PROVISIONS FOR NOVEMBER 2021 EXPEDITED REVIEW:

I. TAX POLICIES:

TAX POLICY WORKSHEET:
EXPEDITED REVIEW – TAX POLICIES

	A. TAX POLICY -- INPUTS TO TANGIBLE PRODUCTS	
	Statutory criteria for evaluation	**Notes**
	a. Reasons for tax policy	<u>OPEGA definition of policy area:</u> *"Exempts from tax items that are a component part, or considered integral to, production of a tangible product."* The provisions reviewed in this category include sales tax Purpose: To avoid double taxation by taxing as part of final product rather than also when each component part is purchased in the line of production. SAMPLE FROM PRIOR REPORT: The committee believes that reconsideration of this policy is not warranted at this time.
	b. The extent to which the reasons for the adoption of this policy remain or whether reconsideration is needed	SAMPLE FROM PRIOR REPORT: The reasons for adoption of this policy continue. Reconsideration is not warranted at this time.
	c. The extent to which the tax policy is consistent with other state goals	<u>SAMPLE FROM PRIOR REPORT:</u>: This policy is consistent with principals of avoiding double taxation. The reasons for adoption of this policy continue. Reconsideration is not warranted at this time
	d**. The past and future fiscal impact of the tax policy**	The OPEGA report provides estimates for FY 18 through FY 23 for the revenue loss attributable to this tax policy (Table 3, p. 4) and

		each individual tax expenditure subject to review (Appendix A, p.21). The estimates are derived from information provided by Maine Revenue Services in its biennial tax expenditure reports. The estimates are prepared by Maine Revenue Services based upon state and local expenditure data from the U.S. Census Bureau, Annual Survey of State Government Finances as well as Maine state motor fuel tax returns. The estimated sales tax revenue loss attributable to this policy ranges from $276,385,000 in FY18 to $284,275,000 in FY 23. The estimates for tax expenditures covered by this report are based on estimated ranges of revenue loss because more specific information is not available.

	B. TAX POLICY -- CONFORMITY WITH INTERNAL REVENUE CODE	
	Statutory criteria for evaluation	**Notes**
	a. Reasons for tax policy	OPEGA definition of policy area: *"Conforms with federal income tax law."* The provisions reviewed in this category affect income tax. Purpose: Conformity reduces filing errors, increases compliance and keeps Maine taxes competitive with other states. SAMPLE FROM PRIOR REPORT: : The committee believes that reconsideration of this policy is not warranted at this time.
	b. The extent to which the reasons for the adoption of this policy remain or whether reconsideration is needed	SAMPLE FROM PRIOR REPORT:: The reasons for adoption of this policy continue. Reconsideration is not warranted at this time.

	c. The extent to which the tax policy is consistent with other state goals	SAMPLE SIMILAR TO PRIOR REPORT:: This policy is consistent with principals of maintaining simplicity in tax filing and in maintaining competitiveness with other states. Reconsideration is not warranted at this time.
	d**. The past and future fiscal impact of the tax policy**	The OPEGA report provides estimates for FY 18 through FY 23 for the revenue loss attributable to this tax policy (Table 3, p. 4) and each individual tax expenditure subject to review (Appendix A, p.21). The estimates are derived from information provided by Maine Revenue Services in its biennial tax expenditure reports. The estimates are prepared by Maine Revenue Services based upon state and local expenditure data from the U.S. Census Bureau, Annual Survey of State Government Finances as well as Maine state motor fuel tax returns. The estimated sales tax revenue loss attributable to this policy ranges from $739,105,000 in FY18 to $917,455,000 in FY 23. The estimates for tax expenditures covered by this report are based on estimated ranges of revenue loss because more specific information is not available.

	C. TAX POLICY -- NON-TAXABLE SERVICES	
	Statutory criteria for evaluation	**Notes**
	a. Reasons for tax policy	OPEGA definition of policy area: *"Exempts services from sales tax."*

		The provisions reviewed in this category include sales tax These tax expenditures result from the structure of Maine's sales tax which, by statute, applies to sales of tangible personal property and a few specified services, e.g. short term rentals of lodging, certain motor vehicle rentals)
	b. The extent to which the reasons for the adoption of this policy remain or whether reconsideration is needed	
	c. The extent to which the tax policy is consistent with other state goals	
	d**. The past and future fiscal impact of the tax policy**	The OPEGA report provides estimates for FY 18 through FY 23 for the revenue loss attributable to this tax policy (Table 3, p. 4) and each individual tax expenditure subject to review (Appendix A, p.21). The estimates are derived from information provided by Maine Revenue Services in its biennial tax expenditure reports. The estimates are prepared by Maine Revenue Services based upon state and local expenditure data from the U.S. Census Bureau, Annual Survey of State Government Finances as well as Maine state motor fuel tax returns. The estimated sales tax revenue loss attributable to this policy ranges from $2,130,005,000 in FY18 to $2,193,005,000 in FY 23. The estimates for tax expenditures

		covered by this report are based on estimated ranges of revenue loss because more specific information is not available.

	Tax Expenditure	OPEGA[1] rept page	MRS TER[2] page	Est. revenue loss[3]		Notes
				FY 21	FY 22	
SALES TAX EXEMPTION FOR INPUTS TO TANGIBLE PERSONAL PRODUCTS						
1	**Sales tax exemption for products used in agricultural and aquacultural production and bait** **36§1760.7-A, 7-B and 7-C**	6	84	Sales tax: $9,150,000	Sales tax: $9,210,000	**Revenue estimate calculated using 2017 Census of Agricultural and the sales tax microsimulation model**
	Summary: 7-A. Aquacultural production and bait: Feed, hormones, pesticides, antibiotics, and medicine for use in aquacultural production and bait sold to commercial fishermen. 7-B. Commercial agricultural production. Seed, fertilizers, defoliants, and pesticides including but not limited to, rodenticides, insecticides, fungicides, and weed killers, for use in commercial agricultural production. 7-C. Products used in animal agricultural. Sales of breeding stock, semen, embryos, feed, hormones, antibiotics, medicine, pesticides and litter for use in agricultural production; sales of antiseptics and cleaning agents used in commercial animal production, including raising and keeping of equines.					

[1] Office of Program Evaluation and Government Accountability. *Information to Support 2018 Expedited Reviews of Maine State Tax Expenditures; "Charitable" and "Specif Policy Goal" Tax Expenditures.* July 2018
[2] Department of Administrative and Financial Services, Maine Revenue Services. *Maine State Tax Expenditure Report 2018 – 2019.* February 15, 2017.
[3] Revenue estimates reflect General Fund impacts (unless otherwise indicated). Estimates are based on data provided by Maine Revenue Services .

	Tax Expenditure	OPEGA[1] rept page	MRS TER[2] page	Est. revenue loss[3] FY 21	FY 22	Notes
	A. Past and future fiscal impact					See OPEGA report (Appendix A)
	B. Administrative costs or burdens					SAMPLE FROM PRIOR REPORT: The Committee received no information indicating that there are administrative burdens connected with this exemption.
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					SAMPLE FROM PRIOR REPORT: The Committee sees no inconsistency related to this exemption
	D. Extent to which the design of the TE is effective in accomplishing its purpose					SAMPLE FROM PRIOR REPORT: This exemption appears to be effective in accomplishing its purpose
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					SAMPLE FROM PRIOR REPORT: The Committee sees no issue with the benefits of this provision reaching its intended beneficiaries.
	F. Extent to which the original reasons for the TE still exist					SAMPLE FROM PRIOR REPORT: The Committee believes that these items still warrant exemption.
	G. Are there other reasons to amend or repeal					SAMPLE FROM PRIOR REPORT: None noted.
	H. Other recommendations (retain, repeal, amend)					SAMPLE FROM PRIOR REPORT: Retain

	Tax Expenditure	OPEGA[1] rept page	MRS TER[2] page	Est. revenue loss[3] FY 21	FY 22	Notes
2	**Sales tax exemption for sales of seedlings for commercial forestry use** **36 MRSA §1760.73**	**7**	**151**	**ST $50,000 to $249,999**	**ST $50,000 to $249,999**	**Revenue estimate is estimated as a range of possible values because little or no data is available.**
	Summary: Sales of tree seedlings for use in commercial forestry.					
	A. Past and future fiscal impact					Please see OPEGA report (Appendix A)
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					

	Tax Expenditure	OPEGA[1] rept page	MRS TER[2] page	Est. revenue loss[3] FY 21	FY 22	Notes
3	**Sales tax exemption for 95% of the sales price of fuel and electricity, including price of transmission and distribution, used at a manufacturing facility.** **36§1760.9-D**	**8**	**90**	**ST $16,360,000**	**ST $17,100,000**	**Revenue estimated based on data collected from sales and use tax returns.**
	Summary: Sales tax exemption for 95% of the sales price of fuel and electricity, including price of transmission and distribution, used at a manufacturing facility. Includes 95% of sale price of fabrication services for production of fuel for use at a manufacturing facility.					
	A. Past and future fiscal impact					Please see OPEGA report (Appendix A)
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					

	Tax Expenditure	OPEGA[1] rept page	MRS TER[2] page	Est. revenue loss[3] FY 21	FY 22	Notes
	H. Recommendations (retain, repeal, amend)					
4	**Sales tax exemption for sales of electrical energy or water stored for the purpose of generating electricity when the sale is to or by a wholly owned subsidiary by or to its parent corporation (excluding sales for resale to or by wholly owned subsidiary).** **36§1760.91**	**9**	**168**	**ST $250,000 to $999,999**	**ST $250,000 to $999,999**	**Revenue loss estimated as a range because little or no data is available.**
	Summary: Sales tax exemption for sales of electrical energy or water stored for the purpose of generating electricity when the sale is to or by a wholly owned subsidiary by or to its parent corporation (excluding sales for resale to or by wholly owned subsidiary).					
	A. Past and future fiscal impact					Please see OPEGA report (Appendix A)
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					

	Tax Expenditure	OPEGA[1] rept page	MRS TER[2] page	Est. revenue loss[3] FY 21	FY 22	Notes
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					
5	**Sales tax exemption for sales of machinery and equipment used in production of tangible personal property intended to be sold or leased, pursuant to federal contract or for final use or consumption or in generation of radio and television broadcast signals (includes sale and lease back).** **36§1760.31**	**10**	**113**	**ST $33,690,000**	**ST $33,920,000**	**Revenue estimate based on BEA data on investment by detailed industry, national and state data on value added by industry and national and state data on employment by industry.**
	Summary: **Sales tax exemption for sales of machinery and equipment:** **A. For use by purchaser directly and primarily in production of tangible personal property intended to be sold or leased for final use or consumption or tangible personal property pursuant to a contract with the feral government or agency thereof, or in generation of radio or television broadcast signals.** **B. To a bank or leasing company as part of a sale and leaseback transaction for use as described in paragraph A.**					
	A. Past and future fiscal impact					Please see OPEGA report (Appendix A)
	B. Administrative costs or burdens					

	Tax Expenditure	OPEGA[1] rept page	MRS TER[2] page	Est. revenue loss[3] FY 21	FY 22	Notes
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					
6	**Sales tax exemption for sales of machinery and equipment for use directly and exclusively in certain research and development activities in the experimental and laboratory sense and for certain biotechnology research.** **36§1760.32**	**11**	**114**	**ST $50,000 to $249,999**	**ST $50,000 to $249,999**	**Revenue estimated range. Little or no data available**
	Summary: Sales tax exemption for sales of machinery and equipment for use directly and exclusively in certain research and development activities in the experimental and laboratory sense and for certain biotechnology research.					

	Tax Expenditure	OPEGA[1] rept page	MRS TER[2] page	Est. revenue loss[3] FY 21	FY 22	Notes
	A. Past and future fiscal impact					Please see OPEGA report (Appendix A)
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					

	Tax Expenditure	OPEGA[1] rept page	MRS TER[2] page	Est. revenue loss[3]		Notes
				FY 21	FY 22	
7	**Sales tax exemption or refund for electricity, fuel depreciable machinery and equipment (including repair parts) for persons engaged in** **1. Commercial agricultural production;** **2. Commercial fishing;** **3. Commercial aquacultural production** **4. Commercial wood harvesting** **5. Commercial nurseries and greenhouses** **36§2013**	**12**	**186**	**ST $14,090,000**	**ST 15,010,000**	**Revenue estimates based on micro-simulation model and information from sales tax returns**
	Summary: Sales tax exemption or refund for electricity, fuel depreciable machinery and equipment (including repair parts) for persons engaged in 1. Commercial agricultural production; 2. Commercial fishing; 3. Commercial aquacultural production 4. Commercial wood harvesting 5. Commercial nurseries and greenhouses Purchasers may be certified for an exemption before purchase of eligible items or apply for a refund after purchase.					
	A. Past and future fiscal impact					Please see OPEGA report (Appendix A)
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					

	Tax Expenditure	OPEGA[1] rept page	MRS TER[2] page	Est. revenue loss[3] FY 21	FY 22	Notes
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					
8	**Sales tax exemption for sales of tangible personal property that becomes an ingredient or component part of tangible personal property for later sale or lease or produced pursuant to a contract with federal government or agency. 36 MRSA §1760.74**	**14**	**152**	**ST $200,200,000**	**ST $201,600,000**	**Revenue estimated using sales tax microsimulation model. Reliability in question.**
	Summary: Sales tax exemption for sales of tangible personal property that: 1. Becomes an ingredient or component part of tangible personal property for later sale or lease, or 2. Becomes part of tangible personal property produced pursuant to contract with federal government or agency.					
	A. Past and future fiscal impact					Please see OPEGA report (Appendix A)
	B. Administrative costs or burdens					

	Tax Expenditure	OPEGA[1] rept page	MRS TER[2] page	Est. revenue loss[3]		Notes
				FY 21	FY 22	
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					

CONFORMITY WITH THE FEDERAL INTERNAL REVENUE CODE						
				FY 21	**FY 22**	
9	**Itemized deductions allowed on federal tax return are allowed on Maine return with certain adjustments.** **36§5125**	**15**	**18**	**IT** **$9,150,000**	**IT** **$8,100,000**	**Revenue estimate based on tax data..**
	Summary: Itemized deductions allowed on federal tax return are allowed on Maine return with the following adjustments. 1. Reduced by federally deductible state income or sales tax, income taxable to financial institutions, interest or expenses incurred in production of exempt income, amount included in basis of family development accounts 2. Increased by interest or expense in the production of Maine taxable income that was not federally deducted. 3. Total itemized deductions are capped at $28,350, excluding medical deductions 4. Itemized deductions phased out for MAGI exceeding (2020) $80,000 (single), $120,000 heads of household, $160,000 (married joint). Dollar amounts are subject to COLA adjustments.					
	A. Past and future fiscal impact					Please see OPEGA report (Appendix A)
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					

	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					
10	**Net operating loss subtraction modification** **36§5200-A.2.GG**	**17**	**NA**			**Revenue not estimated. Not considered a tax expenditure**
	Summary: Allows net operating loss carry forward deduction not allowed under IRC to the extent the amount has not previously been used as a modification and Maine taxable income is not reduced below zero. Repealed retroactively PL 2021, c.1, Sec. H-4					
	A. Past and future fiscal impact					
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					

	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					
11	**Global Intangible Low-Taxed Income Subtraction modification** **36 MRSA §5200-A.2.EE**	**19**	**202**			**Not included on MRS tax expenditure report**
	Summary: Decreases taxable income by 50% of the apportionable global intangible low-taxed income included in federal gross income. Addresses constitutional concerns.					
	A. Past and future fiscal impact					Please see OPEGA report (Appendix A)
	B. Administrative costs or burdens					

	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					
12	**All other conformity provisions** **36§5102.1-D** **36§5162.2**	**20**	**69?**	**IT** **$857,925,000**	**IT** **$909,355,000**	**Revenue estimate based on information reported in MRS Tax Expenditure reports** **See p. 23 in OPEGA report for itemized revenue impacts of items included under "other provisions" due to conformity to FAGI.**
	Summary: Maine conformity with exclusions and deductions used to calculate federal adjusted gross income.					
	A. Past and future fiscal impact					Please see OPEGA report (Appendix A)
	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					

	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					

NON-TAXABLE SERVICES						
				FY 21	FY 22	
13	**Non-taxable services** 36§1752.11 36 MRSA 752.17-B	20	205	ST $2,078,595,000	ST $2,135,395,000	**Revenue estimate derived using sales tax microsimulation model**
	Summary: Services that are not subject to sales tax. 1. Consumer services: Medical services Transportation services Amusement and recreational services Financial services Information services except telecommunications Education services Personal, household and business services Social Services 2. Business services: Transportation services Information Services except telecommunications Financial services Legal, business, admin. and support services Educational services Medical services Amusement and recreational services Repair, maintenance, personal services except construction Construction services 3. Casual sales 4. Sales by executors					See OPEGA report p.22 for itemized revenue loss estimates.
	A. Past and future fiscal impact					Please see OPEGA report (Appendix A)

	B. Administrative costs or burdens					
	C. Extent to which this TE is consistent with the broad tax policy and other TEs					
	D. Extent to which the design of the TE is effective in accomplishing its purpose					
	E. Extent to which the benefits reach intended beneficiaries including consideration of enforcement mechanisms					
	F. Extent to which the original reasons for the TE still exist					
	G. Are there other reasons to amend or repeal					
	H. Recommendations (retain, repeal, amend)					