SEN. ROGER J. KATZ, SENATE CHAIR
REP. ANNE-MARIE MASTRACCIO, HOUSE CHAIR

MEMBERS:

SEN. NATHAN L. LIBBY
SEN. PAUL T. DAVIS, SR.
SEN. BILL DIAMOND
SEN. GEOFFREY M. GRATWICK
SEN. THOMAS B. SAVIELLO
REP. JEFFREY K. PIERCE
REP. JENNIFER L. DECHANT
REP. MATTHEW A. HARRINGTON
REP. DEANE RYKERSON
REP. PAULA G. SUTTON

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY

May 12, 2017

Accepted August 23, 2017

CALL TO ORDER

The Chair, Rep. Mastraccio, called the Government Oversight Committee to order at 9:07 a.m. in the Burton Cross Building.

ATTENDANCE

Senators:	Sen. Katz, Sen. Davis, and Sen. Saviello Joining the meeting in progress: Sen. Libby Absent: Sen. Diamond and Sen. Gratwick
Representatives:	Rep. Mastraccio, Rep. Pierce, Rep. Rykerson and Rep. Sutton Joining the meeting in progress: Rep. DeChant and Rep. Harrington
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Matthew Kruk, Principal Analyst, OPEGA Scott Farwell, Senior Analyst, OPEGA Jennifer Henderson, Senior Analyst, OPEGA Amy Gagne, Analyst, OPEGA Etta Connors, Adm. Secretary, OPEGA

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

The members of the Government Oversight Committee introduced themselves for the benefit of the listening audience.

SUMMARY OF THE APRIL 28, 2017 GOC MEETING

The Summary of the April 28, 2017 meeting was accepted as written.

82 State House Station, Room 107 Cross Building
Augusta, Maine 04333-0082
TELEPHONE 207-287-1901 FAX: 207-287-1906

NEW BUSINESS

- **OPEGA Report on the Maine State Lottery**

Director Ashcroft noted that OPEGA presented its Report on the Maine State Lottery at the GOC's April 28th meeting and that today is the Public Committee Period the GOC typically holds on each released report.

- **Public Comment Period**

Patrick J. Traub, Regional Vice President, Government Relations, Scientific Games. (A copy of Mr. Traub's testimony is attached to the Meeting Summary.)

Sen. Saviello asked a question for Sen. Gratwick, who could not be at the meeting. He asked who determines what radio stations to advertise on.

Mr. Traub said the Advertising Agency gave their recommendations to the Lottery and that Scientific Games was not involved with advertising decisions.

Sen. Saviello said Sen. Gratwick also wanted to know why the Lottery did not advertise on Maine Public Radio. Sen. Gratwick felt that might indicate targeting by not advertising on Public Radio.

Rep. Pierce asked if Mr. Traub had an opportunity to look over OPEGA's Recommendations in the Report.

Mr. Traub said the Recommendations seemed reasonable.

Rep. Mastraccio referred to Mr. Traub's testimony and the issue referred to in the newspaper article about the Waite General Store which is the basis for why the GOC decided to investigate the Maine State Lottery. She noted that in Mr. Traub's testimony it says "1,250 square miles – or 60 times the size of Portland" is the geographic market size around Waite and that is probably why it looked like that area sold a large amount of lottery tickets.

Mr. Traub said the Waite General Store has 38 miles of US 1 all to itself. It is the only lottery vendor along that stretch. When you then assign that traffic to the 62 adults who live in Waite you end up with a skewed number.

The GOC thanked Mr. Traub for his comments and for answering their questions.

Dwight Hines, Livermore, ME. (Mr. Hines did not provide a copy of his testimony.)

Mr. Hines said he is impressed with the GOC and OPEGA. He thought the Report did not contain any legislative history, and there are no comments, or a section, on the administrative law that these agencies go by and the weaknesses of those. The idea of an employee, or someone from outside, who has a complaint about an agency, they bring that complaint to them and it generates a lot of information and can help prevent things getting to an extreme area. He said his experience with BABLO has only been with the Alcohol Bureau and he thought the protections for a procedural process had a lot of weaknesses. Mr. Hines said BABLO has enough money to hire experienced trained people.

The Committee thanked Mr. Hines for his comments

The Chair, Rep. Mastraccio, closed the Public Comment Period on OPEGA's Maine State Lottery Report at 9:15 a.m.

- **Committee Work Session**

Director Ashcroft said the purpose of the work session is for the GOC to consider whether there is any action the Committee wants to take on OPEGA's Report Recommendations and also to consider whether they are ready to vote on whether or not to endorse the Maine State Lottery Report.

There are two Report Recommendations, one of which suggests possible legislative action in terms of amending the statute with regard to the Lottery to eliminate the requirement for annual certification of financial information to the State Treasurer. Director Ashcroft said the certification is currently not being done and the State Treasurer said it is not needed for their work so she was not sure why it was originally in statute. She said the GOC may also want to consider amending the statute with regard to the annual reports the Lottery is required to submit to the Legislature. OPEGA found that the reports, at least in the timeframe OPEGA was reviewing, had not been delivered to the Legislature annually as required, although BABLO does get financial information from DAFS' Service Center and that would probably suffice as that annual report were BABLO to submit it to the Legislature.

OPEGA also observed that there might be additional things the Lottery could report on annually to help keep the Veterans and Legal Affairs (VLA) Committee and the Appropriations and Financial Affairs (AFA) Committee more aware of what was going on with the decisions that are being made by the State Lottery Commission and BABLO.

Director Ashcroft said the statute could potentially be strengthened, if the annual reporting requirements are continued, by adding specifics to the statute in terms of the date that the annual reports are required, which joint standing committee the reports should be delivered to and then, if the GOC wanted to include some additional information beyond the financial piece, to specify what should be included in the annual reports. She said there was an effort in the VLA Committee in the last couple of years to try to get annual reporting of advertising expenses. Those expenses are already part of the financial report BABLO gets from DAFS. It might be helpful if an annual report also included a description of the key advertising and marketing efforts that had gone on with the Lottery as well as possibly a summary of key decisions made, or actions taken, by the Commission over the previous year.

Rep. Mastraccio asked if the legislation would come from the GOC or the VLA Committee. Director Ashcroft said the GOC could do either. They could introduce the legislation and it would get referred to the VLA Committee. Or the GOC could send a letter to the VLA Committee, or the committee of jurisdiction, saying this is something we noted. She said the Joint Standing Committees do not have the authority to introduce legislation so sometimes in the past the GOC's letter also includes language that says if the VLA Committee decides they want, or think legislation is worthwhile, the GOC could help facilitate that either by bringing it back to the GOC to introduce or by doing a joint order that transferred the GOC's authority to another Committee. Director Ashcroft said there are ways to try to do that.

Rep. Mastraccio asked what the most efficient way of filing legislation would be, considering that the Session is nearing the end and it would probably be legislation for the Second Session. Director Ashcroft said even if the GOC wanted to file the legislation, members of the GOC may want to talk with members of the VLA Committee to find out whether the suggestions made sound reasonable to them, what they might like included for specifics. A first step would be to send a memo to the VLA Committee to see if the GOC can get information back about what that Committee would like or the GOC can reach out to them informally. She thinks it is something the GOC can continue to look at over the Interim.

Rep. Rykerson referred to the Additional Information on Breakdowns of Maine Lottery Advertising by Station prepared by OPEGA and asked if similar information could be part of the Maine State Lottery's annual report. Director Ashcroft said it could.

Director Ashcroft referred to and summarized the information in the GOC members' notebooks regarding the Maine Lottery Advertising by Station and Maine Welfare Lottery Winners from 2010 – 2014. (Copies of both are attached to the Meeting Summary.)

Rep. Mastraccio and other Committee members asked what the "Hot Adult Contemporary" Station was. Mr. Farwell said Hot Adult Contemporary is a subset of the adult contemporary format. Adult Contemporary favors pop music from the last fifteen or twenty years as opposed to current hits. The Hot Adult Contemporary format includes more current hits, more popular adult contemporary.

Director Ashcroft referred to Sen. Saviellio's earlier question of why the Lottery was not advertising on Maine Public Radio and said she did not think OPEGA knew that specifically. She guessed there was some reason that Maine Public Radio just does not fit into the advertising mix very well for whatever cost the Lottery might have to apply to it. She said OPEGA can seek a more specific answer for the Committee. Sen. Saviello said if it is not too much trouble he would ask OPEGA to follow-up on it. OPEGA will contact BABLO to get a specific response as to why the Lottery does not advertise on Maine Public Radio.

Rep. Mastraccio referred to the first Report Recommendation and said she could talk to the VLA Committee to see if they wanted the GOC to move forward with legislation. She thought the GOC should move forward with Recommendation 1 and that the Maine State Lottery is already working on Recommendation 2. Director Ashcroft said she will prepare a letter from the GOC to the VLA Committee asking if there is interest in pursuing Recommendation 1 and, if there is, the GOC can work with them to get language that satisfies their needs. Sen. Saviello said, from a timing perspective, if legislation was introduced this session, it would be a carryover bill. Director Ashcroft was hoping that if the GOC could get a letter to the VLA Committee shortly the Committee could get their response prior to the end of the session and then the GOC can work the bill over the Interim if the Committee wants to introduce legislation for the Second Regular Session. Rep. Mastraccio noted that the bill will be ready to go in January, 2018 for when the VLA Committee will have time to work the bill.

- **Committee Vote**

Motion: That the Government Oversight Committee endorses the Maine State Lottery Report and the GOC send a memo to the VLA Committee regarding legislation they want to submit in the Second Regular Session. (Motion by Rep. Pierce, second by Sen. Saviello, passed unanimous vote, 11-0.) (Sen. Diamond and Sen. Katz voted on the motion in the allowed time frame in accordance with the GOC's Rules.)

UNFINISHED BUSINESS

- **Review and Approval of Proposed Evaluation Parameters for the 2017 Tax Expenditure Reviews**

Director Ashcroft summarized for members information from the documents in their notebooks titled Summary of Comments for GOC Consideration Regarding Evaluation Parameters for BETR, BETE and MCIC, Proposed Parameters for OPEGA's Full Evaluation of the Business Equipment Tax Reimbursement & Business Equipment Tax Exemption (BETR & BETE) and the Proposed Parameters for OPEGA's Full Evaluation of the Maine Capital Investment Credit (MCIC). (Copies of the three documents regarding Evaluation Parameters are attached to the Meeting Summary.)

The GOC's questions and comments included:

Sen. Saviello referred to the BETR and BETE economic impact section in the Summary and said he thought it was a good idea. He suggested that, as OPEGA does their work, they look at the impact throughout the system and gave the example of the mill's paper machines that were rebuilt. Jobs were maintained at the mill and in addition you had a large group of people who helped build them. He said it is not just the project itself. Something to consider may be what were the spin offs and what was maintained afterwards. Director

Ashcroft thought the economic impact modeling OPEGA does is intended to capture those sort of indirect related impacts.

Director Ashcroft said the GOC asked for the Taxation Committee's input on the Evaluation Parameters in accordance with statute and the Taxation Committee had no recommendations for changes to the Proposed Parameters.

Director Ashcroft noted a change that will be made regarding the BETR & BETE Proposed Parameters. On page 3, **Evaluation Parameters Subject to Committee Approval** (1) <u>Purposes, Intent or Goals</u> – Goals would now be "Goals – To reduce the cost of owning qualifying business property in Maine, particularly in comparison to other relevant states and countries."

Motion: That the Government Oversight Committee approves the Parameters for BETR & BETE with OPEGA's suggested changes resulting from the stakeholders' comments. (Motion by Sen. Saviello, second by Rep. Pierce, passed unanimous vote, 11-0.) (Sen. Davis, Sen. Diamond, Sen. Katz and Sen. Libby voted on the motion in the allowed time frame in accordance with the GOC's Rules.)

Motion: That the Government Oversight Committee moves forward with BETR & BETE as the next priority for Tax Expenditure Reviews. (Motion by Sen. Saviello, second by Rep. Pierce, passed unanimous vote, 11-0.) (Sen. Davis, Sen. Diamond, Sen. Katz and Sen. Libby voted on the motion in the allowed time frame in accordance with the GOC's Rules.)

Director Ashcroft said OPEGA's recommended change to the Proposed Parameters of the MCIC Evaluation is to add one bullet on Page 3 that would do a breakdown of some of the proposed indicators by apportionment status.

Motion: That the Government Oversight Committee approves the MCIC Parameters and to move forward with OPEGA's suggested changes resulting from the Stakeholders' comments. (Motion by Sen. Saviello, second Rep. Harrington, passed unanimous vote, 11-0.) (Sen. Davis, Sen. Diamond, Sen. Katz and Sen. Libby voted on the motion in the allowed time frame in accordance with the GOC's Rules.)

Director Ashcroft noted that at the last meeting the Committee reviewed the materials provided by Mr. DiMillo regarding MCIC and forwarded that information to the Taxation Committee. The Taxation Committee made a request to the Governor for representatives from the Maine Revenue Services and the Office of Tax Policy to attend their meeting to talk about Mr. DiMillo's concerns, but those folks were not permitted to attend the Taxation Committee meeting.

Director Ashcroft said Mr. DiMillo did describe to the Taxation Committee what his concerns are. Not having any information from the Agency however, the Committee was unable to provide any guidance back to the GOC at this time or to resolve Mr. DiMillo's concerns. After the Taxation Committee's discussion, they decided they would like to hear from folks affected by this Credit through a public hearing process. The Committee is currently pursuing a joint order that would authorize the Taxation Committee to report out legislation regarding the Credit and it is their hope that would permit them to hold a public hearing to obtain public input regarding the credit. The Taxation Committee will let the GOC know immediately if they decide legislative action is warranted.

Sen. Saviello said there was a meeting without Mr. DiMillo being present and a conversation did take place, but he did not know what the resolution was. He finds it interesting that permission was not given for Agency staff to attend the Taxation Committee meeting because he said at an earlier meeting Dr. Allen, Robert Weaver and a few others from the Departments were in attendance.

Director Ashcroft asked Sen. Saviello which Committee members were at the meeting he was referencing. Senator Saviello said they had more than a quorum present, including the Chairs of the Committee. She said early on OPEGA had talked with Dr. Allen about this credit and it was her understanding that there was an explanation for the situation Mr. DiMillo was concerned about. So she was unsure why that did not come out. Director Ashcroft said OPEGA could follow-up on what was learned during those meetings. Sen. Saviello recalled that Dr. Allen said Mr. DiMillo was right about the situation but explained that out-of-state corporations taking advantage of the credit are exceptions, like the Wal-Marts of the world, but the majority are all Maine businesses. Sen. Saviello recalled the conversation was that we could change it, but that would have dramatic effects on others that are involved. He had to leave at that point of the meeting so does not know the outcome.

Rep. Sutton asked if it was known whether Mr. DiMillo was in the Taxation Committee Room at the time of their discussion of MCIC. Director Ashcroft said he was, so he is aware of the current status of the Taxation Committee's actions. Rep. Sutton noted how complex the issue is.

Rep. Rykerson said perhaps the intention of the loophole was actually to encourage outside business to invest in Maine and he did not know how to get the effect of it or get that information.

Rep. Pierce, in response to Rep. Sutton's question, said Mr. DiMillo was not in the Room when the Taxation Committee met with Dr. Allen and others. Dr. Allen was familiar with what Mr. DiMillo was talking about and Rep. Pierce agreed with Sen. Saviello about them saying there are some loopholes that some are taking advantage of. He also had to leave the meeting at the point Taxation members and others were getting into a more detailed explanation. He suggested the GOC ask Dr. Allen to come to a meeting to explain what he talked about to the Taxation Committee

Director Ashcroft suggested that she could find out what Dr. Allen's explanation was that was provided in that meeting. Then, based on his response, she would be able to let the GOC know if she thinks just letting OPEGA's evaluation go forward will flush it all out and would be a better course of action.

Rep. Mastraccio said that OPEGA would be looking at MCIC, but would not vote to put MCIC ahead of BETR and BETE.

- **Children's Licensing and Investigation Services Report (continued Work Session)**

Director Ashcroft said at the last GOC meeting members voted to endorse OPEGA's Children's Licensing and Investigation Services Report, but there was still some information the Committee wanted to receive from the Agency. The GOC had also wanted to continue discussing whether there was anything the Committee wanted to do with regard to OPEGA's Report Recommendations.

OPEGA did send DHHS the additional questions the GOC had regarding Children's Licensing staff. The responses received are:

- There are currently 5 vacancies in Children's Licensing.

- The current average caseload for Child Care Licensing Specialists is 80 providers per worker.

- Year to date, with 4 Out of Home Investigators, the team has averaged 32 investigations per month (8 per investigator). An average of 7 investigations (25% of all investigations) per month were for child care programs. (Director Ashcroft said the rest of the investigations were on other type of facilities.)

- DHHS states that the current number of staff is sufficient to complete the work of Children's Licensing, for both Licensing and Out of Home Investigations Units.

Director Ashcroft said OPEGA also received a couple of emails from Ms. Holman, who was at the previous meeting and spoke at the Public Comment Period with regard to her concerns around parental notification and how the agency handled that. She had a couple of specific suggestions that were contained in her emails including that notification to parents of non-victims should only occur after an investigation has been substantiated for abuse or severe neglect. Her second suggestion was that DHHS should define and clarify the word "systemic" in regards to when it makes notifications to parents of children who have not been identified as alleged victims. Director Ashcroft noted that both of Ms. Holman's comments related to Recommendation #5 where OPEGA had recommended to the Agency that they clarify in their policies the expectations for parental and public notifications of investigations and the results of those investigations. OPEGA had noted the lack of any sort of guidance around when parents of non-victims should be notified. She said the policy currently references the fact that the Agency has the authority under statute to notify parents and the agency described to OPEGA that their practice, which is described on page 26 of the Report, is to notify parents of non-victims on a case-by-case basis depending on whether they feel the concerns that have been brought up are systemic. Director Ashcroft believes that is the "systemic" Ms. Holman is referring to. It is currently not written in their policy, but was described to OPEGA as their practice.

Rep. Mastraccio respected Ms. Holman's comments, but said there needs to be some kind of lee way for an investigator. To say non-victims' parents should never be notified until after the case has been substantiated is a problem.

Sen. Saviello agreed with Rep. Mastraccio and said the one time parents are not notified will be the one time we wish we did. He thinks the Agency is handling it the best they can with what they have for information so he would not support a change in that in any way.

Rep. Mastraccio said all of these things are only as good as the people that are doing them. Having enough people, and she was not saying the number of staff the Agency currently has isn't enough, but she is concerned that lack of staff is going to be a problem because of the Agency's workload. The Agency says they have enough, but she said you only have enough until you get three calls in one day and then what happens if you do not have the staff available to take care of it. Rep. Mastraccio said those are the kinds of things she is concerned about.

Rep. Harrington asked if the five vacancies were slated to be cut in the upcoming budget. Rep. Mastraccio said her interpretation is that the Agency said they have adequate staff so she did not get anything from that they anticipated filling those vacancies. She noted that in the proposed budget there are a lot of vacancies in the Department that they say they are going to eliminate. Rep. Mastraccio's interpretation is that those positions are vacant, will not be filled and will be eliminated if the Chief Executive's budget were to be passed as it currently is.

Rep. Pierce thought the question was whether the Agency is actively seeking candidates for the vacant positions. Rep. Mastraccio said when the GOC was receiving interim report backs from the Agency when the review was in suspended status, they reported that what seems to happen in this Department is staff come into this Department and then transfer out because of the stress of doing these jobs. People are not transferring from other Departments into this Department, but are transferring out of this Department to other Departments.

Rep. Pierce agreed and thinks the question is are they looking to fill the positions or not, and if they are not because they have adequate staff, he thinks at some point you have to believe the Agency knows whether they have enough staff or not.

Rep. Mastraccio agreed and said that is why it would be nice to ask that question to the Agency, but unfortunately the Committee can't because the Agency's staff was not at the meeting. DHHS' response to prior questions by the GOC was the current number of staff is sufficient to complete the work of Children's Licensing, but that did not answer Rep. Pierce's or her question. She said you cannot wait to fill a position until after there is a caseload they cannot handle because that is how they got into trouble with the last case. Rep. Mastraccio said that was her concern and she did not know how to answer that question. She said the GOC got involved because the Department said they did not have enough people, time or policies.

Director Ashcroft said looking at staff levels and whether they were sufficient for the workload was not in the Scope of OPEGA's review so unfortunately did not have a lot of detail on that. To get to some of those specifics, she thinks would require OPEGA diving back in with the Agency to look at that. She said OPEGA's findings are that DHHS is completing investigations overall, for the most part, within timeframes that were set by policy. From that perspective, OPEGA's overall conclusion is that DHHS has been completing things timely. OPEGA did have some observations about not being able to tell, in some areas, how thorough the investigation was and that would be another component of whether they have enough staff. She said DHHS is going to act on OPEGA's recommendations about adding guidance to make sure there is enough done on the investigations so theoretically, when the GOC gets a report back from the Department about whether or not they made those changes to their guidelines OPEGA can also find out from its follow-up work what that has meant, how is it getting documented and what that has meant in terms of the timeliness of the investigation. DHHS is tracking timeliness themselves so the Committee can also ask them, as part of their report back, to give a read on whether they are continuing to meet their timeliness standards, etc.

Director Ashcroft said the GOC discussed having DHHS report back to them in August because they have a July date for completing their action items on the Report Recommendations.

Rep. Mastraccio said she was willing to hold her questions until August. Director Ashcroft was hopeful, if the GOC asked well in advance, that DHHS staff will be able to attend the August meeting.

Director Ashcroft said the GOC was already going to have DHHS report back to them and unless the Committee wanted to give additional guidance about things they should consider including in their policy, for example, a definition of systemic, the Committee could wait and see what they are going to plan on reporting. Rep. Mastraccio said she would not object to having DHHS clarify systemic. Director Ashcroft said it is not in DHHS' written policy right now and OPEGA suggested that they should put something in their policy. So the Committee can make it known to the Agency that if they are going to talk about this practice in written policy, that they should clarify, or provide examples of, the types of situations that would lead one to do a broader notification.

The Children's Licensing and Investigation Services Report will be on the August GOC meeting agenda for DHHS' report back.

REPORT FROM DIRECTOR

- **Update on Status of LD 367 and LD 1217 (Economic Improvement Plan and Economic Development Program Evaluation)**

Director Ashcroft said LD 367 and LD 1217 are the two GOC introduced bills that relate to an economic improvement strategy for the State prepared by the Maine Economic Growth Council (MEGC). LD 1217 is specifically about making improvements to Department of Economic and Community Development's (DECD) required evaluation of economic development programs. Both bills are being worked by the LCRED Committee. She was at LCRED's work session for the bills so could report to the GOC that LD 1217 has been voted out as unanimous ought to pass. That will be coming to the House and the Senate next. She referred the Committee members to the Talking Points on LD 1217 in their notebooks which the Director had prepared for Committee members for when LD 1217 was talked about in either Chamber. She said the Talking Points document is meant to be a ready reference document for them to be able to address the bill on the floor or answer questions of their colleagues.

LD 367 is still being worked on by the LCRED Committee and OPEGA is in the process of working with the OPLA Analyst to get Committee Amendment language put together. She expects it to be discussed next week. LD 367 does have a fiscal note on it so there has also been discussions about how to fund it. Director

Ashcroft was not sure they had any hard and fast solutions to that yet, but are working to get the language to a place where the Committee can be comfortable voting the LD out as ought to pass.

- **Update on Status of LD 1572 (Tax Expenditure Process Changes)**

At the last meeting the Committee voted to introduce legislation with some changes to statute that would be intended to help improve the efficiency and effectiveness of OPEGA's evaluations of tax expenditure programs. Director Ashcroft said LD 1572 is the bill introduced to do that and said it only does deal with removing some deadlines in statute and other things that were meant to provide more flexibility in scheduling the reviews. The GOC did not include anything in that bill that deals with the confidential taxpayer data changes that she had previously proposed. The LD has been referred to the Taxation Committee, but has not yet been scheduled for public hearing. When that happens one of the GOC Chairs plans to introduce it.

- **Status of Projects In Progress**

Director Ashcroft said **TANF** is in progress as well as the **Tax Expenditure Reviews** that the Committee just approved the evaluation parameters for. OPEGA continues to work on **Employment Tax Increment Financing** and OPEGA is putting a plan together and will be sending out the initiation email for the **Beverage Container Recycling** review.

Rep. Mastraccio asked for an update on when **ETIF** and **Pine Tree Development Zones** reports might be presented. Director Ashcroft said OPEGA has a large amount of data analysis they are hoping to do on ETIF so is expecting that Report to be issued later in the year, but OPEGA is looking to issue the Pine Tree Development Zones report by July/August because the GOC was not sure when they would be meeting in June.

NEXT GOC MEETING DATE

- **Discussion of the next GOC meeting date**

The members of the Committee had agreed at the previous meeting not to meet on May 26, 2017 and the next scheduled meeting day would be June 9th. Rep. Mastraccio said that could be flexible because of the Legislature's schedule at this time of the session. Director Ashcroft will contact the Chairs of the Committee regarding what there may be for possible Agenda items and they can decide whether the Committee needs to meet.

In response to Sen. Saviello's questions of GOC meetings over the interim, Director Ashcroft said the Committee meets once a month during the Interim, but may skip a month. Rep. Mastraccio said she and Sen. Katz will look at scheduling and will try to work around the Committee members' schedules.

ANNOUNCEMENTS AND REMARKS

Sen. Libby asked Director Ashcroft if she would like to give an update to the GOC on OPEGA's Operating Budget at its hearing before the Legislative Council. Director Ashcroft said as far as she knew the Legislative Council approved everything for the Legislative budget including OPEGA's budget. She thanked Sen. Libby for bringing the budget to her attention.

ADJOURNMENT

The Chair, Rep. Mastraccio adjourned the Government Oversight Committee meeting at 10:35 a.m. on the motion of Sen. Davis, second by Rep. Harrington, unanimous.

SCIENTIFIC GAMES®

May 10, 2017

Senator Roger J. Katz, Chair
Representative Anne-Marie Mastraccio, Chair
Government Oversight Committee
The Maine State Legislature

Dear Chair Katz and Chair Mastraccio,

Scientific Games is proud to have cooperated completely, as promised, with the review of Maine Lottery operations by the Office of Program Evaluation and Government Accountability. Our experience in more than 450 jurisdictions, and being licensed in more than 170 jurisdictions worldwide, has Scientific Games working closely with many auditors and investigators. It should not surprise you that we found the Maine OPEGA office as thorough and professional as any like office.

Scientific Games is gratified that OPEGA confirmed that neither the Maine Lottery nor Scientific Games targets any demographic group.

Further, Scientific Games fully agrees with OPEGA's finding that per capita studies linked to small geographical areas result in "…meaningless, and potentially quite misleading, results..."

Scientific Games would like to take this opportunity to address several such results found in the Maine Center for Public Interest Reporting articles that were not addressed by OPEGA. We surmise that OPEGA did not address these issues as the issues appear outside OPEGA's review questions.

Apparently based on an update of a 2007 Cornell University study, the Maine Center reported that lottery sales increase by 10 percent as unemployment increases by 1 percent.

In response, Scientific Games offers the following facts:

- The original Cornell study authors specifically warned that their data "do not reveal which individuals purchased lottery tickets. Therefore, **we cannot link individuals' economic conditions with their lottery consumption**."
- While the Maine Center stories include 58 links to original documents used to support its reporting, there is **no** link to the second Cornell study linking unemployment rates to higher lottery sales.

- Unfortunately, Maine suffered through the Great Recession during the state fiscal years 2009-2011. As unemployment increased, lottery sales fell by **$42 million** during that period. (See attached spreadsheet. Lottery sales data is taken from annual BABLO reports.)
- If the second Cornell prediction had been true, then Lottery sales should have increased by an estimated **$344 million**.
- Despite easily available public data to the contrary, the Maine Center reporting was wrong by an estimated **$386 million dollars**. Such an error must not stand.

Finally, in further support of the OPEGA report, as the sole retailer located on a long stretch of Route 1, the Waite General Store has a geographic market size of an estimated 1,250 square miles – or 60 times the size of Portland. The population of that geographic market is an estimated 5,300 people. Again, despite easily available information to the contrary, the Maine Center assigned all sales by Waite General Store to just the 110 residents that share its zip code when the actual market population is 55 times larger.

Similarly, the Maine Center decries per capita lottery spending of $275 million a year in Washington County. Such spending does not seem excessive. One ticket for each Powerball drawing and one instant ticket a week is an annual per capita of just $260, or $5 per week.

Scientific Games hopes these facts, along with the OPEGA report, assist the Legislature in its oversight of the Maine Lottery. Scientific Games encourages and welcomes any review or audit of our operations and contract execution. We stand ready to assist any legislative committee or any individual legislator and welcome any questions that members of the Committee or the Legislature might have.

The OPEGA audit report should provide greater confidence in Maine Lottery operations and permit the Lottery to seek again to further improve its performance.

Best,

Patrick J. Traub

Patrick J. Traub
Regional Vice President, Government Relations

CC: Members of the Government Oversight Committee
CC: Members of the Veterans and Legal Affairs Committee

Government Oversight Committee
Additional Information on OPEGA Report of State Lottery
As requested at GOC Meeting on April 28, 2017

Breakdowns of Maine Lottery Advertising by Station

Maine Lottery Radio Ad Spots by Radio Station for March 2015 through December 2016				
Region & Station	**# of Spots**	**% of Total Spots**	**Location**	**Station Format**
Augusta-Waterville	**6,908**	**13.84%**		
WABK-FM	1,195	2.39%	Gardiner	Classic Hits
WCTB-FM	337	0.68%	Fairfield	Oldies
WEBB-FM	1,337	2.68%	Waterville	Country
WFMX-FM	1,284	2.57%	Skowhegan	Adult Contemporary
WMME-FM	1,406	2.82%	Augusta	Top-40
WTOS-FM	1,349	2.70%	Skowhegan	Rock
Bangor	**14,992**	**30.03%**		
WBAK-FM	297	0.59%	Belfast	Classic Hits
WBFB-FM	1,131	2.27%	Bangor	Country
WBYA-FM	45	0.09%	Islesboro	Country
WBZN-FM	1,430	2.86%	Old-Town	Top-40
WEZQ-FM	1,010	2.02%	Bangor	Sports
WHOU-FM	1,110	2.22%	Houlton	Adult Contemporary
WKIT-FM	1,302	2.61%	Brewer	Classic Rock
WKSQ-FM	1,129	2.26%	Ellsworth	Adult Contemporary
WNSX-FM	1,610	3.23%	Winter Harbor	Classic Hits
WQCB-FM	1,189	2.38%	Brewer	Country
WQSS-FM	274	0.55%	Camden	Adult Contemporary
WRMO-FM	3	0.01%	Milbridge	Classical
WVOM-FM	882	1.77%	Rockland	Talk
WWMJ-FM	1,179	2.36%	Ellsworth	Classic Rock
WZLO-FM	1,147	2.30%	Dover-Foxcroft	Adult Album Contemporary
WZON-AM	1,254	2.51%	Bangor	Talk
Calais	**2,907**	**5.82%**		
WCRQ-FM	1,466	2.94%	Dennysville	Top-40
WQDY-FM	1,441	2.89%	Calais	Classic Hits

Region & Station	# of Spots	% of Total Spots	Location	Station Format
Farmington	**1,246**	2.50%		
WKTJ-FM	1,246	2.50%	Farmington	Adult Hits
Portland	**19,261**	**38.59%**		
WBLM-FM	1,394	2.79%	Portland	Classic Rock
WCLZ-FM	956	1.92%	North Yarmouth	Adult Album Alternative
WCYY-FM	1,339	2.68%	Biddeford	Alternative
WEZR-FM	1,879	3.76%	Lewiston	Hot Adult Contemporary
WFNK-FM	1,041	2.09%	Lewiston	Classic Hits
WGAN-FM	117	0.23%	Portland	News/Talk
WHOM-FM	1,137	2.28%	Portland	Adult Contemporary
WHTP-FM	1,041	2.09%	Kennebunkport	Top-40
WHXR-FM	735	1.47%	Scarborough	Rock
WJBQ-FM	1,331	2.67%	Portland	Top-40
WJJB-FM	1,672	3.35%	Gray	Sports
WMGX-FM	828	1.66%	Portland	Hot Adult Contemporary
WOXO-FM	1,437	2.88%	South Paris/Mexico	Country
WPEI-FM	1,179	2.36%	Saco	Sports
WPOR-FM	1,180	2.36%	Portland	Country
WTHT-FM	858	1.72%	Auburn	Country
WYNZ-FM	1,137	2.28%	South Portland	Classic Hits
Presque Isle	**4,602**	**9.22%**		
WBPW-FM	1,286	2.58%	Presque Isle	Country
WCXU-FM	1,137	2.28%	Caribou	Adult Contemporary
WOZI-FM	1,142	2.29%	Presque Isle	Rock
WQHR-FM	1,037	2.08%	Presque Isle	Hot Adult Contemporary
Total Spots	**49,916**			

Maine Lottery Radio Ad Spots by Radio Format March 2015 through December 2016		
Format	**Spots**	**% of Spots**
Country	8463	16.95%
Classic Hits	6721	13.46%
Top-40	6674	13.37%
Adult Contemporary	6071	12.16%
Classic Rock	3875	7.76%
Sports	3861	7.73%
Hot Adult Contemporary	3744	7.50%
Rock	3226	6.46%
Talk	2136	4.28%
Alternative	1339	2.68%
Adult Hits	1246	2.50%
Adult Album Contemporary	1147	2.30%
Adult Album Alternative	956	1.92%
Oldies	337	0.68%
News/Talk	117	0.23%
Classical	3	0.01%
Grand Total	**49916**	

Maine Lottery Television Ad Spots by Station for March 2015 through December 2016		
Region and Station	**# of Spots**	**% of Total Spots**
Bangor	**15,009**	**36.73%**
5704 Time Warner Cable Time Warner/Bangor ME Cable	7,407	18.13%
EABI-TV	1,010	2.47%
WABI-TV	2,180	5.33%
WFVX-TV	637	1.56%
WLBZ-TV	2,227	5.45%
WVII-TV	1,548	3.79%
Portland	**18,041**	**44.15%**
7646 Time Warner/Portland Auburn IC-Cable	7,996	19.57%
8448 New England Sports Network NESN/Portland, ME Cable	1,764	4.32%
WCSH-TV	2,493	6.10%
WGME-TV	1,846	4.52%
WMTW-TV	2,308	5.65%
WPF0-TV	868	2.12%
WPME-TV	150	0.37%
WPXT-TV	616	1.51%
Presque Isle	**7,814**	**19.12%**
2477 Time Warner/Presque Isle ME Cable	4,531	11.09%
EAGM-TV	642	1.57%
WAGM-TV	2,553	6.25%
WLBZ-TV	63	0.15%
WVII-TV	25	0.06%
Total Spots	**40,864**	

OPEGA Review of Academic Literature on Socioeconomic Status and Lottery Play

OPEGA reviewed reports provided by the National Conference of State Legislatures and considered additional academic papers to explore whether a link exists between socioeconomic status (SES)[1] and lottery play. The reports referenced an established body of literature comprised of relevant studies that generally shows there is an inverse relationship between socioeconomic status and lottery play. While some of the studies do show a link between lower income and increased lottery play, the larger body of literature includes low income within a larger array of variables that are linked to increased lottery spending/play

[1] Socioeconomic status (SES) is defined by the American Sociological Association as an index of social status that considers a person’s occupation, education, and income as measures of social status.

including educational attainment, minority status, lower prestige occupations, location with a disadvantaged geographic neighborhood and composite variables.

Most of the reports and studies OPEGA reviewed did not specifically investigate the reasons behind the inverse relationship between SES and lottery play. They did discuss some of the explanations and theories existing with the body of literature on this topic that might account for the relationship. Some explanations and theories discussed included:[2]

- lottery play as entertainment or fun;
- lottery play as a rational investment decision for maximizing wealth amongst those who have met their basic needs;
- lottery play as a result of an incorrect understanding of risk and other cognitive biases often linked to lower educational attainment;
- lottery play as a network effect; people who have peers who play also play;
- lottery play as a result of shared cultural beliefs, for instance, regarding luck; and
- lottery play as an outlet for frustrations and tensions resulting from living in a disadvantaged social position.

Sources:

Beckert, Jens and Mark Lutter. 2013. "Why the Poor Play the Lottery: Sociological Approaches to Explaining Class-based Lottery Play." Sociology. 47: 1152-1170.

Clotfelter, Charles T., et al. 1999. "State Lotteries at the Turn of the Century: Report to the National Impact Study Commission."

Kearney, Melissa Schettini. 2005. "The Economic Winners and Losers of Legalized Gambling." Brookings Institution.

Oster, Emily. 2004. "Are All Lotteries Regressive? Evidence from the Powerball." National Tax Journal. 47.2

See also some of the studies referenced as establishing inverse relationship:

Worthington, Andrew C. 2001. "Implicit Finance in Gambling Expenditures: Australian Evidence on Socioeconomic and Demographic Tax Incidence," *Public Finance Review*. 29.4 (July): 326-342.

Scott, Frank and John Garen. 1994. "Probability of purchase, amount of purchase, and the demographic incidence of the lottery tax," *Journal of Public Economics*. 54 (May): 121-143.

Miyazaki, A., et al. 1998. "A Longitudinal Analysis of Income-Based Tax Regressivity of State-Sponsored Lotteries," *Journal of Public Policy and Marketing*. 17.2: 161-172.

Clotfelter, Charles T. and Philip J. Cook. 1989. *Selling Hope: State Lotteries in America*. Cambridge, MA: Harvard University Press. [Also 1987 article]

[2] Derived from Beckert and Lutter (2013)

Maine Welfare Lottery Winners from 2010 – 2014

Overview

In early 2015, the Maine Department of Health and Human Services ("DHHS") formally requested and received from the Bureau of Alcohol and Beverage and Lottery Operations ("BABLO") a list of all individuals that have won a Maine lottery prize of $1,000 or more for the years of 2010 through 2014.

This list of winners was data matched against an internal DHHS list which contained the following fields:

1. Open on Temporary Assistance for Needy Families ("TANF") at the time of their win.
2. Open on MaineCare at the time of their win.
3. Open on Supplemental Nutrition Assistance Program ("SNAP") at the time of their win.
4. Open on a combination of any of the three program listed above at the time of their win.

Based on the results of this data match and subsequent analysis of winnings, it was determined that over the course of the last five years, there were thousands of welfare recipients who have won a total of $1,000 or more. In total, there was $22,401,826 in lottery winnings by individuals receiving welfare at the time of the winnings.

Since 2010, 4,865 winning tickets of $1,000 or more were cashed in by 3,685 individuals who were receiving SNAP, TANF or MaineCare, or some combination of those benefits at the time they won.

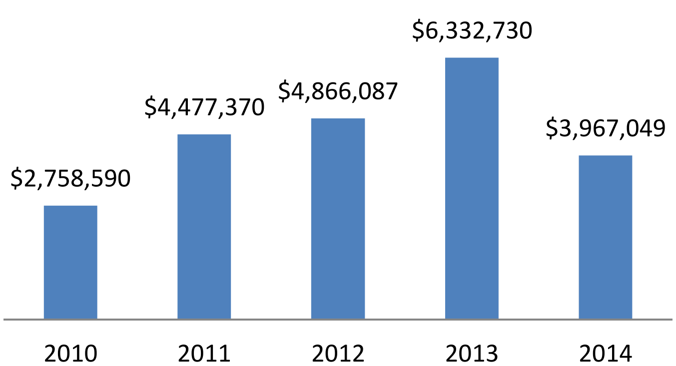
Quick Facts

- $22,401,826 in winnings by individuals on benefits at the time of winning
- Total "check amounts" of $17,147,014
- 11 individuals each won $1,000 or more 10 or more times
- Eight individuals on welfare won single prize winnings of $500,000 or more since 2010

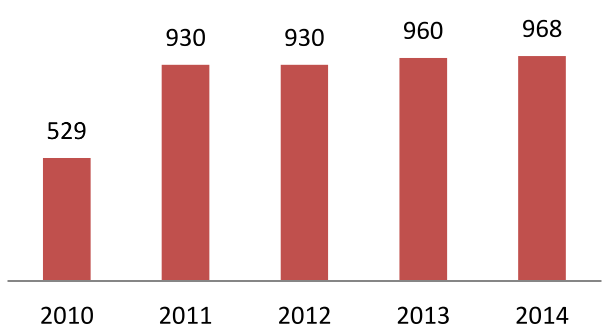
Program Integrity

Welfare benefits are meant to go to the neediest and most vulnerable populations in Maine. Subsidizing recreational and problem gambling goes against the long-term objectives of TANF, SNAP and MaineCare.

Total Winnings by welfare recipients



Total individuals on welfare when they won more than $1,000



2014 Agricultural Act

Section 4009 of the Agricultural Act of 2014 states that:

a. Households that receive "substantial lottery or gambling winnings (as determined by USDA) are ineligible for SNAP until the household meets the SNAP resources (assets) and income eligibility limits."
b. States must also "establish agreements with entities such as BABLO to determine whether individuals participating in SNAP have received substantial lottery or gambling winnings."

1) Maine should introduce legislation which requires that within 7 days after paying a prize of $1,000.00 or more, BABLO shall notify DHHS of the name of and other available identifying information regarding the winner of the prize and the amount of the prize.

2) The Secretary for the U.S. Department of Agriculture has yet to define "substantial lottery or gambling winnings." The common sense approach, which Maine DHHS could use, would be to define this as the proposed asset test amount or $5,000.00, and close any individual that has a lottery winning that meets this threshold. The Secretary's failure to define "substantial" has left states in the lurch in regards to implementation of this rule.

   Looking at Michigan's closures (roughly 10% of the identified winners were immediately closed) and applying this to Maine, it would result in approximately 100 people being removed from the program immediately. This would result in a cost avoidance of roughly $24,000 per month, or $291,600 per year (using the average SNAP benefit per household).

Traditional Categorically Eligible Groups

Under 7 USC 2014(a), traditional categorically eligible groups are established when all members of a household receive one of the following: social security benefits; state disability benefits; or benefits under a general assistance program which is administered by the State or a local government. In Maine, the State administers a cash assistance program called TANF (Family Independence Program in Michigan) that grants categorical eligibility for SNAP. Traditional categorically eligible groups cannot contain any members who are disqualified because of: an intentional program violation; an employment-related activity.

7 USC 2014(j) allows for "resource exemption for otherwise exempt households" as it provides that a household member who receives social security benefits under Title XVI of the Social Security Act (SSA), aid to the aged, blind, or disabled under Titles I, II, X, IXV, or XVI of the SSA, or who receives state benefits funded under Part A of Title IV of the SSA is considered "to have satisfied the resource limitations prescribed under subsection (g)." 7 USC 2014(g) prevents Maine from applying an asset test to these traditional categorically eligible groups for purposes of SNAP. For example, subsection(j) allows an individual that wins a million dollars to remain on the SNAP rolls until her SSI closes, even though

Maine will have a $5,000 asset limit. According to SNAP regulations, lottery winnings are considered to be liquid assets in the form of non-recurring lump sum payments, which are excluded from income and counted as assets in the month received. If the person is not subject to an asset test, the winnings wouldn't be counted towards income or asset.

However, 7 USC 2015(a) states that "[i]n addition to meeting the standards of eligibility prescribed in section 5 of this Act [7 USC 2014], households and individuals who are members of eligible households *must also meet and comply* with the specific requirements of this section to be eligible for participation in the supplemental nutrition assistance program." (Emphasis added.) The new lottery provision found in section 4009 of the Agricultural Act of 2014 was inserted into 7 USC 2015 as subsection 2015(s). Therefore, presumably, lottery and casino gambling winners with "substantial" lottery winnings will immediately lose their SNAP benefits, whether or not the household is categorically eligible, at least for the month in which the winning occurred.

Summary of Comments for GOC Consideration Regarding Evaluation Parameters for BETR, BETE and MCIC

3 MRSA §999.1.B requires that "Before final approval pursuant to paragraph A, the committee shall seek and consider input from the policy committee and stakeholders and may seek input from experts."

The following is a summary of the points made, in written and verbal comments, that pertain specifically to the parameters for full evaluations (as defined by 3 MRSA §999.1.A) of the following programs:

- Business Equipment Tax Reimbursement;
- Business Equipment Tax Exemption; and
- Maine Capital Investment Tax Credit.

Comments regarding other portions of the documents or the evaluation effort in general have been taken into account, but are not summarized here as they do not pertain to the GOC's statutory requirement under 3 MRSA §999.

Key to OPEGA's Reponses:

- **No Change** – OPEGA does not recommend any change to the original parameters
- **Clarifying Language Only** – OPEGA recommends a change that clarifies the original intent of the parameters but does not change them
- **Substantive Change** – OPEGA recommends a change that substantially alters the original parameters

Summary of Comment	Comment Contributor	OPEGA Response
BUSINESS EQUIPMENT TAX REIMBURSEMENT & BUSINESS EQUIPMENT TAX EXEMPTION		
The evaluation should focus on how Maine compares to other states, provinces and countries with varying levels of taxation on property and equipment	Jonathan Block, Pierce Atwood	**Substantive Change** – The proposed intent for these programs are: "To overcome the disincentive to growth of capital investment in Maine stemming from the high cost of owning business property." OPEGA agrees that within that intent there is the notion that part of the purpose is to level the playing field for Maine compared to other locales. We suggest amending one of the current proposed Goal statements to incorporate a specific reference to this purpose. The proposed Goal as amended would read "To reduce the cost of owning qualifying business property in Maine, particularly in comparison to other relevant states and countries." Objectives #2 and 3 would then address the extent to which the tax expenditure is achieving this goal.

Indicators of economic impact should not include employment growth	Linda Caprara, Maine State Chamber of Commerce Jonathan Block, Pierce Atwood	**No Change** – Although OPEGA recognized that BETR and BETE have no specific job-related goals, overall economic growth indicators such as employment growth seemed like appropriate possible measures of whether the programs had accomplished their broad intent of "promoting the general welfare of the people of the State of Maine." We suggest no change is needed to the evaluation parameters.
MAINE CAPITAL INVESTMENT CREDIT		
An accidental loophole in the calculation of the MCIC credit should be investigated immediately, separate from the comprehensive MCIC evaluation	Mr. Albert DiMillo, CPA	**No Change** – The Taxation Committee is currently engaged in verifying Mr. DiMillo's concern and determining whether action is needed. The current evaluation objectives do not speak directly to Mr. DiMillo's concern, but are broad enough to allow OPEGA to investigate his concern to the degree necessary to support the efforts of the GOC and the Taxation Committee. OPEGA suggests that the evaluation parameters not be changed.
Measures should be expanded to include analyses of MCIC credits claimed based on apportionment factor, business size, and industry	Mr. Albert DiMillo, CPA	**Clarifying Language Only** – The proposed evaluation parameters include language indicating that OPEGA will conduct additional analyses of data, when appropriate and pertinent, by a number of factors such as business sector or size. OPEGA proposes expanding the list of potential additional analyses to include analysis based on apportionment factor.

Proposed Parameters for OPEGA's Full Evaluation of the
Business Equipment Tax Reimbursement & Business Equipment Tax Exemption
BETR & BETE

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.

<u>Eligible Equipment Is Defined the Same for Both BETR and BETE</u>

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.

<u>Eligibility for BETR and BETE Varies Based on Type of Business</u>

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's 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.

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.

Proposed Parameters for OPEGA's Full Evaluation of the
Maine Capital Investment Credit (MCIC)

Enacted	Statute(s)	Type	Category	Est. Revenue Loss
2011	36 MRSA §5219-GG 36 MRSA §5219-JJ 36 MRSA §5219-MM 36 MRSA §5219-NN	Income Tax Credit	Conformity with IRC	FY18 $9,350,000 FY19 $5,950,000

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

Program Description

The Maine Capital Investment Credit (MCIC) is a personal and corporate income tax credit for depreciable property placed in service in Maine. Although this credit is categorized as "conformity with IRC" (Internal Revenue Code), the credit does not actually conform to the federal tax code. Instead, it is a Maine-specific credit that is based on a federal depreciation deduction – both of which provide a tax benefit associated with purchases of new depreciable property.

The State's response to the federal bonus depreciation deduction enacted in 2001 has varied over time from full conformity to a complete decoupling. Currently, MCIC allows a Maine taxpayer who claims the federal bonus depreciation deduction under US Code, Section 168(k) to claim a credit on their Maine taxes for a percentage of the federal depreciation reduced by the depreciation that would have been allowed in the first year if bonus depreciation did not exist. For tax year 2016, the credit was 9% for corporations and 7% for individuals.

$$\text{2016 MCIC credit} = \left[\begin{array}{l}\text{9\% for corporations or}\\ \text{7\% for individuals}\end{array}\right] \times \left[\left(\begin{array}{c}\text{amount of federal}\\ \text{bonus depreciation for}\\ \text{Maine equipment}\end{array}\right) - \left(\begin{array}{c}\text{amount of federal}\\ \text{depreciation for Maine}\\ \text{equipment allowed in 1}^{\text{st}}\\ \text{year if bonus didn't exist}\end{array}\right)\right]$$

In prior years, the MCIC percentages have ranged from 8-10% and the calculation has varied as dictated by State statute, with a factor based on what proportion of the depreciable property is located in Maine. The calculations for this credit, as well as annual State and federal rule changes, are very complex as evidenced by the 60 page guidance document Maine Revenue Services (MRS) provides for taxpayers affected by bonus depreciation.

Property must be used within the State of Maine for the entire 12-month period beginning with the date the property is placed in service in Maine or else the credit may be recaptured. In addition, some property is excluded from the MCIC credit, including:

- property owned by a public utility;
- property owned by a person that provides radio paging services;
- property owned by a person that provides mobile telecommunications services;
- property owned by a cable television company;
- property owned by a person that provides satellite-based direct television broadcast services; and
- property owned by a person that provides multichannel, multipoint television distribution services.

The credit is non-refundable and may be carried forward for up to 20 years. Maine taxpayers are only eligible to take the MCIC credit if they qualified for, and claimed, the associated federal bonus depreciation deduction. To receive the MCIC tax credit, a business must complete the MCIC income tax credit worksheet. The MCIC is administered solely by MRS, which reviews and processes the MCIC income tax return worksheets.

There is currently no sunset, or end date, for the MCIC credit in Maine statute. However, since the credit is based on the federal bonus depreciation it would become a $0 credit if the federal bonus depreciation deduction ended. The federal bonus depreciation deduction is currently scheduled to sunset in 2019. However it is unclear whether the sunset will actually occur as the deduction has been extended beyond sunset dates in prior years.

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 — To stimulate the Maine economy by encouraging businesses to expedite capital investments in Maine.

Goal — To encourage businesses to expedite purchases of qualifying business property in Maine.

(2) Beneficiaries

Primary Intended Beneficiaries — Businesses investing in qualifying business property in Maine.

(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) below 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;	B, C, G 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, B, 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, I, D 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;	B, D, E, F 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 expenditure is coordinated with, complementary to or duplicative of federal bonus depreciation or other similar initiatives;	Qualitative
8) The extent to which the tax expenditure is a cost-effective use of resources; and	C, F, G, H Qualitative
9) 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.

A	# Total businesses receiving any benefits under the MCIC
B	Total $ value of MCIC tax credits received by businesses (direct tax revenue lost)
C	Total direct program cost (credits plus administrative costs)
D	Average tax benefit per business, including min & max
E	Estimated value of eligible property associated with MCIC claims
F	Indicators of changes in the timing of business investments in qualifying business property
G	Net impact on State budget (using economic modeling, as possible and appropriate, to include indirect benefits and costs)
H	Indicators of economic growth associated with the program since its enactment (such as change statewide employment or GDP – using economic modeling, as possible and appropriate, to include capture of indirect benefits and costs)
I	Participation rate: comparison of number of businesses claiming MCIC to number of businesses filing taxes in the state

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,
- by firm size.