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State of Maine
 ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
 COMMITTEE ON TAXATION

Meeting Summary – October 12, 2011

The Joint Standing Committee on Taxation held its third interim meeting on October 12, 2011. Introductions were followed by an update from the subcommittee regarding the restructuring of State tax laws, a discussion of the guiding principles for tax reform and taxation, a review of draft legislation for a process to evaluate proposed new tax expenditures and a review of carryover bills.

Highlights related to update from subcommittee on restructuring tax laws

- The chair of the subcommittee (Sen Woodbury) provided background on the 5 small group discussions that the subcommittee organized. (For more information on the subcommittee meetings go to: www.maine.gov/legis/ofpr/taxation_committee/interim_schedule.)
- While the subcommittee believes there are some reoccurring themes that are emerging from the discussions, the members are also getting a sense that there may not be a strong desire for overall tax reform at this time. The subcommittee members recognize that taxation is one component of the overall business environment, and if there is not strong support from leadership, the public and the Governor, the timing for an overhaul of the tax code may not be right.
- Committee members discussed specific areas of taxation that may need further review including a continued re-weighting of the system with further income tax reductions and a shift to consumption taxes. In the area of income taxes, some Committee members advocated lower rates (4.5%, 4%, 3.5%) or a flat rate were and at least one member expressed concerns about the current treatment of long-term capital gains as regular income.
- There were comments about property taxes being an area of ongoing concern and some members suggested the need to restore the cuts to Circuitbreaker.
- There was a brief discussion of pension taxation. Committee members discussed groups that may need the most relief and recognized that the cost of relief has been a barrier to action in the past on this issue.
- Related to sales tax, the discussion included ideas related to local option sales tax, separation of the meals and lodging sales tax, and a slight rate increase across the board. There was some discussion of how to approach changes to consumption taxation in order to create more stability or offset revenue loss if there were a further income tax reduction. A Committee member noted that the public is skeptical about changes in consumptions taxes and a focus on the current exemptions may be a better strategy rather than an increase in sales tax rate or broadening to services that have never been taxed. A handout on states that return a portion of the sales tax to

businesses for the collection efforts (referred to as vendor discounts) was distributed to the Committee. (See Attachment A.)

- The Committee agreed that swift action on tax reform may not be timely. Members will continue discussing a process, which may include a commission or task force, for continuing work on restructuring the tax laws.

Highlights related to review of principles

- The Committee reviewed the principles drafted at the meeting of September 7, 2011.
- It was noted that the need for clear goals and objectives for tax reform was a reoccurring theme during the subcommittee discussions.
- It was suggested that the principles could apply to all business before the Taxation Committee at every meeting.
- The Committee briefly discussed benefits of an incremental versus bold or comprehensive approach to tax reform.
- The Committee agreed that the specific date related to timeliness should be removed from the principles.
- The Committee discussed whether proposals for changes to Maine's tax laws should be paid for in the biennium in which the tax change is passed to avoid impact on the budget. Some members strongly support this as a goal and others appear to have concerns about how this may impact the Committee's work. The Committee needs to determine whether there consensus on this as principle.
- A draft of the revised principles as discussed during the meeting is included at the end of this summary as Attachment B. The Committee needs approve a final draft of the principles.

Highlights related to tax expenditures review

- The Committee reviewed a draft bill for evaluating legislation or legislative initiatives that come before the Committee proposing new tax expenditures. (See Attachment C.)
- The Committee discussed changes to the draft bill that would include a policy objective related to a statewide social or quality of life impact as opposed to policy objectives solely focused on business and job creation. Other changes discussed included incorporating more of the principles into the legislation and whether there is a mechanism to offset any revenue loss that may be caused by the proposed tax expenditure.
- The Committee also expressed interest in a formal review of existing tax expenditures. The analyst explained the existing statutory authority that the Committee has to review tax expenditures (see Title 36, section 199-C and 199-D) and Maine Review Services staff provided some background on the history of tax expenditure review processes by prior Committees. The analyst provided information on processes proposed in the Office of Program Evaluation and Government Accountability (OPEGA) and Department of Administrative and Financial Services (DAFS) reports. The Committee discussed ideas for tax expenditures evaluation and there was discussion of incorporating a review of tax expenditures into the budget process including public hearings. (Please note that tax expenditures are included in the budget document and are approved as part of the budget process. *)

* Please note that 5 MRSA § 1666 requires the Governor to include tax expenditures and the state tax revenue losses attributed to them in the biennial budget document submitted to the Legislature and requires language that asks the Legislature whether it wishes to continue funding each tax expenditure. During the First Regular Session, the Taxation Committee, and subsequently the Appropriations Committee and the full Legislature, approved section LLL of LD 1043 (PL 2011, c380), and therefore granted approval of the funding of all tax expenditures in the biennial budget.

- The Committee received an update from the director of OPEGA, Beth Ashcroft, on the work the Government Oversight Committee is doing in the area of tax expenditures. She indicated they are following up on recommendations made in the OPEGA and DAFS reports and noted that the Taxation Committee's legislation for a process to review proposed new tax expenditures addresses one area of concern raised by OPEGA. She suggested that a first step in tackling the review of expenditures may be for the Committee to review the goal or reason for each exemption/credit/deduction. The Committee may want to ask questions such as: Do we understand the goal or purpose of the exemption? What are the results or outcomes we expect to see as indicators that we are achieving that goal? What data do we need to do this?
- The Committee directed the Taxation Committee analyst to work with the OPEGA director on a process for reviewing existing tax expenditures and to draft related legislation.

Highlights related to review of carry over bills

- The Committee reviewed the remaining carryover bills.
- The carryover bill worksheet (Attachment D) provides action taken to date.

Wrap-up and next steps

In the three meetings held to date, the Joint Standing Committee on Taxation accomplished the following:

- defined and further refined principles for the process of restructuring Maine's tax laws;
- held subcommittee meetings that have included 4 of 5 small group discussions to gather information from outside experts on restructuring Maine's tax laws and received an update from the subcommittee on the information;
- agreed that swift action on tax reform may not be timely and that further discussion of a process for continued work on restructuring the tax laws may be the best focus for the final meeting in November;
- reviewed a first draft of a Committee bill that creates a process to review proposals for new or expanded tax expenditures that come before the Committee on a prospective basis and directed the analyst to draft legislation for a review process for current tax expenditures; and
- voted 2 of the 12 carryover bills, assigned leads to the others and received updates on work needed on the bills to be able to vote.

NEXT FULL COMMITTEE MEETING – November 9, 2011 – 11:00 a.m.

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published: 10/26/11

STATE SALES TAX RATES AND VENDOR DISCOUNTS

(January 1, 2011)

| STATE | STATE SALES TAX RATE | RANK | VENDOR DISCOUNT | MAX/MIN |
|-------------------|----------------------|------|-----------------|----------------------------------|
| ALABAMA | 4.0% | 38 | 5.0%-2.0% (1) | \$400/month (max) |
| ALASKA | | N/A | | |
| ARIZONA | 6.6% | 9 | 1.0% | \$10,000/year (max) |
| ARKANSAS | 6.0% | 15 | 2.0% | \$1,000/month (max) |
| CALIFORNIA | 8.25% | 1 | None | |
| COLORADO | 2.9% | 46 | None (4) | |
| CONNECTICUT | 6.0% | 15 | None | |
| DELAWARE | | N/A | | |
| FLORIDA | 6.0% | 15 | 2.5% | \$30/report (max) |
| GEORGIA | 4.0% | 38 | 3.0%-0.5% (1) | |
| HAWAII | 4.0% | 38 | None | |
| IDAHO | 6.0% | 15 | None (5) | |
| ILLINOIS | 6.25% | 11 | 1.75% | \$5/year (min) |
| INDIANA (2) | 7.0% | 2 | 0.83% | |
| IOWA | 6.0% | 15 | None | |
| KANSAS | 6.3% | 11 | None | |
| KENTUCKY | 6.0% | 15 | 1.75%-1.0% (1) | \$1,500/period (max) |
| LOUISIANA | 4.0% | 38 | 1.1% | |
| MAINE | 5.0% | 32 | None (5) | |
| MARYLAND | 6.0% | 15 | 1.2%-0.90% (1) | |
| MASSACHUSETTS | 6.25% | 11 | None | |
| MICHIGAN | 6.0% | 15 | 0.5% (6) | \$6/monh (min) |
| MINNESOTA | 6.875% | 7 | None | |
| MISSISSIPPI | 7.0% | 2 | 2.0% | \$50/month (max) |
| MISSOURI | 4.225% | 37 | 2.0% | |
| MONTANA | | N/A | | |
| NEBRASKA | 5.5% | 29 | 2.5% | \$75/month (max) |
| NEVADA (10) | 6.85% | 7 | 0.25% | |
| NEW HAMPSHIRE | | N/A | | |
| NEW JERSEY | 7.0% | 2 | None | |
| NEW MEXICO | 5.125% | 31 | None | |
| NEW YORK | 4.0% | 38 | 5.0% | \$200/quarter (max) |
| NORTH CAROLINA | 5.75% | 28 | None | |
| NORTH DAKOTA | 5.0% | 32 | 1.5% | \$85/month (max) |
| OHIO | 5.5% | 29 | 0.75% | |
| OKLAHOMA | 4.5% | 36 | 1.25% (9) | \$3,300/month (max) |
| OREGON | | N/A | | |
| PENNSYLVANIA | 6.0% | 15 | 1.0% | |
| RHODE ISLAND | 7.0% | 2 | None | |
| SOUTH CAROLINA | 6.0% | 15 | 3.0%-2.0% (1) | \$3,100/year (max) |
| SOUTH DAKOTA | 4.0% | 38 | None | |
| TENNESSEE | 7.0% | 2 | None | |
| TEXAS | 6.25% | 11 | 0.5% (7) | |
| UTAH (3) | 4.7% | 35 | 1.31% | |
| VERMONT | 6.0% | 15 | None (5) | |
| VIRGINIA (3) | 4.0% | 38 | 3.0%-1.5% (8) | |
| WASHINGTON | 6.5% | 10 | None | |
| WEST VIRGINIA | 6.0% | 15 | None | |
| WISCONSIN | 5.0% | 32 | 0.5% | \$10/period (min) |
| WYOMING | 4.0% | 38 | None | |
| DIST. OF COLUMBIA | 6.0% | 15 | None | |
| U. S. MEDIAN | 6.0% | | | 25 states allow vendor discounts |

(1) In some states, the vendors' discount varies by the amount paid. In AL and SC, the larger discounts apply to the first \$100. In GA, the larger discount applies to the first \$3,000. In KY, the larger discounts apply to the first \$1,000, while MD applies the larger discount to annual collections of \$6,000. The lower discounts apply to the remaining collections above these amounts.

(2) Utilities are not permitted to take discount. Collection allowances are 0.73% if total sales tax collected is less than \$60,000; 0.53% if total taxes is between \$60,000 and \$600,000; 0.26% if total sales tax collected is more than \$600,000.

(3) Rate does not include a statewide local rate of 1.0% in VA and 1.25% in UT.

(4) State discount of 3.33% has been suspended through 7/1/11. Local option sales tax discount varies from 0% to 3.33%.

(5) Vendors are allowed to keep any excess collections prescribed under the bracket system.

(6) Vendor discount only applies to the first 4.0% of the tax. A 0.75% discount if paid by the 7th of the month.

(7) An additional discount of 1.25% applies for early payment.

(8) Discount varies; 1.2% (1.6% for food) of the first \$62,500, 0.92% (1.2%) of the amount to \$208,000, and 0.6% (0.8%) of the remainder. Applies to the state tax only. No discount allowed on electronically file returns.

(9) Vendors are allowed a 2.25% discount if they file and pay electronically.

(10) Sales tax rate in NV is scheduled to fall to 6.5% on 7/1/11.

**JOINT STANDING COMMITTEE ON TAXATION
GUIDING PRINCIPLES
from Brainstorming Session on 9/7/11 as modified on 10/12/11**

Our recommendations for restructuring Maine's tax laws will:

- Be bold;
- Be timely ~~—recommendations will be ready for enactment by April 2012 (referendum 2012); and~~
- Be paid for in the biennium in which the tax change is passed to avoid impact on the budget. *(Needs further discussion- doesn't appear to have consensus.)*

We believe Maine's tax laws should:

- Benefit all residents and be exportable to nonresidents;
- Be fair, shared and balanced;
- Be simple and allow businesses and individuals to easily file their returns;
- Attract business, encourage local investment and spending; and
- Create more stability so revenues do not fluctuate wildly from year to year.

Reviewed and Revised
by Committee 10/12/11.

DRAFT COMMITTEE BILL

(Pursuant to authority granted under 36 MRSA §199-D)

(The committee will review
a revised draft on
Nov 9th)

LA: EFC

File Name: g:\taxcmte\125th\interim meetings\legislation\tax expenditures.doc

LR (item)#:

Date: October 7, 2011

Title: An Act To Require the Review of Proposed Tax Expenditures

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA § 199-C, as enacted by PL 2011, c. 652, §7, is amended to read:

36 §199-C. REVIEW

The committee shall conduct the following reviews according to the following schedule and shall review the factors identified in subsection 3 before enacting legislation or recommending a legislative initiative that results in a reduction of tax revenue arising from a special exclusion, exemption, deduction, credit, preferential tax rate or deferral of tax liability.

1. Odd-numbered years. During each odd-numbered year the committee may review the report required under section 199-B.

2. Even-numbered years. During each even-numbered year the committee may review current issues of tax policy.

A. During each second regular session, the committee shall identify areas of tax policy for review during the period between the end of the second regular session and the first regular session of the next Legislature.

B. The committee may review:

(1) Issues of tax policy related to tax expenditures identified in its review under subsection 1;

(2) Issues related to the overall structure of the State's tax laws and the relative tax burdens on various classes of taxpayers;

(3) The impact of the State's tax structure on taxpayer behavior, including incentives and disincentives to reside or locate businesses in the State;

(4) Issues identified by the committee that require more detailed review than is possible during a regular session of the Legislature; or

(5) Any other tax policy issue identified by the committee as needing legislative review.

3. New or expanded tax expenditures. Whenever legislation or a legislative initiative proposes a new tax expenditure or change that extends or expands an existing tax expenditure, the committee shall, to the extent that the information is available, consider the following when evaluating whether the tax expenditure should be enacted, extended or

expanded:

- A. The classes of individuals, types of organizations, or types of industries whose state tax liabilities are directly affected by the tax expenditure as well as the number of taxpayers affected;
- B. Public policy objectives that provide a justification for the tax expenditure, including but not limited, to the extent to which the tax expenditure encourages business growth, attracts business or promotes the growth or retention of high wage jobs;
- C. Projections of the fiscal impact of the tax expenditure and any necessary explanation of state revenue loss;
- D. The general effects the tax expenditure may have on consumption and spending patterns as well as the overall state economy;
- F. Unintended benefits or negative consequences the tax expenditure may have on an individual, organization, or industry other than those the Legislature intended;
- G. Similar tax expenditures adopted in other states, and potential competitive benefits that might be gained by enacting the tax expenditure;
- H. Standards for accountability or reporting requirements for the recipient of the tax expenditure and the extent to which the standards and reporting are included in the proposal;
- I. Methods for evaluating the tax expenditure, the availability of data, the cost of data collection and analysis for the evaluation of the tax expenditure, and the extent to which a process for evaluation of the tax expenditure is included in the proposal;
- J. The administrative ease of adjusting or recapturing the tax expenditure if the objectives are not fulfilled and whether a mechanism for such is included in proposal for the tax expenditure; and
- K. A process for a sunset review of the tax expenditure and whether the tax expenditure proposal includes a scheduled sunset review and or an expiration without a sunset review

Summary

This bill creates a review process to be performed by the Joint Standing Committee on Taxation prior enacting legislation or recommending a legislative initiative that would result in a new tax expenditure or change that extends or expands an existing tax expenditure. The bill requires the committee to consider the groups and numbers of taxpayers affected, the public policy that provides justification for the proposed tax expenditure, fiscal impact projections related to the proposed tax expenditure, effects the proposed tax expenditure may have on the economy, unintended benefits or negative consequences of the proposed tax expenditure, similar tax expenditures in other states, standards of accountability or reporting related to the proposed tax expenditure, methods for evaluating the proposed tax expenditure, mechanisms for recapturing the proposed tax expenditure if objectives are not fulfilled and a sunset review process for the proposed tax expenditure.

| LD | Title | Sponsor | PH | Last WS | Issues/Analysis/ Comments | Who/Cmt Lead Follow up needed/taken | Work Sessions/ Action/Vote |
|------|--|---------|------|---------|---|--|-------------------------------|
| 52 | An Act To Dedicate a Percentage of the Sales and Use Tax on Motor Vehicles and Motor Vehicle Parts to the Highway Fund | CEBRA | 2/15 | 3/14 | Majority voted CO; goal to identify additional/alternative funding sources for HF | Rep Harmon - update 10/12 - further discussion with sponsor needed | |
| 234 | An Act To Provide a Sales Tax Exemption to Commercial Horticulturists | HARVELL | 3/25 | 4/14 | Unanimous OTP; Recommitted to Taxation Committee from the Appropriations Committee; may need to consider alternative funding sources or ways to make revenue neutral | Sen Trahan and Rep Harmon; will speak with sponsor and others. Is there a possibility of including in budget? | |
| 305 | RESOLUTION, Proposing an Amendment to the Constitution of Maine To Allow Land and Buildings To Be Assessed Differently | CHIPMAN | 4/29 | 5/11 | Constitutional issues related to property tax policy in the assessment of land and buildings; need to examine issues re: Art IX, Sec 8 and 9. | 10/12 - request to table; Rep Berry -contact sponsor to find out status/progress | |
| 590 | An Act To Require Review of Certain Changes to Sales Tax Policy Application or Practice prior to Implementation | CHASE | 3/11 | 5/11 | A workgroup met during Session to work this bill. Committee voted to CO bill on 5/4 and then reconsidered on 5/9 and tabled. Voted a majority and minority report of OTPA/OTPA on 5/11. The majority report was amended in the House and sent to Appropriations Table in the Senate. AFA recommitted to Taxation Committee to be carried over; may need to consider alternative funding sources or ways to reduce or offset revenue impact. | Rep Bennett - update 10/12 - further discussion with sponsor about alternatives/next steps; Rep Bickford requested explanation of fiscal note. | |
| 835 | An Act To Strengthen Maine's Economy through Improvements to the Educational Opportunity Tax Credit | KNIGHT | 4/6 | 4/15 | Originally voted out of Committee OTPA/ONTP. Went to floor and committed back to Committee 5/26. Issues raised related to the promotion of this tax credit on school campuses as well as issues related funding. There is a report dated 2/16/11 submitted pursuant to PL 2009, c 533. Sec A-18. | Sen Woodbury and Rep Knight (sponsor) - update 10/12 - continued work needed with interested parties | |
| 849 | An Act To Provide Tax Relief for Maine's Citizens | TRAHAN | 3/31 | 5/4 | Originally voted OTPA/ONTP/OTPA. Majority report accepted on floor and sent to Appropriations Table. AFA recommitted to Taxation Committee to be carried over. | Sen Trahan - update 10/12 - keep bill for possible tax reform legislation | |
| 876 | An Act To Convert Vacant Commercial Property to Occupied Commercial Property | BENNETT | 4/25 | 5/2 | Unanimous vote to carry over. Sponsor needs more time to develop concept draft regarding tax policy impact on real estate decisions related to commercial properties. | Rep Bennett will further develop concept | 9/7/11 ONTP |
| 1138 | An Act To Prevent Unnecessary Expulsion of Landowners from the Maine Tree Growth Tax Law Program | KNIGHT | 4/29 | 5/5 | Committee voted to carryover this bill in order to more thoroughly review the Tree Growth Tax Law policy and issues that have been raised related to the bill. There have been reports and past changes in legislation that the Committee may want to review in working this bill. | Rep Harmon - update 10/12 - continue information gathering | |

Taxation Committee Carryover Bills

Status as of: 10/24/2011

| LD | Title | Sponsor | PH | Last WS | Issues/Analysis/ Comments | Who/Cmt Lead Follow up needed/taken | Work Sessions/ Action/Vote |
|------|--|-------------------|------|---------|---|--|-------------------------------|
| 1164 | An Act To Support Maine Farms and Alleviate Hunger | DION | 4/25 | 5/6 | The Committee originally voted ONTP/OTPA on 5/3 and reconsidered on 5/6 voting to carry over. There was discussion of how this might dovetail with an effort to provide incentives to farmers to refrain from shooting deer that damage crops. | Rep Berry and Rep Harmon | |
| 1225 | An Act To Create an Income Tax Return Check-off To Fund Cancer Screening, Detection and Prevention | STRANG BURGESS | 4/27 | 5/4 | Committee voted to carryover this bill in order to develop a standardized process for evaluating income tax return checkoff requests. There was discussion during a separate work session on a library check off bill (ONTP) about developing standard criteria rather than the "first come first serve" or evaluation on a case by case basis. | Update 10/12 - Tabled until next meeting when full Committee can review proposed minority amendment and possible alternatives. As proposed at Sept 7th meeting the minority amendment would remove political parties; beginning 2015 and every 10 years thereafter review check offs and drop the 3 that have the smallest number of donations (not dollar amount) to make room for new ones proposed by legislation. The check off for cancer prevention and libraries should be added in 2015 within extra space created by removal of political parties | 9/7/11 ONTP/OTPA |
| 1470 | An Act To Ensure Harvesting of Timber on Land Taxed under the Maine Tree Growth Tax Law | RAYE | --- | --- | A public hearing has not been held. The Committee wants to review issues that have been raised regarding Tree Growth Tax Law policy and proper use of the program. There are reports available from previous Legislatures that the Committee may want to review that address a wide range of issues including timber harvesting. | Update 10/12 - Rep Harmon recommended no action until bill has PH | |
| 1535 | An Act Relating to Fiscal Notes on Proposed Legislation | KNIGHT | 5/9 | 5/11 | Unanimous vote to carry over in order to provide legislative and executive branch staff time to identify appropriate methodologies and resources for developing dynamic fiscal notes. | Update 10/12 - Rep Knight - will be meeting with staff from OFPR, MRS and State Planning office to review how this can be implemented and will report back with any changes that may be needed to legislation. | |