



RECEIVED MAR 28 2013

*Maine State Legislature
Augusta, Maine 04333-0002*

March 26, 2013

Senator Emily Cain, Chair
Representative Chuck Kruger, Chair
Joint Standing Committee on Governmental Oversight
82 State House Station
Augusta, ME 04333-0082

Subject: Procedures for the establishment of Tax Expenditure Programs and Requirements for periodic review of such programs.

Dear Senator Cain and Representative Kruger:

Over the past several sessions of the Maine State Legislature, the transparency, accountability, value, and the oversight effectiveness of the State's Tax Expenditure programs have been questioned. During this period of time several actions have been undertaken to establish an approach that would improve the process by which these programs are established and reviewed on an ongoing basis. The most recent was during the 125th Legislature when the Joint Standing Committee on Governmental Oversight (GOC) directed OPEGA to draft legislation for the GOC to introduce that "would implement any recommendations from the 2006 report that had not yet been satisfactorily addressed."

We believe that immediate action must be taken to affirmatively address the continuing issues surrounding the establishment and periodic review of tax expenditure programs. Among the actions are:

- 1) the development of a process that would ensure consideration of the continuing purpose and need for existing tax expenditures;
- 2) the development of a sufficient framework, established in statute and practice, that would allow for evaluation of the need to continue any existing program on a periodic basis and that would assure that any new programs are evaluated based on this framework prior to its establishment. The purpose of this would be to provide for an ability to properly evaluate whether or not any given tax expenditure is meeting the public purpose for which it is established.

We suggest that this could be best accomplished by first conducting an analysis of existing tax expenditure programs with the goal of defining various "categories" of tax expenditures based on commonalities in terms of their purpose, beneficiaries, or type that would best be reviewed as a whole group periodically. The current Tax Expenditure report produced by the Maine Revenue Service (MRS) could be the basis for such a categorization process. The analysis would review the definition of "tax expenditure" and assess the expenditures in that report against the definition.

Once categories are defined a decision on how, or whether or not to, periodically review specific categories could be established in law, e.g., either by establishing a sunset provision for every program, or developing a review schedule based on perhaps reviewing programs from the oldest to the newest programs. Sunset

reviews should seek to answer questions that are part of the evaluation framework reference in (2) above, to include, but not be limited to the following:

- What is purpose of the tax expenditure? What are we trying to accomplish with it? Is that purpose being accomplished? How do we know?
- Who are we intending to benefit and are those entities/individuals actually benefiting?
- Is the tax expenditure still relevant now and for the foreseeable future?
- Are there other tax expenditures or other programs that have similar combination of purpose/focus/beneficiaries and, if so, how do they relate or compare? Should some be eliminated or combined?
- How are we determining the success or cost-benefit of this tax expenditure? What are we using for metrics?
- How do we want to assess the success or cost-benefit of this tax expenditure going forward? What output, efficiency or outcome measures are relevant?
- Do we have data available that would allow us to monitor those measures? Where does the data reside and how accessible is it? If data doesn't exist, what needs to be done to collect it?

Both the 2006 OPEGA Performance Audit Report, "Economic Development Programs in Maine – EDPs Still lack Elements Critical for Performance Evaluation and Public Accountability (Report No. SR-ED-05) and the Task Force Report issued by the Commissioner for the Department of Administrative and Financial Services on November 3, 2010 pursuant to Resolves 2009, Chapter 199, Resolve, To Increase Transparency and Accountability and Assess the Impact of Tax Expenditure Program, form a strong basis to use to develop a framework for the establishment and periodic review of tax expenditure programs.

Due to the continuing fiscal stress that our state is facing and will continue to face for at least the next biennium, we believe that it is imperative to vigorously pursue the development of a framework to evaluate tax expenditure programs and to provide for a periodic review of such programs, and urge you to act expeditiously on this request.

Sincerely,

Dennis L. Keschl House District #83
~~Stephen W. House District #81~~
Kathleen D. Chase #147
Nathan Dibley #73