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Senator Libby, Representative Terry, and distinguished members of the Tax Expenditure Review Working Group, my name is Maura Pillsbury and I am an analyst at Maine Center for Economic Policy. I have been following your work and have reviewed OPEGA's tax expenditure reviews from the past five years, some of which I worked on in my past position at OPEGA. I am testifying today to recommend improvements to the current tax expenditure review process.

First I want to say thank you for taking the time to review and suggest improvements to this process. The tax expenditure review process and the findings that come out of it are important for guiding good policy. Tax expenditures have a significant cost to state resources, and we should know if the programs are working as intended.

The Legislature, public, and agencies should understand how well the programs are working and opportunities to improve them. And lawmakers need to be able to weigh the benefit of tax expenditures against other types of investments in our state like education, affordable health care and other services families and businesses rely on.

In this testimony I provide recommendations in five key areas for your consideration: report timing, expediting the process, purview, actionable reports, and measurable programs. Together these recommendations would help improve transparency of tax expenditures and more quickly get lawmakers and the public information about their efficacy.

My testimony includes several recommendations that I'm happy to take questions on but I want to raise a few of them now that could have the greatest impact on improving the utility of tax expenditure reviews.

- Increasing OPEGA staffing- Maine has one of the most robust tax expenditure review programs but also has among the smallest staff, with two FTEs in funding to complete reviews. Increasing analytic capacity by adding staff positions would help OPEGA accelerate its review timeline.
- Creating a joint subcommittee- having dedicated members of the GOC and Taxation on a subcommittee could help continue moving work forward with the Taxation committee's busy schedule.
- Clear data requirements for programs and access to machine-readable data-reviews can stall when data is not available, or it is in a format that is not easy for OPEGA to work with. Setting out clear data requirements including requiring machine-readable program data to be collected for tax expenditures would help address this problem.

Thank you for your time and I would be happy to answer any questions you may have. I am available as a resource.

Report Timing

- Reports should be released on a **schedule more conducive to legislative action.** The GOC's recent instruction for reviews to be completed for the Historic Preservation and R&D tax credit on a timeline that would be of greatest use to the legislature (where the GOC approving the review scope is the same GOC that receives the final report prior to a change in the committee) should be considered for future reviews as well.

- **The legislature has already taken action to address the issue of timing of reports.** PL 161 "An Act To Amend the Tax Expenditure Review Process" sponsored by Rep. Ryan Tipping was passed in 2019 during the 129th Legislature. This law changed:
    - the timing of Taxation Committee report on full reviews to must be by *the later of:*
        - 90 days after their receipt from OPEGA, OR
        - adjournment sine die of the regular session during which the materials were received (was previously December 1);
    - the requirement for OPEGA to submit expedited reviews to the Taxation Committee by December 15 beginning in 2019 (was previously July 1);
    - the requirement for the Taxation Committee to release its expedited review tax expenditure report by March 1st each year beginning in 2020 (was previously December 1).

  Due to the COVID-19 pandemic, the Taxation Committee has not released reports on tax expenditures in 2020 or 2021 and therefore this new schedule has not been followed since it was enacted. The working group should consider whether the new timing will facilitate a more efficient review of tax expenditures as the legislature intended.

Expediting the Process

- At this time, OPEGA has 25 additional tax expenditures on its full review list, with the potential for new incentives to be added each legislative session. OPEGA has completed 8 reviews in 6 years, two of which were limited in scope. **Even if the remaining 25 reviews were shortened to 6 months each, the remaining full reviews would take over 12 years to complete.** During that time some programs may sunset or be phased out and fall off the review cycle. The working group should consider the optimal length of the review cycle and should consider narrowing the number of tax expenditures on the full review schedule and other changes that would allow OPEGA to complete the reviews within that timeframe.

- **Cutting back the number of tax expenditures slated for full review** would allow OPEGA to complete its cycle of full reviews more quickly. Full reviews should be prioritized for expenditures that have a significant monetary impact (over $500,000 - $1 million) or are business tax incentives, which tend to be programmatically complex and result in large payments to applicants. This may require changing the definition of full review under 3

MRSA §998. **Items currently on the full review list that the working group should consider moving to expedited review** include those in the "Policy Group tax relief – individuals" (such as the additional standard deduction for the blind and elderly, and the deduction for pension income). Some of those in the "Policy Group – non-business incentives (various)" (such as the earned income tax credit and the deduction for interest and dividends) could be completed with a more limited scope because they are not programmatically complex.

- The working group should **seek information about how other states run their tax expenditure review programs** and compare staffing levels and other resources dedicated to these offices, as well as the breadth of work, length of reports, and timeline for review completion including how long it takes them to complete reviews. There are several other states that have the same tax expenditure review function as OPEGA. **Maine has one of the most robust tax expenditure review programs but also has among the smallest staff**, with two FTEs in funding to complete reviews. **Increasing analytic capacity by adding staff positions would help OPEGA accelerate its review timeline.**

Purview

- **The Government Oversight Committee and Taxation Committee should form a joint subcommittee to conduct work related to tax expenditures.** During the COVID-19 pandemic, the Taxation Committee has not taken up reports OPEGA has released. Creating a subcommittee to do this work would allow the subcommittee to continue to advance the work, engage more deeply with the reports, and bring recommendations back to the Taxation Committee when that committee does not have the time to advance the work.

Actionable Reports

- The GOC and Taxation Committee should continue to work with OPEGA and other committees of jurisdiction to **put forward legislation when warranted to correct program deficiencies.** The legislature should continue to use OPEGA recommendations and report findings to drive legislative and programmatic change. Involving OPEGA in this process is crucial to ensuring the legislation adequately addresses any concerns appropriately.

- OPEGA **tax expenditure reviews that focus on specific, actionable recommendations** could improve program design and the benefit of these programs to the state. OPEGA should provide recommendations on how programs can meet their policy goals. OPEGA has frequently found that the design of tax expenditure programs does not meet the program's goals. The legislature has tended to change the program goals rather than making business tax incentive programs more targeted to specific outcomes. If we are going to give large tax breaks to businesses, the tax breaks should have a significant measurable benefit to the state and people of Maine.

- **Changing how expedited reviews are conducted could improve their usefulness.** Currently the Taxation Committee does not take much, if any, direct action in response to expedited reviews, and is tasked with conducting the reviews with the support of OPEGA. OPEGA has already completed five years of expedited reviews and has only one year remaining, with potentially more if some full reviews are moved to expedited. The working group should consider how expedited reviews should be completed now that they have completed almost one full cycle. Instead of researching the programs' intents, purpose, and legislative history, which will already be completed except for any new updates, OPEGA could restructure its expedited reviews. The bulk of work on expedited reviews has already been completed and going forward they will not be as resource intensive. In some cases, the Taxation Committee identified recommended actions as a result of expedited reviews, but it's unclear if these recommendations were acted on and this information is not tracked by OPEGA.

  While the usefulness of expedited reviews is currently limited and has not resulted in any legislation thus far, they take a comparatively shorter amount of time (as opposed to full reviews) and in the future will take even less time. Maintaining and changing them, as well as tracking the recommendations of the Taxation Committee, rather than eliminating them from the roster of tax reviews would help the GOC identify when items should be moved up or down the ladder from expedited to full review, if necessary. The committees should think of full and expedited reviews as two parallel tracks that may intersect when desired. The working group should consider what form future expedited reviews would take and how Taxation's recommendations can be followed up on, but not eliminate expedited reviews completely because they do provide valuable information about the history of the overall tax expenditure landscape in Maine.

- **Requiring agencies to provide updates on their progress toward acting on OPEGA recommendations** would help ensure OPEGA's findings are used to improve programs. Currently, OPEGA is not tracking which of its recommendations on tax expenditures result in legislative or programmatic changes, unless it is explicitly asked to do so by the GOC (such as the case of the Pine Tree Development Zones). The GOC or Taxation should continue to ask for report backs from agencies about their progress toward meeting OPEGA recommendations. There is also precedent for OPEGA to track outcomes related to its recommendations and present this information in its annual reports as recently as 2019. **OPEGA should follow up on tax expenditure recommendations** to determine what action the legislature has taken to address them and whether further action is warranted, and report this information to the GOC and Taxation Committee. Reporting separately about recommendations from tax expenditure reviews would help make the actions taken more transparent. In the past OPEGA has discontinued active follow up on recommendations for reports older than two years unless it receives direction from the GOC to continue. OPEGA has an established procedure for providing updates semi-annually on its follow up activities. The working group should ensure the GOC is receiving these updates on recommendations for tax expenditure reviews and this information is also shared with the Taxation Committee. OPEGA tracks recommendations as a measure of its effectiveness in facilitating change in state government. Agency report backs and OPEGA follow up are two ways to help ensure outcomes are tracked and recommendations lead to action.

Measurable Programs

- The working group should **seek information from agencies about which programs on the full review list have readily available program data, which could substantially decrease the amount of time needed for certain reviews**. Programs that are not collecting data that would allow them to be readily reviewed by OPEGA should begin to do so. The working group should consider putting forward legislation that would require any new tax incentive to collect performance data and could also consider legislating the same for existing programs going forward.

  The working group should also **put forward legislation requiring all government program data to be kept in a standardized, machine-readable format**. Having open data that can easily be accessed and manipulated would make it easier to evaluate programs and expedite OPEGA's work.

- When the Taxation Committee or other legislative committees pass new legislation establishing tax expenditures, they should **make the intent and purpose clear, set performance measures, require reporting, and include any other provisions that would make it easier for OPEGA to evaluate the expenditure in the future.** The legislature has already taken steps toward doing this with new tax expenditure programs including Major Business Headquarters Expansion and Revitalization of Maine's Paper Industry and should continue to do so. Having clear public policy goals and performance measures set forth in statute facilitates OPEGA's ability to complete reviews.