Information to Support 2022 Expedited Reviews of Maine State Tax Expenditures

“Necessity of Life” Sales & Use Tax Exemptions

Prepared by:
Office of Program Evaluation and Government Accountability

Submitted to:
Joint Standing Committee on Taxation and
Government Oversight Committee

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Office of Program Evaluation and Government Accountability
Maine State Legislature
82 State House Station
Augusta, Maine 04333
Telephone: 207-287-1901

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Overview and Purpose

The Office of Program Evaluation and Government Accountability (OPEGA) is required by statute (3 MRSA §1000(2)) to provide information to support expedited reviews of tax expenditures conducted by the Joint Standing Committee on Taxation (3 MRSA §1000(1)). As defined by 3 MRSA §992 and 5 MRSA §1666, "tax expenditures" means "those state tax revenue losses attributable to provisions of Maine tax laws that allow a special exclusion, exemption or deduction or provide a special credit, a preferential rate of tax or a deferral of tax liability."

The Taxation Committee is required by statute to conduct expedited reviews of tax expenditures, and associated tax policies, annually and to submit a report to the Legislature on the results of that year's review. The information OPEGA is required to provide to the Taxation Committee includes:

- a description of the tax policy under review;
- descriptions of each tax expenditure associated with that policy, including the mechanism through which it is distributed and its intended beneficiaries;
- the legislative history of each tax expenditure; and
- the fiscal impact of the tax policy and each related tax expenditure, including past and future impacts.

As required by 3 MRSA §998, the Legislature's Government Oversight Committee (GOC), in consultation with the Taxation Committee, has assigned each Maine State tax expenditure to one of three review categories: (a) full evaluation; (b) expedited review; (c) no review. Tax expenditures assigned to the expedited review category are those expenditures intended to implement broad tax policy goals that cannot be reasonably measured.[1]

Since 2016, OPEGA has prepared required information for the Taxation Committee's expedited reviews. The annual reviews are grouped into tax policy areas, or categories, in a 6-year cycle, as shown in Table 1. OPEGA finished the first 6-year cycle in 2021. The information provided here for 2022 begins again at year one, with the "Necessity of Life" exemptions category classified for expedited review.

Table 1: Supporting Information prepared by OPEGA for Expedited Reviews

Year	Tax Policy Area
1	Necessity of Life Exemptions
2	Tax Fairness Exemptions
3	Specific Policy Goal/Mandate Exemptions, Charitable Exemptions (1st Half)
4	Charitable Exemptions (2nd Half)
5	Interstate and Foreign Commerce Exemptions
6	Inputs to Tangible Products Exemptions, Conformity with Internal Revenue Code, Non-Taxable Services

[1] 3 MRSA §998(1)(B)

"Necessity of Life" Tax Policy Area: Definition

OPEGA previously provided the Taxation Committee with information on the "Necessity of Life" category in 2016. At the time, OPEGA noted that there was no definition of "Necessity of Life" as a sales tax exemption policy area. Based on other states' reports, OPEGA suggested that the Taxation Committee define "Necessity of Life" as "any good necessary for health and welfare" in order to assess whether the exemptions subject to review are consistent with the goals of this tax policy area. OPEGA continues to suggest this definition.

Within the "Necessity of Life" tax policy area, there are 13 sales tax expenditures assigned for expedited review:

1. Grocery Staples
2. Meals Served to Patients in Hospitals and Nursing Homes
3. Fuels for Cooking and Heating in Residences
4. Gas Used for Cooking and Heating in Residences
5. Water Used in Private Residences
6. Certain Residential Electricity
7. Rental Charges for Living Quarters in Nursing Homes and Hospitals
8. Rental Charges on Continuous Residence for More Than 28 Days
9. Prescription Drugs
10. Prosthetic Devices
11. Diabetic Supplies
12. Positive Airway Pressure (PAP) Equipment & Sales
13. Funeral Services

Fiscal Impact Estimates

The fiscal impact estimates presented here come from the Maine State Tax Expenditure Report (MSTER) produced by Maine Revenue Services (MRS). The dollar amounts shown represent estimated foregone State General Fund revenue due to the exemptions from sales and use tax. MRS is required by statute (36 MRSA §199-B) to prepare these estimates biennially, in odd-numbered years, based on the current tax law in effect at the time. MRS uses various methods to estimate the foregone General Fund revenue loss. The estimates reported here are taken from the MSTER 2022-2023 and the MSTER 2020-2021.[2] The information provided on individual tax expenditures, beginning on page 4, includes the MRS estimates of revenue loss by fiscal year (FY), as available, with notation of the estimation method used.

Table 2 below shows the estimated fiscal impact of the combined "Necessity of Life"' cohort. Appendix A provides a further breakdown of fiscal impact estimates for expenditures within each category by year.

Table 2: Estimated Fiscal Impact of 2022 Cohort of Tax Expenditures

	FY18	FY19	FY20	FY21	FY22	FY23
Necessity of Life	$593,610,000	$625,160,000	$501,742,000	$512,627,000	$520,986,000	$536,434,000

Source: Estimates for FY18 & FY19 are from the 2020-2021 MSTER while the estimates for FY20 through FY23 are from the 2022-2023 MSTER. Notes: Where ranges are reported, the average of the lower and upper end of the range is used.

[2] The most recent edition, MSTER 2022-2023, was published February 15, 2021; MSTER 2020-2021 was published February 15, 2019.

Information on Individual Tax Expenditures

On the following pages, OPEGA provides a series of tables summarizing the required information for each individual tax expenditure pursuant to 3 MRSA §1000(2). OPEGA gathered this information from the following sources:

- Relevant sections of Maine statute;
- Maine State Tax Expenditure Reports by MRS: MSTER 2020-2021 and MSTER 2022-2023; and
- Maine Revenue Services (direct requests for tax expenditure information from MRS staff).

OPEGA used the legislative histories summarized in the 2016 report and updated them with any changes to statute since that time. The legislative histories presented here focus on statutory changes that effect the nature and scope of the relevant tax expenditure – non-substantive statutory changes are not included in these histories.

For the description of intended beneficiaries, OPEGA used the beneficiaries described in the 2016 report, which were based on OPEGA's understanding of the various exemptions.

OPEGA used MSTER 2022-2023 and MSTER 2020-2021 as the source of fiscal impact estimates presented for each tax expenditure.[3] These are "point in time" estimates based on the economic forecast and modeling, using the best information available at the time. The estimates are influenced by multiple factors, including but not limited to: anticipated tax rates, economic activity; policy changes; available data; and others.

[3] MRS uses several microsimulation models to forecast state revenues, to estimate the impact of proposed changes to state and local tax laws, and to develop a distributional analysis of Maine's state and local tax systems. The system of MRS tax models includes models for: sales and excise tax, individual income tax, corporate income tax, property tax, and multi-tax incidence.

Tax Expenditure	Grocery Staples		
Statutory reference	36 MRSA §1760(3)		
Distribution mechanism	Exempted from taxation at point of sale		
Brief description	Grocery staples are exempted from sales tax under 36 MRSA §1760(3) and are generally defined under 36 MRSA §1752(3-B) as food products ordinarily consumed for human nourishment; some food items are taxed, including many snack foods and prepared foods.		
Intended beneficiaries	Purchasers of grocery staples		
Estimated fiscal impact	FY18	$163,440,000	*Source:* 2020-2021 Maine State Tax Expenditure Report
	FY19	$172,150,000	
	FY20	$187,140,000	*Source:* 2022-2023 Maine State Tax Expenditure Report
	FY21	$191,270,000	
	FY22	$194,450,000	
	FY23	$200,280,000	
Notes on estimated fiscal impact	Revenue loss is estimated in the sales tax micro-simulation model.		
Legislative history	Public Law	Change	
	PL 1951, c.250	Enactment of sales tax exemption for food products	
	PL 1953, c.54	Exempted meals served to patients and inmates of hospitals and other state institutions as food products	
	PL 1961, c.87	Excluded from exemption “take out” (packaged or wrapped food taken from the premises)	
	PL 1977, c.443	Imposed sales tax at wholesale level for sales of food from vending machines, except in certain cases.	
	PL 1979, c.513	Removed exemption for hospital and certain other institutional meals as a “food product” under §1760(6)(B), exempting meals served to hospital patients from sales tax (see page 5).	
	PL 1985, c.783	Redefined “food products” qualifying for exemption; moved exemptions for all purchases with food stamps and for certain sales of food from vending machines to another section of law.	
	PL 1991, c.591	Redefined items eligible for exemption from “food products” to “grocery staples” and exempted fewer items. Most notably, taxes were extended to “snack foods.”	
	PL 1999, c.698	Redefined grocery staples, effectively exempting from sales tax all snack foods except for candy and confections.	
	PL 2015, c.267	Redefined grocery staples, expanding the types of foods subject to tax.	
	PL 2019, c. 231	Excluded marijuana and marijuana products	
	PL 2021, c. 669	Directs changing term “marijuana” to “cannabis”	

Tax Expenditure	**Meals Served to Patients in Hospitals and Nursing Homes**		
Statutory reference	36 MRSA §1760(6)(B)		
Distribution mechanism	Exempted from taxation at point of sale		
Brief description	Meals served to patients at hospitals, nursing homes, and similar institutions licensed by the State are exempted from sales tax.		
Intended beneficiaries	Patients in hospitals and nursing homes		
Estimated fiscal impact	FY18	$10,330,000	*Source:* 2020-2021 Maine State Tax Expenditure Report
	FY19	$10,880,000	
	FY20	$10,150,000	*Source:* 2022-2023 Maine State Tax Expenditure Report
	FY21	$10,370,000	
	FY22	$10,540,000	
	FY23	$10,860,000	
Notes on estimated fiscal impact	Revenue loss is based on statistics for hospitals and nursing homes and several strong assumptions.		
Legislative history	Public Law	Change	
	PL 1953, c.54	Added meals served to patients in hospitals and nursing homes licensed by the state to the list of non-taxable food products under what is now 36 MRSA §1760(3) (exemption for grocery staples).	
	PL 1979, c.513	Removed exemption for hospital meals as a “food product” from §1760(3) (see page 4) and created a new section of law, §1760(6)(B), exempting meals served to hospital patients from sales tax.	

<table>
<tr><th>Tax Expenditure</th><th colspan="3">Fuels for Cooking and Heating in Residences</th></tr>
<tr><td>Statutory reference</td><td colspan="3">36 MRSA §1760(9)</td></tr>
<tr><td>Distribution mechanism</td><td colspan="3">Exempted from taxation at point of sale</td></tr>
<tr><td>Brief description</td><td colspan="3">Coal, oil, wood and all other fuels, except gas and electricity, when bought for cooking and heating in buildings designed and used for both human habitation and sleeping are exempt from tax, with some limitations.</td></tr>
<tr><td>Intended beneficiaries</td><td colspan="3">Purchasers of fuels for cooking and heating in residences</td></tr>
<tr><td rowspan="6">Estimated fiscal impact</td><td>FY18</td><td>$48,660,000</td><td rowspan="2">Source: 2020-2021 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY19</td><td>$51,250,000</td></tr>
<tr><td>FY20</td><td>$40,070,000</td><td rowspan="4">Source: 2022-2023 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY21</td><td>$40,560,000</td></tr>
<tr><td>FY22</td><td>$40,830,000</td></tr>
<tr><td>FY23</td><td>$41,650,000</td></tr>
<tr><td>Notes on estimated fiscal impact</td><td colspan="3">Revenue loss comes from a review of data from the U.S. Energy Information Administration for Maine and American Community Survey PUMS data (Public Use Microdata Sample from US Census Bureau). MRS changed estimation method between editions of MSTERs accounting for lower estimates beginning in FY20.</td></tr>
<tr><td rowspan="9">Legislative history</td><td>Public Law</td><td colspan="2">Change</td></tr>
<tr><td>PL 1951, c.250</td><td colspan="2">Enactment of sales tax exemption for coal, oil, wood and all other fuels, excluding gas and electricity, used for cooking or heating for domestic purposes.</td></tr>
<tr><td>PL 1953, c.401</td><td colspan="2">Extended exemption to fuels purchased for cooking and heating in hotels.</td></tr>
<tr><td>PL 1977, c.686</td><td colspan="2">Clarified that exemption applies to fuels purchased for cooking and heating in mobile homes.</td></tr>
<tr><td>PL 2007, c.438</td><td colspan="2">Clarified that qualifying fuels are exempt when purchased for cooking or heating in any “buildings designed and used for both human habitation and sleeping.”</td></tr>
<tr><td>PL 2007, c.675</td><td colspan="2">Exempted kerosene purchases in tanks of 5 gallons or less when purchased for cooking or heating in qualifying buildings.</td></tr>
<tr><td>PL 2009, c.625</td><td colspan="2">Exempted wood pellets or compressed wood product when purchased in a quantity of ≤ 200 pounds.</td></tr>
<tr><td>PL 2011, c.670</td><td colspan="2">Increased the amount of wood pellets or compressed wood product eligible for exemption to ≤ 1000 pounds until September 30, 2013 and to “any amount” beginning October 1, 2013. Limited the exemption on cut wood to one cord.</td></tr>
<tr><td>PL 2015, c.300</td><td colspan="2">Clarified exemptions for wood products and kerosene purchases at retail locations. Extended exemption on cut wood to any amount used for cooking or heating in qualifying building.</td></tr>
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<tr><th>Tax Expenditure</th><th colspan="3">Gas Used for Cooking and Heating in Residences</th></tr>
<tr><td>Statutory reference</td><td colspan="3">36 MRSA §1760(9-C)</td></tr>
<tr><td>Distribution mechanism</td><td colspan="3">Exempted from taxation at point of sale</td></tr>
<tr><td>Brief description</td><td colspan="3">Sales of gas when bought for cooking and heating in buildings designed and used for both human habitation and sleeping, with the exception of hotels, are exempt from the sales and use tax.</td></tr>
<tr><td>Intended beneficiaries</td><td colspan="3">Purchasers of gas for cooking and heating in residences</td></tr>
<tr><td rowspan="6">Estimated fiscal impact</td><td>FY18</td><td>$16,440,000</td><td rowspan="2">Source: 2020-2021 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY19</td><td>$17,310,000</td></tr>
<tr><td>FY20</td><td>$11,550,000</td><td rowspan="4">Source: 2022-2023 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY21</td><td>$11,690,000</td></tr>
<tr><td>FY22</td><td>$11,770,000</td></tr>
<tr><td>FY23</td><td>$12,000,000</td></tr>
<tr><td>Notes on estimated fiscal impact</td><td colspan="3">Revenue loss is estimated based on data from the U.S. Energy Information Administration and the American Community Survey PUMS data (Public Use Microdata Sample from US Census Bureau). MRS changed estimation method between editions of MSTERs accounting for lower estimates beginning in FY20.</td></tr>
<tr><td rowspan="3">Legislative history</td><td>Public Law</td><td colspan="2">Change</td></tr>
<tr><td>PL 1977, c.686</td><td colspan="2">Exempted gas from sales tax when bought for cooking and heating in residences.</td></tr>
<tr><td>PL 2007, c.438</td><td colspan="2">Clarified qualifying gas must be purchased for use in “buildings designed and used for both human habitation and sleeping.”</td></tr>
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<tr><td>Tax Expenditure</td><td colspan="3">Water Used in Private Residences</td></tr>
<tr><td>Statutory reference</td><td colspan="3">36 MRSA §1760(39)</td></tr>
<tr><td>Distribution mechanism</td><td colspan="3">Exempted from taxation at point of sale</td></tr>
<tr><td>Brief description</td><td colspan="3">Sales of water purchased for use in buildings designed and used for both human habitation and sleeping, with the exception of hotels, are exempt from the sales and use tax.</td></tr>
<tr><td>Intended beneficiaries</td><td colspan="3">Purchasers of water for use in residences (with the exception of bottled water purchases in retail stores)</td></tr>
<tr><td rowspan="6">Estimated fiscal impact</td><td>FY18</td><td>$15,310,000</td><td rowspan="2">Source: 2020-2021 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY19</td><td>$16,130,000</td></tr>
<tr><td>FY20</td><td>$12,980,000</td><td rowspan="4">Source: 2022-2023 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY21</td><td>$13,200,000</td></tr>
<tr><td>FY22</td><td>$13,350,000</td></tr>
<tr><td>FY23</td><td>$13,690,000</td></tr>
<tr><td>Notes on estimated fiscal impact</td><td colspan="3">Estimate based on national and state personal consumption expenditure data and economic census data. A change in MRS methods between editions of the MSTER attempts to factor out the sewer expenditure component of water expenditures.</td></tr>
<tr><td rowspan="3">Legislative history</td><td>Public Law</td><td colspan="2">Change</td></tr>
<tr><td>PL 1977, c.686</td><td colspan="2">Enactment of sales tax exemption on water used in certain types of dwellings.</td></tr>
<tr><td>PL 2007, c.438</td><td colspan="2">Clarified qualifying water must be purchased for use in “buildings designed and used for both human habitation and sleeping.”</td></tr>
</table>

Tax Expenditure	Certain Residential Electricity		
Statutory reference	36 MRSA §1760(9-B)		
Distribution mechanism	Exempted from taxation at point of sale		
Brief description	Sale and delivery of the first 750 kilowatt hours of residential electricity per month is exempt from the sales tax.[4]		
Intended beneficiaries	Purchasers of certain residential electricity		
Estimated fiscal impact	FY18	$25,050,000	*Source:* 2020-2021 Maine State Tax Expenditure Report
	FY19	$26,390,000	
	FY20	$27,160,000	*Source:* 2022-2023 Maine State Tax Expenditure Report
	FY21	$27,490,000	
	FY22	$27,670,000	
	FY23	$28,230,000	
Notes on estimated fiscal impact	Revenue loss is estimated based on data from the sales tax data warehouse, U.S. Energy Information Administration, and the American Community Survey PUMS (Public Use Microdata Sample from US Census).		
Legislative history	Public Law	Change	
	PL 1977, c.686	Enactment of exemption of first 750 kilowatt hours of residential electricity per month.	
	PL 1979, c.520	Clarified that the exemption applies to each unit in a multiunit building even if the units are all supplied by one meter.	
	PL 2007, c.438	Clarified qualifying electricity must be provided to "buildings designed and used for both human habitation and sleeping."	
	PL 2011, c.673	Extended the exemption to off-peak residential electricity used for space and water heating by means of an electric thermal storage device.	

[4] Effective 1/1/23, PL 2021 c. 713 expands the exemption to include all residential customers enrolled in certain electricity assistance programs under the jurisdiction of the Public Utilities Commission.

Tax Expenditure	**Rental Charges for Living Quarters in Nursing Homes and Hospitals**		
Statutory reference	36 MRSA §1760(18)		
Distribution mechanism	Exempted from taxation at point of sale		
Brief description	Rent charged for living or sleeping quarters in nursing homes and hospitals licensed by the State is exempted from sales tax.		
Intended beneficiaries	Patients in hospitals and nursing homes		
Estimated fiscal impact	FY18	$250,000- $999,999	*Source:* 2020-2021 Maine State Tax Expenditure Report
	FY19	$250,000- $999,999	
	FY20	$250,000- $999,999	*Source:* 2022-2023 Maine State Tax Expenditure Report
	FY21	$250,000- $999,999	
	FY22	$250,000- $999,999	
	FY23	$250,000- $999,999	
Notes on estimated fiscal impact	Revenue loss estimated as a range of possible values because little or no data is available.		
Legislative history	Public Law	Change	
	PL 1959, c.350	Enactment of sales tax exemption on rent charged for living or sleeping quarters in an institution licensed by the State for the hospitalization or nursing care of human beings.	

Tax Expenditure	**Rental Charges on Continuous Residence for More Than 28 Days**
Statutory reference	36 MRSA §1760(20)
Distribution mechanism	Exempted from taxation at point of sale
Brief description	Rent charged to any person who resides continuously for 28 days or more at any one hotel, rooming house or camp is exempted from tax, with certain restrictions. This exemption includes all residential rentals.
Intended beneficiaries	Occupants of long-terms rentals

Estimated fiscal impact			
	FY18	$205,390,000	*Source:* 2020-2021 Maine State Tax Expenditure Report
	FY19	$216,330,000	
	FY20	$92,330,000	*Source:* 2022-2023 Maine State Tax Expenditure Report
	FY21	$94,379,000	
	FY22	$95,940,000	
	FY23	$98,810,000	

Notes on estimated fiscal impact	Estimated based on national personal consumption expenditure data and rent data from the American Community Survey. MRS changed estimation method. They state that the previously used tax model contained a flawed assumption that caused these estimates to be considerably overstated.

Legislative history	Public Law	Change
	PL 1959, c.350	Enactment of sales tax exemption for rent charged to any person who has resided continuously for 3 months or 90 days at any one hotel, rooming house, tourist or trailer camp.
	PL 1961, c.271	Amended language to require residing continuously for 28 days rather than "3 months or 90 days" to qualify for the exemption.
	PL 1989, c.588	Narrowed eligibility for the exemption to individuals who do not maintain a primary residence at some other location; or those who are residing away from their primary residence in connection with employment or education.
	PL 2017, c.170	Repealed and replaced the exemption in statute, leaving a sales tax exemption for an individual who resides continuously for 28 days or more at a hotel, rooming house, tourist camp or trailer camp, if the individual does not maintain a primary residence at some other location or is residing away from the individual's primary residence in connection with employment or education. Also exempts rents of living quarters for 28 or more consecutive days when the living quarters are used by the person's employees in connection with employment. Provides that any tax paid during the initial 28-day period must be refunded by the retailer.

Tax Expenditure	Prescription Drugs		
Statutory reference	36 MRSA §1760(5)		
Distribution mechanism	Exempted from taxation at point of sale		
Brief description	Drugs sold for use by human beings with a doctor's prescription are exempted from sales tax. This exemption does not include marijuana.		
Intended beneficiaries	Purchasers of prescription drugs		
Estimated fiscal impact	FY18	$93,780,000	*Source:* 2020-2021 Maine State Tax Expenditure Report
	FY19	$98,770,000	
	FY20	$104,760,000	*Source:* 2022-2023 Maine State Tax Expenditure Report
	FY21	$107,900,000	
	FY22	$110,550,000	
	FY23	$114,750,000	
Notes on estimated fiscal impact	Revenue loss estimated with the sales tax micro-simulation model.		
Legislative history	Public Law	Change	
	PL 1951, c.250	Enacted sales tax exemption for medicines sold with a doctor's prescription.	
	PL 1953, c.66	Clarified the exemption applies only to medicines for human beings (i.e. not for pets or farm animals).	
	PL 2009, c.625	Specified medical marijuana is not exempted under this section of law.	
	PL 2021, c. 669	All statutory uses of term "marijuana" must be changed to "cannabis" except in Title 17-A.	

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<tr><th>Tax Expenditure</th><th colspan="3">Prosthetic Devices</th></tr>
<tr><td>Statutory reference</td><td colspan="3">36 MRSA §1760(5-A)</td></tr>
<tr><td>Distribution mechanism</td><td colspan="3">Exempted from taxation at point of sale</td></tr>
<tr><td>Brief description</td><td colspan="3">Prosthetic and orthotic aids, hearing aids, eyeglasses and artificial devices to alleviate physical incapacity are exempted from sales tax.</td></tr>
<tr><td>Intended beneficiaries</td><td colspan="3">Purchasers of prosthetic devices</td></tr>
<tr><td rowspan="6">Estimated fiscal impact</td><td>FY18</td><td>$6,020,000</td><td rowspan="2">Source: 2020-2021 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY19</td><td>$6,340,000</td></tr>
<tr><td>FY20</td><td>$4,982,000</td><td rowspan="4">Source: 2022-2023 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY21</td><td>$5,067,000</td></tr>
<tr><td>FY22</td><td>$5,126,000</td></tr>
<tr><td>FY23</td><td>$5,254,000</td></tr>
<tr><td>Notes on estimated fiscal impact</td><td colspan="3">Revenue loss estimated using the sales tax micro-simulation model and data relating to the orthotic device market. MRS regards this estimate as uncertain and believes the magnitude of reduction in the estimate between editions of the MSTER to not be meaningful.</td></tr>
<tr><td rowspan="4">Legislative history</td><td>Public Law</td><td colspan="2">Change</td></tr>
<tr><td>PL 1973, c.573 & c.593</td><td colspan="2">Enacted sales tax exemption for prosthetic devices, including hearing aids.</td></tr>
<tr><td>PL 2015, c.495</td><td colspan="2">Amended to apply to prosthetic or orthotic devices sold by prescription including repair and replacement parts effective October 1, 2016.[5]</td></tr>
<tr><td>PL 2017, c.170</td><td colspan="2">Repealed and replaced the section of statute so that the sales tax exemption is for prosthetic or orthotic devices sold by means of an order from a licensed health care practitioner and for crutches and wheelchairs for use of sick, injured or disabled persons and not for rental.</td></tr>
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[5] PL 2015, c. 495 as defined “Prosthetic or orthotic device” to include repair and replacement parts in 36 MRS §1752(9-F).

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<tr><th>Tax Expenditure</th><th colspan="3">Diabetic Supplies</th></tr>
<tr><td>Statutory reference</td><td colspan="3">36 MRSA §1760(33)</td></tr>
<tr><td>Distribution mechanism</td><td colspan="3">Exempted from taxation at point of sale</td></tr>
<tr><td>Brief description</td><td colspan="3">All equipment and supplies used in the diagnosis or treatment of diabetes are exempt from sales tax.</td></tr>
<tr><td>Intended beneficiaries</td><td colspan="3">Purchasers of diabetic supplies</td></tr>
<tr><td rowspan="6">Estimated fiscal impact</td><td>FY18</td><td>$1,250,000</td><td rowspan="2">Source: 2020-2021 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY19</td><td>$1,320,000</td></tr>
<tr><td>FY20</td><td>$1,000,000- $2,999,999</td><td rowspan="4">Source: 2022-2023 Maine State Tax Expenditure Report</td></tr>
<tr><td>FY21</td><td>$1,000,000- $2,999,999</td></tr>
<tr><td>FY22</td><td>$1,000,000- $2,999,999</td></tr>
<tr><td>FY23</td><td>$1,000,000- $2,999,999</td></tr>
<tr><td>Notes on estimated fiscal impact</td><td colspan="3">Revenue loss is estimated as a range of possible values because little or no data is available. MRS change in methods better reflects the uncertainty of this estimate.</td></tr>
<tr><td rowspan="5">Legislative history</td><td>Public Law</td><td colspan="2">Change</td></tr>
<tr><td>P&SL 1973, c.148 & PL 1973, c.788</td><td colspan="2">Enactment of sales tax exemption for all medical equipment and supplies used by diabetics in the treatment of diabetes.</td></tr>
<tr><td>PL 1977, c.238</td><td colspan="2">Removed the requirement that equipment and supplies must be used by diabetics in order to be exempt.</td></tr>
<tr><td>PL 2017, c.211</td><td colspan="2">Specified that the exemption is for equipment and supplies involved in the diagnosis or treatment of human diabetes.</td></tr>
<tr><td>PL 2021, c.253</td><td colspan="2">Added back the requirement that equipment and supplies must be used by the purchaser in order to be exempt.</td></tr>
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Tax Expenditure	Positive Airway Pressure (PAP) Equipment & Sales		
Statutory reference	36 MRSA §1760(94)		
Distribution mechanism	Exempted from taxation at point of sale		
Brief description	Positive airway pressure equipment and supplies and oxygen delivery equipment sold or leased for personal use are exempt for sales and use tax.		
Intended beneficiaries	Purchasers of positive airway pressure equipment and supplies		
Estimated fiscal impact	FY18	$250,000- $999,999	*Source:* 2020-2021 Maine State Tax Expenditure Report
	FY19	$250,000- $999,999	
	FY20	$250,000- $999,999	*Source:* 2022-2023 Maine State Tax Expenditure Report
	FY21	$250,000- $999,999	
	FY22	$250,000- $999,999	
	FY23	$250,000- $999,999	
Notes on estimated fiscal impact	Revenue loss is estimated as a range of possible values because little or not data is available.		
Legislative history	Public Law	Change	
	PL 2011, c.655	Enactment of sales tax exemption for positive airway pressure equipment and supplies sold or leased for personal use.	
	PL 2019, c.401	Expanded the exemption to include "oxygen delivery equipment"	

Tax Expenditure	Funeral Services		
Statutory reference	36 MRSA §1760(24)		
Distribution mechanism	Exempted from taxation at point of sale		
Brief description	Sales of goods necessary for the burial or cremation of a human body are exempt from sales tax.		
Intended beneficiaries	Purchasers of funeral services		
Estimated fiscal impact	FY18	$6,690,000	*Source:* 2020-2021 Maine State Tax Expenditure Report
	FY19	$7,040,000	
	FY20	$7,370,000	*Source:* 2022-2023 Maine State Tax Expenditure Report
	FY21	$7,460,000	
	FY22	$7,510,000	
	FY23	$7,660,000	
Notes on estimated fiscal impact	Revenue loss is estimated based on national expenditures on funeral and burial services and Maine's share of national deaths.		
Legislative history	Public Law	Change	
	PL 1955, c.477	Enactment of sales tax exemption for funeral services.	

Appendix A: Estimated Fiscal Impacts of "Necessity of Life" Tax Expenditures, FY18-FY23

Table A.1: Estimates of fiscal impacts for each tax expenditure included in this review cohort

Expenditure	Statute	FY18	FY19	FY20	FY21	FY22	FY23
Grocery Staples	36 MRSA §1760(3)	$163,440,000	$172,150,000	$187,140,000	$191,270,000	$194,450,000	$200,280,000
Meals Served to Patients in Hospitals & Nursing Homes	36 MRSA §1760(6)(B)	$10,330,000	$10,880,000	$10,150,000	$10,370,000	$10,540,000	$10,860,000
Fuels for Cooking & Heating in Residences	36 MRSA §1760(9)	$48,660,000	$51,250,000	$40,070,000	$40,560,000	$40,830,000	$41,650,000
Gas Used for Cooking & Heating in Residences	36 MRSA §1760(9-C)	$16,440,000	$17,310,000	$11,550,000	$11,690,000	$11,770,000	$12,000,000
Water Used in Private Residences	36 MRSA §1760(39)	$15,310,000	$16,130,000	$12,980,000	$13,200,000	$13,350,000	$13,690,000
Certain Residential Electricity	36 MRSA §1760(9-B)	$25,050,000	$26,390,000	$27,160,000	$27,490,000	$27,670,000	$28,230,000
Rental Charges for Living Quarters in Nursing Homes and Hospitals	36 MRSA §1760(18)	$250,000-$999,999	$250,000-$999,999	$250,000-$999,999	$250,000-$999,999	$250,000-$999,999	$250,000-$999,999
Rental Charges on Continuous Residence for More than 28 Days	36 MRSA §1760(20)	$205,390,000	$216,330,000	$92,330,000	$94,379,000	$95,940,000	$98,810,000
Prescription Drugs	36 MRSA §1760(5)	$93,780,000	$98,770,000	$104,760,000	$107,900,000	$110,550,000	$114,750,000
Prosthetic Devices	36 MRSA §1760(5-A)	$6,020,000	$6,340,000	$4,982,000	$5,067,000	$5,126,000	$5,254,000
Diabetic Supplies	36 MRSA §1760(33)	$1,250,000	$1,320,000	$1,000,000-$2,999,999	$1,000,000-$2,999,999	$1,000,000-$2,999,999	$1,000,000-$2,999,999
Positive Airway Pressure Equipment & Sales	36 MRSA §1760(94)	$250,000-$999,999	$250,000-$999,999	$250,000-$999,999	$250,000-$999,999	$250,000-$999,999	$250,000-$999,999
Funeral Services	36 MRSA §1760(24)	$6,690,000	$7,040,000	$7,370,000	$7,460,000	$7,510,000	$7,660,000
TOTAL		$593,610,000	$625,160,000	$501,742,000	$512,627,000	$520,986,000	$536,434,000

Source: Estimates for FY18 & FY19 are from the 2020-2021 MSTER while the estimates for FY20 through FY23 are from the 2022-2023 MSTER. For totals, where ranges are reported, the average of the lower and upper end of the range is used.

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Appendix B: Selected Sections of Statute Relevant to Expedited Reviews of Tax Expenditures

3 MRS §998. Process for review of tax expenditures[6]

1. **Assignment of review categories.** By October 1, 2015, the committee, in consultation with the policy committee, shall assign each tax expenditure to one of the following review categories:
    A. Full evaluation for tax expenditures that are intended to provide an incentive for specific behaviors, that provide a benefit to a specific group of beneficiaries or for which measurable goals can be identified;
    B. Expedited review for tax expenditures that are intended to implement broad tax policy goals that cannot be reasonably measured; and
    C. No review for tax expenditures with an impact on state revenue of less than $50,000 or that otherwise do not warrant either a full evaluation or expedited review.

2. **Schedule.** The committee, in consultation with the policy committee, shall establish a prioritized schedule of ongoing review of the tax expenditures assigned to the full evaluation and expedited review categories pursuant to subsection 1, paragraphs A and B. To the extent practicable, the committee shall group the review of tax expenditures with similar goals together.

3. **Annual review of assignments and schedule.** By October 1st of each year, beginning in 2016, the committee, in consultation with the policy committee, shall review and make any necessary adjustments to the review category assignments and schedule pursuant to subsections 1 and 2, including adjustments needed to incorporate tax expenditures enacted, amended or repealed during the preceding year.

4. **Office responsibilities.** The office shall maintain a current record of the review category assignments and the schedule under this section.

SECTION HISTORY
2015, c. 344, §4 (NEW). 2017, c. 266, §1 (AMD).

3 MRS §1000. Expedited review of tax expenditures

1. **Expedited review process.** Beginning July 1, 2016, the policy committee shall conduct expedited reviews of tax expenditures and the associated tax policies identified under section 998, subsection 1, paragraph B, in accordance with the schedule established in section 998, subsection 2.
    A. For each tax policy subject to review, the policy committee shall assess the continued relevance of, or need for adjustments to, the policy, considering:
        (1) The reasons the tax policy was adopted;
        (2) The extent to which the reasons for the adoption still remain or whether the tax policy should be reconsidered;
        (3) The extent to which the tax policy is consistent or inconsistent with other state goals; and
        (4) The fiscal impact of the tax policy, including past and estimated future impacts.

[6] In these sections of law, "the office" refers to OPEGA; "the committee" refers to the GOC; "the policy committee" refers to the Taxation Committee.

B. For each tax expenditure related to the tax policy under review, the policy committee shall assess the continued relevance of, or need for adjustments to, the expenditure, considering:

(1) The fiscal impact of the tax expenditure, including past and estimated future impacts;

(2) The administrative costs and burdens associated with the tax expenditure;

(3) The extent to which the tax expenditure is consistent with the broad tax policy and with the other tax expenditures established in connection with the policy;

(4) The extent to which the design of the tax expenditure is effective in accomplishing its tax policy purpose;

(5) The extent to which there are adequate mechanisms, including enforcement efforts, to ensure that only intended beneficiaries are receiving benefits and that beneficiaries are compliant with any requirements;

(6) The extent to which the reasons for establishing the tax expenditure remain or whether the need for it should be reconsidered; and

(7) Any other reasons to discontinue or amend the tax expenditure.

2. Action by the office. By July 1st in 2016 to 2018 and by December 15th of each year beginning in 2019 the office shall collect, prepare and submit to the policy committee the following information to support the expedited reviews under subsection 1:

A. A description of the tax policy under review;

B. Summary information on each tax expenditure associated with the tax policy under review, including:

(1) A description of the tax expenditure and the mechanism through which the tax benefit is distributed;

(2) The intended beneficiaries of the tax expenditure; and

(3) A legislative history of the tax expenditure; and

C. The fiscal impact of the tax policy and each related tax expenditure, including past and estimated future impacts.

3. Report by policy committee; legislation. By March 1st of each year, beginning in 2020, the policy committee shall submit to the Legislature a report on the results of the expedited reviews conducted pursuant to subsection 1 that year. The policy committee may submit a bill related to the report to the Legislature to implement the policy committee's recommendations.

SECTION HISTORY
2015, c. 344, §4 (NEW). 2019, c. 161, §2 (AMD).

Appendix C: History of Updates to Maine Revenue Service's Office of Tax Policy Microsimulation Model

The sales and excise tax model is one of several microsimulation models MRS uses to forecast state revenues, to estimate the impact of proposed changes to state and local tax laws, and to develop a distributional analysis of Maine's state and local tax systems. The complete system of tax models also includes models for individual income tax, corporate income tax, property tax, and multi-tax incidence. The models are developed by contractors selected by MRS through a competitive bid process.

MRS has had four sales and excise tax models since 1999 and has a goal of updating the model every five years. The details on models used to date are:

Model I: Contracted with KPMG, LLP in 1998. Models were completed by end of 1999 and used for fiscal note purposes beginning with the 2000 legislative session. The FY02/03 biennial budget was the first time the models were used for tax expenditure estimates (January 2001).

Model II: Contracted with Barents Group, LLC (at that time a subsidiary of KPMG) in 2002. Models were completed by the end of 2004 and used for fiscal note purposes beginning with the 2005 legislative session. The FY06/07 biennial budget was the first time the models were used for tax expenditure estimates (January 2005). Base year data in this model was for the year 2000. This model was used for fiscal estimates in the 2014-2015 Maine State Tax Expenditure Report.

Model III: Contracted with Chainbridge, LLC in 2011. Models were completed by the end of 2011 and used for fiscal note purposes beginning with the 2012 legislative session. The FY14/15 biennial budget was the first time the models were used for tax expenditure estimates (January 2013). Base year data in this model is for the year 2009. This model was used for fiscal estimates for Sales & Use Tax expenditures in the 2016-2017 Maine State Tax Expenditure Report.

Model IV: Contracted with Chainbridge, LLC in 2016. The sales tax model was completed by the fall of 2016 and used for fiscal note purposes beginning with the 2017 legislative session. The FY18/19 biennial budget was the first time the models were used for tax expenditure estimates (January 2017). Base year data in this model is from 2012 and 2014. The income tax model was used for fiscal note purposes beginning with the 2018 legislative session.

Model V: In 2019, the Office of Tax Policy extended the sales tax model from Chainbridge, LLC to incorporate the most recent personal consumption expenditure data from the Bureau of Economic Analysis. This model was used for Sales & Use Tax expenditures beginning with the FY22/23 tax expenditure report published February 15, 2021, with the personal consumption expenditure data updated annually. The Office of Tax Policy also now regularly updates the data used by the income tax model; the current model version is based on tax year 2019 data.