Additional contribution to Disproportionate Tax Burden Fund for municipalities. • Reimbursement for mandated expenses.	Relatively minor cost for State administration.

Questions and Answers

The following questions, which this report responds to, are based on the process established for the evaluation of tax expenditures in accordance with Title 3 §999.

1. To what extent is the design of the tax expenditure effective in accomplishing the tax expenditure's purposes, intent or goals and to what extent is the tax expenditure achieving its goals?

See pages 16 - 18 for more on this point

For the purposes of evaluating the programs, the GOC determined the goals and intents upon which BETR and BETE were to be evaluated in May of 2017 after consultation with the Legislature's Taxation Committee and consideration of public comment. Those goals and intents are:

- To reduce the cost of owning qualifying business property in Maine, particularly in comparison to other relevant states and countries;
- To encourage growth of capital investment by businesses in Maine; and
- To overcome the disincentive to growth of capital investment in Maine stemming from the high cost of owning business property, thereby promoting the general welfare of the people of the State of Maine.

Reducing the Cost of Owning Business Property in Maine

OPEGA finds that the designs of both BETR and BETE strongly support the goal of reducing the cost of owning qualifying business equipment. For eligible businesses that participate in the programs, property taxes on qualifying equipment are eliminated under BETE for the life of the equipment and fully reimbursed under BETR for the first 12 years of tax assessment, with a reduction in subsequent years gradually dropping to 50%.

By eliminating or reimbursing personal property taxes, the design guarantees that the cost of owning business equipment is lower for participating businesses. OPEGA estimates the present value of the cost savings to be typically between 1.1% and 10.8% of the total cost of purchasing and owning the equipment. The variation in this range depends primarily on the asset life and the municipal tax rate. The savings percentage is higher for longer-lived assets in higher tax jurisdictions.

Full or partial elimination of the cost of property taxes on business equipment necessarily makes the cost of owning qualifying business property in Maine compare more favorably to other states and countries than it would if those tax costs were not eliminated. However, direct comparison of ownership costs among states is problematic because of the various methods states use to accomplish this goal.

Encouraging Growth of Capital Investment in Maine

OPEGA finds that the designs of BETR and BETE have no elements that specifically encourage capital investment other than the reduction of ownership cost. This modest cost reduction may be enough to only encourage capital investment for businesses with alternative locations for their equipment, and the relatively few businesses that receive large amounts of reimbursements and exemptions.

OPEGA estimates that the degree to which the present value of cost savings of an individual asset is reduced by BETR or BETE varies between roughly 1% and 11% depending on the municipal tax rate and the asset life. BETR and BETE can therefore, be seen as providing a discount between 1% and 11% on the purchase of business equipment. The modest discount at the high end of this range (for longer-lived assets in high tax municipalities) might help incent a purchase or location decision, but it is unlikely to do so for a discount at the lower end of the range.

Out of the 1,396 BETR participants in FY18, the top 108 businesses received 75% of the reimbursements averaging just under $203,000 each. The remaining 1,288 businesses received an average of $5,611. Almost one third, 31% of all businesses received less than $1,000 under BETR in that year. OPEGA does not have data for individual businesses in the BETE program, but we know that the average BETE payment per establishment is less than half of the average BETR payment. While the purchasing decisions of a few larger businesses with numerous costly assets may be influenced by the BETR and BETE programs, the majority of businesses receive such small benefit that purchasing decisions are less likely to be affected. This conclusion aligns with recent academic research on economic development incentives reviewed by OPEGA, as well as, the opinions expressed to us by stakeholders we interviewed.

Promoting the General Welfare of the People of the State of Maine

The goal of promoting the general welfare of the people of the State of Maine is so broad that it is unclear how the people of the State are intended to benefit from the possible increase in capital investment that BETR and BETE aim to incent. Neither program has any design elements that ensure the people of the State receive any particular benefit. (See Finding 2 on page 30.)

2. To what extent are those benefitting from the tax expenditure the intended beneficiaries?

See pages 13 - 16 for more on this point

For the purposes of this evaluation, the GOC established that the primary intended beneficiary for BETR and BETE are businesses that invest in qualifying property. The secondary beneficiaries intended by the programs are the people of the State of Maine.

Based on data from MRS, OPEGA estimates that, for the 10 years between FY09 and FY18, combined benefits to businesses from the BETR and BETE program totaled $792.7 million.

For FY18, the BETR program distributed reimbursements totaling $29.1 million to 1,396 businesses statewide. Reimbursements to individual businesses for FY18 ranged from a few dollars to nearly $1.5 million, and averaged $20,851. In FY18, six businesses in combination received 25% of total BETR reimbursements – with an average of approximately $1.2 million each – while 1,288 businesses made up the bottom 25% of reimbursements averaging $5,611 each. In that same year, 434 businesses, or 31% of the total, received less than $1,000.

There were 6,315 business establishments participating in BETE in FY18. Since businesses may own personal property in multiple municipalities, this statewide establishment count includes some businesses more than once, and thus is not a count of unique businesses. OPEGA estimated that, in FY18, BETE allowed businesses to be exempted from paying property taxes on approximately $3.1 billion of business equipment, resulting in property tax savings for businesses of about $58.5 million. The average property tax savings per business establishment due to BETE was approximately $9,267 in FY18.

The people of the State of Maine were identified in the evaluation parameters for BETE and BETR as the secondary intended beneficiaries of the programs. However, there is nothing in the design of either program that specifically directs benefits to the people of the State or clearly defines the benefits that the people of Maine were intended to receive.

The value of BETE to the business community appears to be greater than that of BETR. BETE provides its benefit more immediately as a tax exemption while BETR ties up funds for a year or more, pending reimbursement. Also, while BETE is a permanent 100% exemption, BETR reimbursements are reduced after 12 years in the program. And finally, BETR reimbursements have been statutorily reduced in 5 different years since 2006. According to stakeholders, this creates the impression that BETR is a less stable benefit than BETE.

3. What are the State cost impacts of the tax expenditure?

See pages 11 - 13 for more on this point

Direct costs of BETR and BETE include the reimbursements paid by the State, as well as, other costs the State incurs in administering the programs. In FY18, the State directly reimbursed businesses $29.1 million through BETR, and reimbursed municipalities another $35.5 million under BETE. Other direct costs to the State include MRS administrative costs, reimbursements for BETE's mandated municipal administrative costs, and the BETE statutory requirement for an annual transfer of $4.0 million to the Disproportionate Tax Burden Fund associated with municipal revenue sharing. The total State cost of the two programs combined for FY18, including all associated costs, was approximately $68.7 million. Municipalities also bear some cost associated with the programs. (See Municipal Impacts section on page 19.)

Table 9 shows the total State costs for the BETE and BETR programs and how those costs have trended over time. The State cost of BETR has decreased over time, while the State cost of BETE has increased. BETR has decreased because most new assets purchased by businesses no longer qualify for BETR except those purchased by retail sales facilities. Grandfathered assets in BETR are retiring, reducing the reimbursements to businesses and thus, reducing direct State costs.

Table 9. Total Direct BETR and BETE Costs to the State, Fiscal Years 2009 – 2018 (in millions)

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
BETR	$66.1	$58.1	$55.3	$52.8	$48.7	$40.3	$33.2	$36.2	$31.8	$29.2	**$451.7**
BETE	$8.4	$17.0	$19.3	$22.2	$24.7	$28.3	$30.4	$33.5	$36.4	$39.6	**$259.7**
Combined	$74.4	$75.1	$74.6	$75.0	$73.5	$68.6	$63.6	$69.7	$68.2	$68.7	**$711.3**

Total direct State costs include: (1) BETR reimbursements to businesses, (2) BETE reimbursements to municipalities, (3) the statutory, annual transfer from General Fund undedicated revenue to the Disproportionate Tax Burden Fund for revenue sharing, (4) State administration expenses and (5) reimbursements for municipal BETE expenses.
Source: OPEGA analysis of BETR and BETE program data provided by MRS, as well as, OPEGA interpretation of 36 MRSA §700-A.
Totals may not sum due to rounding.

BETR and BETE reimbursements have decreased while the benefits to businesses – reimbursements for BETR, and exemptions for BETE – have increased. This is because the State pays the total cost of the decreasing BETR program, but only pays part of the cost of the increasing BETE program.

State costs are also mitigated by an increase in State tax receipts due to the economic effects of reducing the costs of participating businesses. OPEGA conservatively estimates an increase in tax receipts of $51.5 million over the 10-year period using economic modeling. The additional expected tax receipts would reduce the direct State costs of the program to $659.8 million.

4. To what extent are BETR and BETE coordinated, complementary or duplicative of other programs in Maine?

See page 10 - 11 for more on this point

OPEGA did not identify any programs that are duplicative of BETR or BETE. Although the two programs have the same goals, they are also not duplicative of each other. Equipment eligible for BETE is statutorily ineligible for BETR to ensure there is no overlap in the programs.

Until recently, a business could potentially receive combined reimbursement for property tax, via BETR and a TIF district, in excess of the total property tax the business had actually paid. This issue was identified and addressed in a 2006 amendment to BETR statute that phased out that opportunity over time. As of 2019, the opportunity for combined BETR and TIF reimbursements to exceed the property taxes paid is fully eliminated.

5. To what extent is the State's administration and implementation effective and efficient?

See pages 5 - 9 for more on this point

BETR and BETE both effectively deliver the intended benefits – reduced or eliminated property taxes on business equipment – to businesses. However, the programs do not represent an efficient way to deliver those benefits. Because they are built on the existing municipal property tax system, but involve payments from the State, both programs incur administrative effort at both the State and municipal level. In addition, the programs' complex and nuanced eligibility requirements also make them more challenging to administer and more prone to error. (See Finding 1 on page 29).

In BETR, this increased risk of error is evident in the percent of BETR claims that require adjustment – meaning that the amount paid for the claim is different than what was requested. MRS reports that approximately one third of BETR claims require such adjustment, either because they include property that is not qualified or have inaccurate calculations.

The increased risk of error is also evident in results of MRS audits of municipal BETE documentation. Over a period of five years, MRS found $1.1 million dollars in overpayments to municipalities due to errors in program calculations or eligibility determinations. Returning these overpayments can be fiscally challenging for municipalities. Before payments are sent to municipalities, MRS also frequently identifies errors in initial BETE claim processing. Consistently documenting the causes of these errors, when found, provides MRS the information necessary to focus improvement efforts. OPEGA finds that MRS is not consistently documenting adjustments to municipal BETE payments, as discussed in Finding 5 on page 33.

6. To what extent are municipalities in the State impacted by the programs fiscally, administratively or otherwise?

See pages 19 - 22 for more on this point

Municipal impacts are unavoidable when it comes to BETR and BETE. To achieve the objective of reducing the cost of owning equipment, the programs use a municipal function – collecting taxes on personal property. Personal property under BETR continues to be taxed by the municipality while BETE-eligible property is exempted from taxation with partial municipal reimbursement from the State. The impacts on municipalities as a result of BETE are substantial.

The Constitution of Maine provides that municipalities must be reimbursed for at least 50% of the tax revenue lost by BETE's exemption. When BETE was initially implemented, statute provided for a higher rate of reimbursement which was incrementally reduced until FY14 when it reached the Constitutional minimum. Some municipalities receive enhanced reimbursements when they meet certain conditions. On average, in FY18, municipalities were reimbursed for 61% of revenue foregone due to BETE's exemption.

Both the BETR and BETE program require additional administrative effort, but only BETR was enacted with two thirds majority and a mandate preamble, exempting the State from having to cover at least 90% of municipal costs due to the expanded activities (Maine Constitution Article IX, section 21). BETE legislation, on the other hand, did not include a mandate preamble and the State must, therefore, reimburse at least 90% of the mandated costs incurred by the municipalities. The expanded administrative activities under BETE are broader than those mandated by BETR. Administering BETE can be time-consuming, labor-intensive and costly. OPEGA found that the rate of reimbursement for municipal costs, $2 per application, which has been used since the beginning of the BETE program is inadequate. (See Finding 3 on page 31.)

OPEGA finds that errors are common when determining reimbursements for businesses under BETR and municipalities under BETE. Errors under BETR are resolved between the business and the State. MRS estimates that one third of BETR applications contain an error. Errors under BETE can result in the municipalities being required to return funds to the State – known as "bill-backs." When the amount of reimbursement is substantial, the impact on the municipality can be significant. Between FY14 and FY18, 24 out of 79 total bill-backs required a municipality to pay an amount greater than 20% of the original BETE reimbursement.

OPEGA's Findings

1 Municipalities and businesses are impacted by challenges in determining asset eligibility for BETR and BETE.

A consistent theme in discussions of BETR and BETE is that the programs are complex and difficult to navigate. One issue at the root of that complexity is determining which assets are eligible for the programs. Since eligibility must be considered for each individual asset, and a single business may have dozens of assets to consider, determining eligibility can be resource intensive for municipalities and businesses. This makes it more difficult to claim reimbursement, increasing the likelihood that those claims will include errors with financial repercussions for participants.

> "Simple tax expenditures can impose less compliance burden on taxpayers in terms of the need to learn about the requirements, plan, keep records, prepare and file, than complex tax expenditures."
> -Government Accountability Office[12]

Difficulties Exist in Determining Asset Eligibility

Both BETR and BETE allow the same types of equipment, but nuances in the asset eligibility guidelines can make it difficult to determine whether individual pieces of equipment qualify. An example of this is a chair in a doctor's office. Depending on where that chair is physically located within the office, it may or may not be considered an eligible asset under either program. If it is located in the waiting room, it qualifies. However, if it is in the doctor's private office, it does not.

The concurrent administration of two programs targeting the same purpose adds another layer of complexity, because it necessitates an additional determination about which program an asset qualifies under. This depends on the type of business that owns the asset. However, determining a business type can also be nuanced. Until recently, businesses that provided both retail services and retail goods were a prime example of this. Hair salons, for example, provide the retail services of hair coloring and cuts. Equipment associated with these services would be BETE-eligible. Yet, the same salons may also generate significant revenue from the sale of hair products, and equipment associated with those sales, would be eligible under BETR, rather than BETE.

All of the complexities in determining the eligibility of assets make claiming reimbursement under BETR or BETE more time and resource intensive, for businesses and municipalities respectively. Complex requirements also mean more administrative effort for MRS, both in educating and supporting program participants, and in reviewing claims when they are submitted. MRS has produced a substantial amount of program guidance to attempt to clarify BETR and BETE

[12] GAO 2012. *Tax Expenditures: Background and Evaluation Criteria and Questions,* GAO-13-167SP (Washington, D.C.; November 29, 2012): 16.

eligibility. Despite this, municipal assessors expressed their frequent need to verify asset determination with MRS.

Errors in Determining Asset Eligibility Have Financial Repercussions for Municipalities and Businesses

Programs with complicated eligibility requirements are more likely to experience a high rate of errors in claims as participants struggle to navigate the complexities. The State's experience with BETE and BETR bears this out. Claims for both programs have high error rates, which can have unexpected financial impacts for municipalities, in the case of BETE, and for business participants in BETR.

MRS reports that they have to adjust roughly one third of BETR claims – providing a lesser reimbursement than what the business requested. These adjustments are typically due to errors, either in completing the claim form accurately or in determining the eligibility of equipment. Errors in BETR claims have no financial impact on municipalities, but can be problematic for businesses that receive less reimbursement than anticipated.

Between FY14 and FY18, municipalities participating in the BETE program were issued a total of 79 bill-backs requiring them to return about $1.1 million in BETE payments to the State. These funds had to be returned because audits of municipal documentation found errors in determining equipment eligible for BETE or in calculating the BETE reimbursement due to the municipality.

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

Well-defined policy goals are the specific criteria by which programs can be evaluated, and their inclusion at the inception of a program is considered a best practice by the federal Government Accountability Office (GAO).[13] The specific goals and intended outcomes of BETR and BETE are not directly stated in BETE or BETR statute. For the purposes of this review OPEGA identified the goals of BETR and BETE from legislative findings in 36 MRSA §699 and §6659 which in both sections state that:

> "The Legislature finds that encouragement of the growth of capital investment in this State is in the public interest and promotes the general welfare of the people of the State. The Legislature further finds that the high cost of owning qualified business property in this State is a disincentive to the growth of capital investment in this State. The Legislature further finds that the tax exemption set forth in this subchapter is a reasonable means of overcoming this disincentive and will encourage capital investment in this State."

From these legislative findings, the GOC directed OPEGA to evaluate BETR and BETE using the program goals of reducing the cost of owning qualifying business equipment in Maine, particularly in comparison to other states and countries; and encouraging the growth of capital investment by businesses in Maine. The intent

[13] GAO 2012: 8.

of the programs, as established by the GOC, is to overcome the disincentive to growth of capital investment in Maine stemming from the high cost of owning business property, thereby promoting the general welfare of the people of the State of Maine.

While the program designs align with one of the derived goals, the other goals and intents of the programs are not well supported by the design. The design elements of the BETR and BETE programs clearly reduce the cost of owning qualifying business equipment by eliminating or reducing associated personal property taxes. In most cases for qualified business equipment, the programs are intended to reduce the cost of the taxes essentially to zero. However, other than reducing or eliminating personal property taxes, the design of the BETR and BETE programs include no elements that promote increased capital investment. The degree to which capital investment is expected to increase is not specified. Finally, how the programs are intended to promote the general welfare of the people of the State is also not defined in statute. As an intent of the program, it is so broadly stated as to be unmeasurable.

OPEGA finds that well-defined objectives with specific criteria by which to evaluate programs are essential for determining whether the program is performing as intended. Including goals in statute as the program is developed will help ensure that elements in the design of the programs align with those objectives, allowing for more precise evaluation of program outcomes.

3 Municipalities are not adequately reimbursed for mandated expenses.

OPEGA found that the rate of $2 per BETE application paid by MRS to reimburse municipalities is not adequate to cover 90% of the cost of municipal administration of the BETE program. Unless legislation is passed by a two-thirds majority and contains a mandate preamble, the Maine Constitution (Article IX, section 21) requires the Legislature to pay 90% of the costs of municipal expenses mandated by State programs. While the BETE program was passed by a two-thirds majority, it did not include a mandate preamble. Thus, reimbursement of State mandated municipal expenses is required.

The $2 per application rate used to set the annual appropriation for BETE's municipal mandate reimbursement has not changed since the program was enacted. At the median wage for municipal assessors in Maine, $2 per application allows 5.5 minutes of an assessor's time on a single application. A single application can contain from one to several hundred assets. If just one asset on the application is denied eligibility, the municipality must pay approximately $6 to send a certified letter to the participating business informing them of the denial. The town still receives only $2 for the application. Based on this basic mathematical analysis, a reimbursement rate of $2 per application will not cover 90% of the incremental expenses incurred by municipalities to administer the BETE program.

The Legislature has provided in 30-A MRSA §5685 the direction that the State Controller adopt rules which include a process for establishing mandate payment distribution schedules potentially informed by comment from municipalities and other affected parties. These rules are currently lacking. Rules adopted in accordance with this process can help establish and maintain an appropriate level of reimbursement to municipalities for their mandated costs that will more closely achieve the 90% requirement.

4 MRS has not provided the Department of Administrative and Financial Services (DAFS) information on the BETE mandates that they administer as required by statute.

MRS has not provided DAFS with information on the mandates they administer and their associated payment schedules as directed by statute. BETE statute (36 MRSA §700) directs MRS to administer reimbursements for State-mandated costs in a manner provided in 30-A MRSA §5685, which outlines the specific details of this requirement. MRS has confirmed that prior to OPEGA's evaluation they were unaware of the requirement to provide the information to DAFS.

> **30-A MRSA §5685(6).** A state agency making payments to local units of government under this section shall submit a report to the Department of Administrative and Financial Services by September 1st each year. The report must identify specific mandates administered by the agency during the previous fiscal year, describe the payment schedule developed by the agency for each mandate and contain any other information requested by the department.
>
> The Department of Administrative and Financial Services shall compile that information and shall issue a report annually not later than January 15th to the Governor and the Legislature summarizing state agency activities under this section.

The information associated with the BETE mandate cost reimbursements to municipalities has been available to DAFS and the Legislature since the payment schedule for BETE mandate reimbursement is a specific line item in Maine Revenue Service's biennial budget. However, this single budget item does not, by itself, provide what appears to have been intended by statute.

The directive in §5685 applies to *all* agencies that administer mandates, requiring them to report their associated payment schedules to DAFS, and for DAFS to submit a report to the Governor and the Legislature summarizing the mandates administered by agencies. DAFS has confirmed to OPEGA that they do not currently produce this annual report and to OPEGA's knowledge, although required by Statute since 1993, the report has never been produced. A DAFS representative has informed OPEGA that they are in the process of determining which agencies should be reporting mandate payment schedules, obtaining the information, and producing a report this year.

The intent of statute appears to provide a mechanism by which the Legislature and the Governor can be informed annually of the various mandates for which the State must administer reimbursements. While the BETE mandate reimbursement amount can be found as a specific line-item in the biennial budget it is unclear whether all mandates for local units of government are budget items, or if the Legislature still intends for this report to be produced.

5 MRS documentation to support adjustments to BETE payments is inadequate.

Documentation of MRS adjustments to BETE payments to municipalities is not adequate. BETE reimbursement payments are calculated as part of the process of a municipality submitting its annual Municipal Valuation Return (MVR). The MVR is primarily used to provide information to be included in MRS' annual State Valuation Report which details the equalized just value of all real and personal property in the State. The State valuations are used to calculate county taxes, State education funding and revenue sharing, as well as, for other purposes. The MVR also provides data that is necessary to calculate reimbursements to municipalities for exemptions such as BETE.

MRS reviews a municipality's BETE reimbursement request in concert with its review of other MVR data that affects the reimbursement amount calculation. The agency can find errors that affect reimbursement in both their initial, pre-payment review of the MVR, as well as a result of field audits after payment has been made. The agency currently documents its adjustments of reimbursement requests and bill-backs to municipalities on paper. These paper records do not always include reference to the source of the error or the calculation used to determine the adjusted amount. This method of record keeping does not provide adequate documentation of MRS determinations and payment adjustments.

Detailed records of the reasons for errors, along with subsequent corrections, will provide better documentation of the reimbursement adjustment. These records will be accessible through changes in personnel and will aid in proper determination of municipal reimbursements if appealed. Complete records pertaining to reimbursement adjustments will also provide information about the types and frequency of errors which will allow evaluators and the agency, the ability to classify the magnitude of various errors and thereby focus improvement efforts.

Appendix A. Scope and Methods

The scope of this review was limited to payments that occurred in fiscal years 2009 through 2018. This was the time frame available where the data from the BETR program and the data from the BETE program overlapped.

Information was gathered through:

- review of relevant statute, including the history of changes made since the program's enactment;
- review of program documents from Maine Revenue Services, such as application materials, tax bulletins and other guidance;
- review of the evaluation reports prepared by Investment Consulting Associates (ICA) for the Department of Economic and Community Development (DECD) in 2016[14] and 2018[15];
- interviews with program administrators at MRS;
- interviews with businesses and with stakeholders representing the business community;
- interviews with municipal officials, including town managers and assessors, as well as, private assessors contracted to municipalities;
- review of evaluations of programs in other states with objectives similar to BETR or BETE;
- research into comparable programs offered in other states and Canadian provinces; and
- review of available program data.

Data analyses in this evaluation were based on data provided to OPEGA by Maine Revenue Services as well as published data from the Maine Department of Labor. The following data sets were used for this evaluation and contained <u>no</u> confidential taxpayer information.

- BETR Participant Data from Fiscal Year 2009 through 2018. (The file contains year, business name, reimbursement amount, and city & state where reimbursement is sent.)
- BETE Municipal Entitlement Data from Fiscal Year 2009 through 2019. Data for 2019 was incomplete at the time it was provided. (The file contains the year, municipality name, number of applications processed, the BETE valuation, and the entitled amount of BETE reimbursement.)
- Municipal Valuation Return Data from Fiscal Year 2009 through 2019. Data for 2019 was incomplete at the time it was provided. (The file contains numerous data fields and a small number of errors which were corrected based on the BETE Municipal Entitlement Data which had been edited by MRS based on in-house edits and field audits that were conducted subsequent to MVR production.)
- Maine Department of Labor - Employment and Wages by 6-Digit Industry, Annual 2000-2018. (The data file includes Ownership codes, North American Industry Classification System (NAICS) codes & descriptions, number of establishments, average employment for the year and total wages.)

[14] ICA 2016. *Comprehensive Evaluation of State Investment in R&D and Economic Development*, Prepared for Maine DECD, Investment Consulting Associates, January 2016.
[15] ICA 2018. *Comprehensive Evaluation of State Investment in R&D and Economic Development*, Prepared for Maine DECD, Investment Consulting Associates, January 2018.

Appendix B. Economic Modeling Methods

For fiscal years 2009 through 2018, OPEGA modeled how providing business with the financial benefits of BETR and BETE impacted State tax revenues. OPEGA staff employed Regional Economic Models, Inc.'s (REMI) Tax-PI software (version 2.3.4) for this analysis. A 70-sector model based on North American Industry Classification System (NAICS) codes was used, and was specifically customized for the State of Maine. The model includes historical economic and demographic data from federal government agencies such as the Bureau of Economic Analysis, U.S. Census Bureau, and Bureau of Labor Statistics.

REMI models typically develop a baseline forecast for a region. When users input data to evaluate an economic policy, or other change, the REMI model estimates changes from that baseline which occur as a result of those changes. Changes occur throughout the economy based on the effect of the change in inputs on the model's input-output matrices and trade flows between the study region and the rest of the nation. For OPEGA's historical analysis - rather than employ a forward-looking baseline forecast, the baseline was recalculated to be based on fiscal years 2009 through 2018. By using this "backcast" method, OPEGA was able to compare the effects of actual yearly inputs from the programs to their appropriate baseline year. REMI staff assisted OPEGA with adjusting the REMI model's baseline performance measures to approximate the economic conditions prevalent during the time period covered by this analysis.

Tax Policy Inputs to the Model

The data OPEGA input into the model consists of the annual benefits[16] provided to businesses by the State due to BETR and BETE for each year between FY09 and FY18. These benefits increase economic activity of the various industrial sectors that are represented by businesses that participate in the programs as well as other sectors affected by the increased economic activity. Because the State must balance expenses to revenues in its biennial budget, funding the BETR and BETE programs means that the State has less funding for other State purchases. OPEGA modeled the effect of this opportunity cost by reducing state government output by the cost[17] of the programs to the State. The benefits provided to business and the reduction of funds available for other government spending account for both positive and negative economic effects in the model output.

In order to appropriately model economic effects, OPEGA input business benefits by industry sector. With the assistance of EPB (formerly EDR Group), OPEGA assigned NAICS codes to the businesses represented in BETR reimbursements by using a combination of information from the marketing company, Infogroup, as well as from local knowledge. NAICS codes were found for 84.6% of the total reimbursement value paid by the State. The remaining 15.4% of reimbursement was allocated using the sampled distribution.

OPEGA did not have access to individual company names for the BETE program and so could not assign industry sectors to BETE recipients in the manner done for BETR. Because BETE has few restrictions on the types of businesses eligible for exemptions, OPEGA used a modification of the Maine Department of Labor's yearly statistics of employment by NAICS code[18]. OPEGA removed NAICS codes of sectors that are disallowed from the BETE program by statute, developed yearly distributions of employment by sector, and applied those distributions to the calculated BETE benefit to businesses in the State. This method assumes a uniform probability of participation in BETE across eligible industries within the State.

[16] BETR benefits to businesses are the amount of reimbursement provided by the State for personal property taxes paid by the business. OPEGA estimated the annual benefits of the BETE exemption for businesses as the amount of property value exempted that is listed in each municipality's Municipal Valuation Return, multiplied by the municipal tax rate.
[17] The cost of BETR is the amount of reimbursement to businesses while the cost of BETE is the amount of reimbursement to municipalities. Since the State reimburses municipalities for only a portion of taxes foregone, the State cost of BETE is less than the benefit received by the business participants.
[18] Maine Department of Labor - Employment and Wages by 6-digit Industry, Annual 2000-2018 (Excel) https://www.maine.gov/labor/cwri/qcew.html#interactive

Both the reimbursement by NAICS code for BETR, and the exempted tax value by NAICS code for BETE, were converted into the appropriate sectors of the REMI model. These tax benefits by sector were then input into the REMI model as reductions in the production costs of these various sectors. The opportunity cost associated with fewer State funds for other purchases was represented by a policy variable which reduced government output except for employment and wages, by the amount of the State cost of the BETR and BETE programs.

Using the REMI model's input-output matrices and trade flow relationships, the program generates measures of economic differences from the baseline economic performance.

Estimation of Tax Receipts

The REMI model does not explicitly predict the changes in tax revenue that are likely to occur with economic changes above the baseline. In order to do this, OPEGA used a ratio of actual tax receipts published in Maine's Comprehensive Annual Financial Reports (CAFR) from FY09 through FY18 to various statistics associated with the REMI model's baseline regional simulation over the same time period. With the aid of REMI staff, OPEGA used baseline statistics that tend to vary with the type of tax revenue reported by the CAFR. Table B1 shows this process using data from fiscal year 2018. Individual ratios were calculated for each year and tax receipts were estimated for each year of the simulation by multiplying the appropriate ratio by the change in the appropriate statistic seen in the simulation.

Table B1. Example of Calculating the Increase in Tax Receipts as a Result of Simulating BETR and BETE Expenditures Using Fiscal Year 2018 Data

FY18 Tax Revenue from CAFR[1] ($000s)		REMI Statewide Statistic[2]	FY18 Baseline Statistic ($000s)[2]	CAFR Tax Revenue divided by Baseline Statistic – Percentage[3]	FY18 Simulation BETR & BETE Difference from Baseline ($000s)[2]	Estimate of Increase in FY18 Tax Receipts ($000s)[3]
Corporate Taxes	187,519	Value Added	67,235,029	0.28%	69,293	193.258
Individual Income Taxes	1,628,709	Personal Income	62,055,267	2.62%	101,210	2,656.357
Fuel Taxes	249,927	Personal Consumption Expenditures - Motor Vehicle Fuels, Lubricants, and Fluids	1,739,207	14.37%	3,007	432.145
Property Taxes	66,226	Gross Private Domestic Fixed Investment	12,379,685	0.53%	37,248.	199.262
Sales & Use Taxes	1,573,544	Disposable Personal Income	55,460,312	2.84%	88,402	2,508.191
Other Taxes	377,966	Gross Domestic Product (GDP)	67,235,029	0.56%	69,293	389.533
[1]https://www.maine.gov/osc/sites/maine.gov.osc/files/inline-files/cafr2018_1.pdf [2]Output from OPEGA's REMI Model. [3]Manual Calculation (reported numbers are rounded).						6,378.746

Appendix C. GOC Approved Evaluation Parameters

Parameters for OPEGA's Full Evaluation of the Business Equipment Tax Reimbursement (BETR) & Business Equipment Tax Exemption (BETE) as approved by the Government Oversight Committee 5-12-17

Program	Enacted	Statute(s)	Type	Category	Est. Revenue Loss
BETR	1995	36 MRSA Ch915	Property Tax Reimbursement to Businesses	Business Incentive - Equipment Investment	FY18 $26,800,000 FY19 $23,420,000
BETE	2005	36 MRSA Ch105 subCh 4-C	Property Tax Reimbursement to Municipalities	Business Incentive -Equipment Investment	FY18 $37,968,101 FY19 $42,968,623

Source for Estimated Revenue Loss: Maine State Tax Expenditure Report 2018 – 2019.

Program Description

The Business Equipment Tax Reimbursement (BETR) and Business Equipment Tax Exemption (BETE) programs provide reimbursements or exemptions to businesses for municipal property taxes on specified business equipment. Under BETR, the State reimburses businesses directly for a portion of the property taxes paid to local tax jurisdictions, while under BETE, the State reimburses local tax jurisdictions for a portion of property taxes foregone due to property tax exemption. The similarities and differences between the two programs are discussed in the sections that follow.

Eligible Equipment Is Defined the Same for Both BETR and BETE

Both programs define qualified business equipment similarly as equipment that is depreciable, or has been fully depreciated, under the Internal Revenue Code including the following types of equipment:

- personal property that furthers a particular trade or business activity and is devoted to a business purpose;
- parts, additions & accessories;
- construction in progress; or
- inventory parts.

Both BETR and BETE exclude the following equipment:

- equipment owned by an entity that is otherwise exempt from property tax,
- natural gas pipelines, unless owned by a consumer of gas and less than 1 mile in length;
- pollution control facilities that are entitled to an exemption under §656 subsection 1 ¶E;
- certain gambling equipment;
- property used to transmit energy for sale;
- items from Title 36, chapters 111 & 112 (aircraft, house trailers, motor vehicles, watercraft); and
- equipment owned by public utilities, radio paging services, mobile telecommunications services, cable television companies, satellite-based direct television broadcast services, and multichannel, multipoint television distribution services.

Eligibility for BETR and BETE Varies Based on Type of Business

Most businesses in Maine can generally benefit from both BETR and BETE; however, particular property owned by the business can only be eligible for reimbursement or exemption in one program or the other. As shown in the table that follows, the property eligible for BETR or BETE depends on a business' industry, the type of property purchased, and the date the property was placed in service.

Eligible Businesses	Eligible Equipment	
	BETR	BETE
Non-Retail Businesses	Equipment first placed in service in Maine after April 1, 1995 and before April 1, 2007 that is current on property tax payments to the municipality.	Equipment first placed in service in Maine after April 1, 2007.
Large Retail Businesses (exceeding 100,000 square feet of interior sales space)	All equipment first placed in service from 1995 until April 1, 2006. Equipment first placed in service on or after April 1, 2006 for large retail businesses that derive less than 50% of their total annual revenue (nationwide) from sales that are subject to Maine sales tax. (After April 1, 2007, large retail businesses that could be eligible for BETR and BETE may only use BETE.)	Equipment first placed in service after April 1, 2007 for large retail businesses whose Maine-based operations derive less than 30% of their total annual revenue from sales that are made at retail facilities located throughout Maine.
Small Retail Businesses (less than 100,000 square feet of interior sales space)	Equipment placed into service at any time from 1995 to date.	None.

<u>BETR and BETE Differ in Who the State Makes Payments to and in How Much the State Pays</u>

	BETR	BETE
Entity that Receives Payment from the State	The State reimburses businesses for a portion of the property taxes paid to a municipality on equipment eligible under BETR.	The State reimburses municipalities for a portion of the property taxes they would otherwise have collected on equipment eligible under BETE.
Amount of Payments	The State reimburses a percentage of the property taxes paid by a business. The percentage is specified in statute and varies according to the number of years the equipment has been in service. For some years the State has paid only a portion of the percentage designated in statute. In the years 2006, 2009, 2010, and 2013 businesses were reimbursed only 90% of the percentage allowed by statute. For 2014 they received 80% of the statutorily allowed amount.	The State reimburses a percentage of a municipality's foregone property taxes. The percentage started at 100% in 2008 when the program began and gradually reduced to 50% by 2013. Reimbursement is scheduled to remain at 50% for future years with exceptions for: • municipalities where total <u>*business*</u> property value (both taxable and exempt) exceeds 5% of the municipalities' <u>*combined residential and business*</u> property value (both taxable and exempt); or • municipalities with TIFs approved before 4/1/2008 that meet particular requirements.

As can be seen from the above table, municipalities receive all of their local property taxes from businesses under the BETR program. Under BETE they receive no taxes from business on eligible equipment, but they typically receive half of what the businesses would have paid from the State. The effect on businesses differs under the two programs as well. Businesses are exempt from the full amount of the property taxes on eligible equipment under BETE, while under BETR they must pay the full amount and are reimbursed for only a portion of that amount.

The Processes by Which Businesses Apply for Benefits Are Different for BETR and BETE

A business desiring to apply for the BETR local property tax reimbursement from the State must notify the local taxing jurisdiction of its intent, and request a statement of just value and the associated tax for the property. The business then submits an application to the State Tax Assessor who certifies qualified businesses, and must reimburse businesses with eligible equipment by November 1st, or within 90 days after receipt of the claim, whichever is later. The State Tax Assessor also certifies to the State Controller annually the amount to be transferred from the General Fund to the BETR reserve account to cover the cost of reimbursements.

To receive the BETE property tax exemption a business must apply to the local tax assessor every year, regardless of whether there has been any change to the equipment for which the exemption is being requested. The local tax assessor indicates on a standardized form whether each piece of equipment is BETE eligible, whether it is in a TIF district, and its assessed value. The local tax assessor then summarizes the amount of just value and exempted amounts and applies to the State Tax Assessor for reimbursement. MRS reviews the claims and determines the total amounts to be paid and then certifies the payments. The State Treasurer is required to pay the municipality by December 1st of the year in which the exemption applies.

Evaluation Parameters Subject to Committee Approval

The following parameters are submitted for GOC approval as required by 3 MRSA §999 subsection 1, paragraph A.

(1) Purposes, Intent or Goals

Intent (BETR & BETE) — To overcome the disincentive to growth of capital investment in Maine stemming from the high cost of owning business property, thereby promoting the general welfare of the people of the State of Maine.

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

To encourage growth of capital investment by businesses in Maine.

(2) Beneficiaries

Primary Intended Beneficiaries (BETR & BETE) — Businesses investing in qualifying property.

Secondary Intended Beneficiaries (BETR & BETE) – The people of the State of Maine.

Other Impacted Parties (BETR & BETE) – Municipalities.

(3) Evaluation Objectives

Below are the objectives the evaluation proposes to address. The objectives are coded to indicate which of the performance measures in section (4) could potentially be applicable.

Each objective will be explored to the degree possible based on its relevance, the level of resources required and the availability of necessary data. Any substantial statutory changes since the program's enactment will be considered in addressing objectives impacted by those changes.

Objectives	Applicable Measures
1) The fiscal impact of the tax expenditure, including past and estimated future impacts;	C, D, E Qualitative
2) The extent to which the design of the tax expenditure supports achievement of the tax expenditure's purposes, intent or goals and consistent with best practices;	Qualitative
3) The extent to which the tax expenditure is achieving its purposes, intent or goals, taking into consideration the economic context, market conditions and indirect benefits;	A, C, E, F, G, H, I Qualitative
4) The extent to which those actually benefiting from the tax expenditure are the intended beneficiaries;	A, B, C, E, F, G, H Qualitative
5) The extent to which it is likely that the desired behavior might have occurred without the tax expenditure, taking into consideration similar tax expenditures offered by other states;	C, F, H, I Qualitative
6) The extent to which the State's administration of the tax expenditure, including enforcement efforts, is efficient and effective;	Qualitative
7) The extent to which the tax expenditures (BETR & BETE) are coordinated with, complementary to or duplicative of each other or other similar initiatives;	Qualitative
8) The extent to which the tax expenditure is a cost-effective use of resources;	A, C, D, E, G, H, I, Qualitative
9) The extent to which municipalities in the State are impacted by the program fiscally, administratively or otherwise;	A, B, C, F, I Qualitative
10) Any opportunities to improve the effectiveness of the tax expenditure in meeting its purposes, intent or goals.	Qualitative

OPEGA will perform additional work as necessary, and as possible within existing resources, to provide context for OPEGA's assessment of this program in Maine, including review of literature or reports concerning these programs nationally or in other states.

(4) Performance Measures

Performance measures are coded to indicate which of the above objectives they could potentially help address. Measures will be calculated to the degree possible based on the level of resources required and the availability of necessary data.

Proposed Performance Measures for BETR & BETE

A	# Total businesses receiving reimbursement for local property taxes under BETR # Total businesses receiving tax exemptions under BETE # Total municipalities receiving reimbursements for BETE tax exemptions
B	Business participation rate: comparison of number of businesses receiving either BETR or BETE to number of businesses in the State Municipal participation rate: comparison of number of municipalities receiving BETE reimbursement to total number of municipalities
C	Total BETR reimbursement amount received by businesses Total BETE tax exemption amount received by businesses Total BETE reimbursement received by municipalities Total BETE property tax revenue foregone by municipalities net of State reimbursements
D	Direct program cost to State: State administration costs + amounts paid by the State to businesses or municipalities
E	Net impact on State budget (using economic modeling, as possible and appropriate, to include capture of indirect benefits and costs)

F	Average amount of BETR reimbursement and BETE exemption per business, including min & max Average BETE payment per municipality, including min & max Average BETE property tax revenue foregone per municipality, including min and max
G	Indicators of economic impact (using economic modeling to estimate impacts such as GDP or employment growth)
H	% reduction in the cost of eligible business property
I	Indicators of growth in capital investment

Performance measures would typically be calculated by year to allow for analysis of percentage changes year over year, trends, etc. Further calculations and breakouts that would be considered, as appropriate, include:

- per capita,
- comparison to industry or geographic trends,
- by business sector,
- by new vs. continuing beneficiary,
- by county or municipality, or
- by firm size.

Appendix D. Maine's Tax Expenditure Review Process

OPEGA conducts reviews of tax expenditures in accordance with Title 3 §§998 and 999. Tax expenditures are defined by Title 5 §1666 as "state tax revenue losses attributable to provisions of Maine tax laws that allow a special exclusion, exemption or deduction or provide a special credit, a preferential rate of tax or a deferral of tax liability." Tax expenditure reviews fall into one of two categories, full evaluation and expedited review. The GOC, in consultation with the Joint Standing Committee of the Legislature having jurisdiction over taxation matters, assigns a category to tax expenditures and establishes a prioritized schedule for the reviews.

The tax expenditure review process was established as the result of Resolves, 2013, chapter 115, which directed OPEGA to develop a proposal to be considered by the Joint Standing Committee on Taxation during the 127th Legislative Session. On March 2, 2015, OPEGA submitted the report outlining the proposal for implementing ongoing reviews and included a chart of identified tax expenditures (http://mainelegislature.org/doc/578). The report states that the purposes of establishing a formal, ongoing legislative review process are to ensure that:

- Tax expenditures are reviewed regularly according to a strategic schedule organized so that tax expenditures with similar goals are reviewed at the same time;
- Reviews are rigorous in collecting and assessing relevant data, determining the benefits and costs, and drawing clear conclusions based on measurable goals; and
- Reviews inform policy choices and the policymaking process.

The proposal became LD 941 An Act to Improve Tax Expenditure Transparency and Accountability and was enacted as Public Law 2015, chapter 344. Part of this law, Title 3 §999, provides that the GOC establish parameters for each full review based on the following:

- The purposes, intent or goals of the tax expenditure, as informed by original legislative intent as well as subsequent legislative and policy developments and changes in the State economy and fiscal condition;
- The intended beneficiaries of the tax expenditure;
- The evaluation objectives, which may include an assessment of:
  - The fiscal impact of the tax expenditure, including past and estimated future impacts;
  - The extent to which the design of the tax expenditure is effective in accomplishing the tax expenditure's purposes, intent or goals and consistent with best practices;
  - The extent to which the tax expenditure is achieving its purposes, intent or goals, taking into consideration the economic context, market conditions and indirect benefits;
  - The extent to which those actually benefiting from the tax expenditure are the intended beneficiaries;
  - The extent to which it is likely that the desired behavior might have occurred without the tax expenditure, taking into consideration similar tax expenditures offered by other states;
  - The extent to which the State's administration of the tax expenditure, including enforcement efforts, is efficient and effective;
  - The extent to which there are other state or federal tax expenditures, direct expenditures or other programs that have similar purposes, intent or goals as the tax expenditure, and the extent to which such similar initiatives are coordinated, complementary or duplicative;
  - The extent to which the tax expenditure is a cost-effective use of resources compared to other options for using the same resources or addressing the same purposes, intent or goals; and
  - Any opportunities to improve the effectiveness of the tax expenditure in meeting its purposes, intent or goals; and
- The performance measures appropriate for analyzing the evaluation objectives. Performance measures must be clear and relevant to the specific tax expenditure and the approved evaluation objectives.