TAX EXPENDITURE REVIEW
BUSINESS EQUIPMENT TAX REIMBUSEMENT/ BUSINESS EQUIPMENT TAX EXEMPTION
1/12/22

	Summary	Notes
Why are we here?	1. The Tax Expenditure Review Law (3 MRSA c. 37) requires the Legislature to periodically review various tax expenditures[1]. Different procedures apply to: A. Full review provisions (OPEGA evaluation) B. Expedited reviews. (OPEGA provides info; no evaluation) BETR/BETE are "full review" provisions.	1. OPEGA completed its evaluation of BETR/BETE (February 2020). 2. GOC has endorsed the OPEGA report and sent it to the TAX committee with related materials (1/15/21)
Taxation committee responsibility 3 MRSA §999.4	1. Review the results of the OPEGA evaluation 2. Review GOC's review of report and other materials submitted to TAX 3. Submit a report to the Legislature documenting TAX Committee's activities and recommendations 4. May submit bill to the Legislature to implement TAX Committee recommendations (no deadline specified).	3. TAX is directed by statute to submit to Legislature a report of its activities and recommendations regarding the report by the later of A. 90 days after receipt and B. The adjournment sine die of the regular session during which the materials were received. TAX may submit a bill to the Legislature to implement its recommendations.
What are BETR and BETE?	BETR (enacted in 1995) provides state reimbursement to eligible businesses for property taxes paid on qualified business equipment placed in service after 4/1/95 and befor 4/2/07 (except that certain retail property newly placed in service after 4/2/07 remains eligible for BETR reimbursement. BETE, enacted in 2006 largely replaces BETR and provides a property tax exemption for qualified business equipment first placed in service on or after 4/1/08 with state reimbursement to municipalities for generally 50% of the lost revenue.	Under BETR, The state makes a payment to the property owner based on statutory computations. Reimbursement is 100% for first 12 years and declines to 50% thereafter. Under BETE, the State makes a payment to the municipality of 50% of the revenue lost as a result of the exemption.

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

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What is purpose; intent; goals?:	Statutory purposes: 1. Provide incentive for the growth of capital investment in this State 2. Reduce the cost of owning qualified business equipment BETR: 36 MRSA §6659 Enacted in 1995 (PL 1995,c. 368, Part FFF) BETE: 36 MRSA §699 Enacted in 2006 (PL 2005, c. 623)	OPEGA Finding 2: Goals and intended outcomes against which BETR and BETE are to be evaluated are unclear. (report pp. 30-31): Specific goals and intended consequences have not been identified by the Legislature. Including well-defined objectives and evaluation criteria in statute are essential for evaluating program performance Based on direction of GOC, OPEGA evaluated the programs effect on: 1. Reducing cost of owning qualified property in comparison to other states and countries 2. Encouraging growth of capital investment in Maine businesses
Impact of complexity of the programs on municipalities and businesses		OPEGA Finding 1: Municipalities and businesses are impacted by challenges in determining asset eligibility for BETR and BETE. (report pp. 29-30): The complexity of determining eligibility of business property for BETR and BETE create difficulties for both businesses and municipalities resulting in: 1. Costs to municipalities and business 2. High rate of errors in administration of program
Municipal costs Mandate reimbursement	State mandate payment requirement: 1. Article IX, Section 21 of the Maine Constitution provides that the State may not require municipalities to expand or modify their activities unless the State funds 90% of the cost (unless enacted with a mandate preamble requiring 2/3 vote). This requirement applies to municipal costs of administering BETE exemptions. 2. 36 MRSA §700 directs MRS to administer state-mandate reimbursements. 30-A MRSA §5685 requires all agencies administering mandate reimbursements to provide details to DAFS which is required to summarize mandates and report by Jan. 15th annually to the Governor and Legislature.	OPEGA Finding 3: Municipalities are not adequately reimbursed for mandated expenses. (report pp 31-32) Payments to municipalities for mandated administrative costs ($2 per BETE application) are not adequate to cover the Constitutionally mandated state funding for administrative costs. OPEGA Finding 4. MRS has not provided DAFS information on the BETE mandates that they administer by statute. Report pp.32-33 OPEGA report indicates that MRS has not been providing mandate information to DAFS nor has DAFS submitted the required mandate reports mandate reports to the Governor and Legislature.

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Cost of BETR/BETE	2019 MRS estimate of costs:[2] BETE reimbursement to municipalities (generally 50% of revenue loss): FY 20 $49,194,722 FY 21 $49,755,000 FY 22 $57,050,000 FY 23 $61,900,000 9,215 exemptions in 2019 BETR reimbursement to property taxpayers: FY 20 $25,490,793 FY 21 $21,600,000 FY 22 $20,200,000 FY 23 $18,900,000 1,251 businesses requested reimbursement for 2018 property taxes MRS estimate of agency administrative costs: OPEGA Report p. 12. BETE: $88,500 BETR: $46,100	
Length of benefits	BETR: Originally for 12 years; end date repealed when BETE enacted. BETR reimbursement now declines from 100% to 50% from year 12 through year 18 then remains at 50%. BETE: No time limitation on eligibility.	
Administrative provisions	MRS reimburses municipalities based on information the municipalities include in their annual Municipal Valuation	Finding 5. MRS documentation to support adjustments to BETE payments is inadequate. Report p. 33

[2] . Figures from MRS, *Maine State Tax Expenditure Report, 2022-2023.*

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	Return. Adjustments are sometimes necessary because of changes to the information submitted by the municipality.	OPEGA finds that MRS records regarding adjustments to BETE reimbursement are recorded on paper only and sometimes do not adequately explain the reason for the adjustment. The inconsistency in explanations for adjustments make it difficult or impossible to evaluate the accuracy of he adjustment and to identify recurring problems that could be corrected.

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