SEN. CRAIG V. HICKMAN, SENATE CHAIR
REP. JESSICA L. FAY, HOUSE CHAIR

MEMBERS:

SEN. LISA KEIM
SEN. RICHARD BENNETT
SEN. JILL C. DUSON
SEN. JEFF TIMBERLAKE
SEN. MIKE TIPPING
REP. AMY ARATA
REP. MARK BLIER
REP. MARGARET M. O'NEIL
REP. ANNE-MARIE MASTRACCIO
REP. H. SAWIN MILLETT, JR.

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

DATE: October 28, 2024

TO: Members, Government Oversight Committee of the 132nd Legislature

FROM: Senator Craig V. Hickman, Senate Chair Craig V Hickman
Representative Jessica F. Fay, House Chair JF
On behalf of the 131st Government Oversight Committee

RE: OPEGA Proposals in Response to PL 2023, Ch. 417, Section 9

Public Law 2023, Ch. 417, Section 9, tasked OPEGA with reviewing the laws governing the tax expenditure review process and making recommendations to the GOC and Taxation Committee for statutory changes to enhance the process's efficiency and effectiveness. The office was directed to submit these recommendations by November 1, 2024 and to pay particular attention to evaluation parameters and the schedule and pace of full evaluations.

Although Ch. 417 only directed OPEGA to review the laws governing the process, OPEGA also sought opportunities to improve the effectiveness and efficiency of the process's implementation. The attached proposal includes 6 topic areas in which OPEGA identified opportunities for increased effectiveness or efficiency. Two of the topics would require legislation, or other GOC or Tax Committee action, if they are to be advanced.

OPEGA provided this proposal to the GOC for its October 16, 2024 meeting and that Committee voted unanimously of those present to endorse OPEGA's recommendations and authorize OPEGA to draft legislation to be submitted to the 132nd GOC for their consideration.

For your consideration, attached are:

- OPEGA's proposal for Tax Expenditure Review Process Improvements in Response to PL 2023, Ch. 417
- Relevant Excerpts of GOC Meeting Minutes from 10.16.2024
- Draft bill language prepared by OPEGA at the 131st GOC's request

82 STATE HOUSE STATION, ROOM 104 CROSS OFFICE BUILDING
AUGUSTA, MAINE 04333-0082
TELEPHONE: 207-287-1901 FAX: 207-287-1906

OPEGA Responses to Section 9 of PL 2023, Ch. 417

Sec. 9. Review by Director of Office of Program Evaluation and Government Accountability. By November 1, 2024, the Director of the Office of Program Evaluation and Government Accountability shall review the laws governing full evaluations of tax expenditures under the Maine Revised Statutes, Title 3, chapter 37 and identify and recommend to the Government Oversight Committee and the Joint Standing Committee on Taxation potential statutory changes to enhance the efficiency and effectiveness of the full evaluation process going forward, with particular attention to evaluation parameters and the schedule and pace of full evaluation reports. The Government Oversight Committee may submit legislation related to the recommendations of the director to the First Regular Session of the 132nd Legislature.

- Section 9 of PL 2023, Ch. 417 requires OPEGA to propose statutory changes which could enhance the efficiency and effectiveness of the tax expenditure review process, paying particular attention to evaluation parameters and the schedule and pace of full evaluations.
- The Director shall identify and recommend any changes to the GOC and Tax Committee by 11.1.24. The GOC may submit legislation.

Below are six topic areas in which OPEGA identified opportunities for increased effectiveness or efficiency. Although Ch. 417 only directed OPEGA to review the laws governing the process, we've also sought opportunities to improve the effectiveness and efficiency of the process's implementation. For each topic, we explain why it was identified for improvement, the changes already implemented or under development, and our recommendation for further efforts. We've also noted that two of the topics would require legislation, or other GOC or Tax Committee action, if they are to be advanced.

<table>
<tr>
<td>1. Parameters Process
Implemented</td>
<td><u>Why This Topic Area?</u>

Ch. 417, Section 9 specifically directs OPEGA to consider improvements to the parameters process. OPEGA staff and GOC Members have noted difficulties with establishing parameters for evaluating a tax expenditure when they were not originally established. It requires staff and GOC Members, sometimes years later, to attempt to discern the purposes those who enacted the tax expenditure had in mind for it. Establishing parameters well after enactment also requires additional time and resources for OPEGA to research the types of goals and measures that may have been intended and for the GOC to process and consider this research. Finally, when parameters are set just before the start of an evaluation, often the data needed to assess the expenditure based on those parameters has not been previously collected. The absence of readily available data impacts the efficiency of OPEGA's reviews and how effectively we can address the evaluation parameters.

<u>What Has Already Been Done?</u>

Changes Introduced by PL 2023, Chapter 417
Section 7 of Ch. 417 created a new process requiring the Tax Committee to review proposals to enact new tax expenditures, or change existing tax expenditures, for clarity of evaluation criteria and purpose. The Tax Committee must evaluate whether the proposal:
A. Identifies the purposes and goals of the tax expenditure;
B. Identifies the data needed to evaluate the tax expenditure and the entity responsible for collecting that data;
C. Requires the entity collecting the data to provide it to OPEGA; and
D. Provides the necessary framework for OPEGA to evaluate the tax expenditure.</td>
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	This type of Tax Committee review could produce a large efficiency gain for the parameters process if it results in tax expenditures with explicit goals and performance metrics in statute. However, OPEGA notes that the process was not exercised during the first session after its passage, and the process is only required to be applied to proposals that are: • determined by the Committee with jurisdiction over the proposal to have the support of the majority of Committee Members; and • subsequently determined by the Tax Committee to likely be assigned to the full evaluation category under §998(1)(A). If proposals do not meet the above two criteria, or if the Joint Standing Committees do not apply the process, then the efficiency gains this process is expected to deliver for the parameters process may not be realized. ***OPEGA Actions*** To support the new process enacted by Ch. 417, OPEGA has been performing outreach to the Tax Committee about the process and about OPEGA's availability to consult on the process as called for in statute. OPEGA has also supported establishment of statutory evaluation parameters in our reports by recommending that goals and measures for individual tax expenditures be added to statute or clarified where necessary. We have observed that many drafters of tax expenditure proposals have taken note of the Legislature's interest in having clearly established goals and performance measures and appear to be making an effort to include them in new proposals. When requested, we have provided informal input to those drafting tax expenditure bills about the evaluation sections of the bills and about the likelihood that the proposals would meet the definition to be categorized for a full evaluation. **<u>What Work Remains to Be Done?</u>** OPEGA will continue to support the establishment of clear statutory evaluation parameters for tax expenditures as outlined above and will particularly focus on outreach on this matter to the Tax Committee and its staff as the 132nd Legislature gets underway. There remain, however, many existing tax expenditures that are scheduled for full evaluation and do not have parameters in statute (17 of the 19 that have not yet had a full evaluation). Establishing parameters will continue to be more challenging when it is time for these expenditures to be evaluated. The 2021 Report of the Tax Expenditure Review Working Group recommended establishment of a one-time Legislative task force to assess whether existing statutes included the elements needed for those categorized for full evaluation and to recommend changes. This recommendation was not included in the legislation that was ultimately passed. However, the work this task force was intended to address could potentially be accomplished via a one-time project that OPEGA could support for the GOC or Tax Committees, or a collaboration of both. As discussed in topic area #3 below, there may be options for cooperative efforts between subgroups of the two Committees that do not require legislation.
2. Timing and Focus of Evaluations *Implemented*	**<u>Why This Topic Area?</u>** Ch. 417, Section 9 directs OPEGA to specifically seek opportunities for improvements regarding the schedule and pace of full evaluation reports. Over time, OPEGA had also

	observed that the process needed to be more responsive to the Legislature's timing needs and to areas of particular interest to sitting GOC and Tax Members. **<u>What Has Already Been Done?</u>** Although statute sets the framework for tax expenditure reviews, it includes a level of flexibility that has allowed OPEGA to make adjustments within the required objectives to achieve faster reviews and focus on the areas of greater interest to Legislators. To meet legislative timing requirements, OPEGA has taken steps such as flexing staff resources and the breadth of reviews. This has allowed us to be timely in completing reviews for which there are Committee timing expectations or statutory deadlines. We have also begun adjusting our staffing and evaluation approach, when possible, to prioritize completing reviews of tax expenditures for which there is pending legislation. The evaluations of the Research Expense Tax Credit and the Historic Restoration Tax Credit are two examples of projects that OPEGA successfully delivered to the Legislature during sessions when bills on those tax expenditures were under consideration. OPEGA has also made adjustments to better address areas of legislative interest. We have done this within existing resources by emphasizing some review objectives over others, where appropriate. For example, for the objective related to administration, OPEGA now typically performs a high-level review and only gets into more detail if risks are identified. Spending less time reviewing the details of administration leaves more staff resources to focus on objectives we frequently hear are of interest to legislators, such as the degree to which the tax expenditure is achieving its goals. **<u>What Remains to Be Done?</u>** OPEGA will continue working to perform reviews efficiently, being responsive to the Legislature's timing needs and to areas of Legislator interest. We will also continue increasing outreach to help identify areas of interest. Relatedly, we also recognize that there is legislative interest in further analysis for some review objectives, such as the cost-effectiveness of a tax expenditure and how it compares with that of other potential uses of state funds. These are challenging topics to address for tax expenditure evaluators across the states, in part because interest in them is more recent and hence research and underlying data have not historically been robust. As part of OPEGA's continual improvement efforts, we will continue working to research and develop new methods and analyses for addressing these objectives and will monitor emerging approaches in peer offices and academic literature.
3. GOC & TAX Coordination *Under Development*	**<u>Why This Topic Area?</u>** The 2021 Report of the Tax Expenditure Review Working Group noted "the overall process of tax expenditure review would be enhanced by improving coordination between and engagement of the major joint standing committees with an interest in and responsibilities for tax expenditure reviews and process." OPEGA has noted this as well. Over time, members of both Committees have expressed interest in acting on tax expenditure reports, but the details of how to proceed have been difficult. Both Committees have full plates and tax expenditures are also just one piece of their workload. Often OPEGA's recommendations for Legislative consideration identify bigger picture issues that could be addressed in a variety of ways and that need

	policymaker input to consider the options and determine a path forward. That work can stretch over many meetings and can be difficult for either Committee carve out time for among their other competing priorities. **<u>What Has Already Been Done?</u>** The Tax Expenditure Review Working Group considered several options for addressing this topic. In its 2021 report, the Working Group recommended improving coordination via the following steps: 1. adjusting the composition of the GOC to include two members of the Tax Committee, and one member of the Committee on Innovation, Development, Economic Advancement and Business (IDEAB); and 2. authorizing the Tax Committee to meet year-round for its tax expenditure review responsibilities. These two measures passed in PL2023, Ch. 417, Section 1 and Section 3, respectively and may improve coordination between the 132nd GOC and Tax Committee. OPEGA has also been working to identify ways staff can more effectively work with the two Committees to aid their coordination. One piece of this has included increased OPEGA outreach to the Tax Committee. We have also increased our monitoring of Tax Committee actions on matters in which the GOC is engaged, and we have endeavored to keep the GOC apprised of these matters. **<u>What Remains to Be Done?</u>** OPEGA suggests that in future the GOC and Tax Committee could, as needed, assign subgroups of members to meet jointly as needed for tax expenditure review work. These assignments could happen without any statutory changes and the work of the subgroups could be supported by OPEGA staff. The subgroups could then report back to the GOC or the Tax Committee and one of those Committees could report out legislation or take other action as needed. A joint subgroup could improve coordination between the two Committees and could be a useful venue for exploring tax expenditure review topics that don't readily fit into either Committee's routine work. For example, a subgroup could delve into tax expenditure report recommendations around approaches that could be used instead of single-entity tax credits for delivering targeted incentives to specific businesses, or improvement of data collection. If there is interest in establishing a structure for the GOC and Tax Committee to work together on tax expenditure review matters, OPEGA will work with the Committees to identify opportunities and develop a process for this collaborative work.
4. Information to Support Consideration of Legislation Related to Tax Expenditures *Under Development*	**<u>Why This Topic Area?</u>** The 2021 Report of the Tax Expenditure Review Working Group identified "a need by the Taxation Committee for information as it reviews legislation amending existing tax expenditures, which must be considered during a legislative session when those tax expenditures have not yet been evaluated or are in the early stages of evaluation." The report also noted "a challenge for the Taxation Committee to obtain relevant information and analysis in a timeframe responsive to legislative needs during sessions and outside of the regular tax expenditure review process."

	OPEGA has observed that this challenge seems to persist despite efforts the office has made to conduct tax expenditure reviews in a manner, and on a timeline, responsive to legislative needs (as discussed above in topic area #2). **<u>What Has Already Been Done?</u>** PL2023, Ch. 417 carved out some new roles for OPEGA staff support of the Tax Committee within the tax expenditure review and legislative process: • Limited Analysis Projects, wherein the Tax Committee can request up to 2 limited analysis projects related to legislation before it be completed by OPEGA during each legislative session, subject to GOC approval (3 MRS §998(6)); and • Being available to consult with the Committee about whether tax expenditures that are the subject of pending legislation are likely to be assigned for full evaluation and contain the provisions necessary to support an evaluation (3 MRS §1002). OPEGA has been in contact with the Tax Committee about these new roles but has not yet been called upon to fulfill them. We have also begun to monitor legislation before the Tax Committee more actively, and to reach out to the Committee Chairs when legislation before them pertains to tax expenditure that OPEGA has reviewed. We also offer copies of the report or other related materials, as appropriate, and have attended Tax Committee work sessions, when requested, to speak to how legislation interacts with recommendations or conclusions from tax expenditure reviews. **<u>What Remains to Be Done?</u>** OPEGA stands ready to fulfill the roles assigned to staff via Ch. 417 to support the Tax Committee's tax expenditure review work. At the start of the 132nd Legislature, we will also include discussion of these two roles in the orientation materials for the 132nd GOC and Tax Committee. OPEGA will also continue seeking additional ways that the office can better support legislative committees in their tax expenditure review work, as appropriate and within existing resources.
5. Annual Categorization Deadline *Would Require Committee Action*	**<u>Why This Topic Area?</u>** Title 3 §998(3) requires that by October 1st of each year, the GOC, in consultation with the Tax Committee, reviews and makes any necessary adjustments to category assignments of tax expenditures (full review, expedited, and no review) and to the schedule for conducting full evaluations. Over the years, the October deadline has often been suboptimal for both the GOC and OPEGA. Additionally, the current timeframe does not align with the commencement of work for new GOC and Tax Committees. As such, outgoing Committees may be setting the schedule and prioritization for future GOCs and Tax Committees not yet seated and may not be present to see the results of the work they have scheduled. It is often not possible to update the categories and schedule before the current statutory deadline of October 1st because the documents that underpin this work are

	not ready until after the summer. While OPEGA could review all enacted legislation for relevant changes, this work is already being done by MRS and would represent a duplication of effort. Instead, we use MRS's document as the basis for our updates, and there is often not enough time available after the release of that summary document for us to achieve the October 1st deadline. **<u>What Has Already Been Done?</u>** OPEGA and the GOC have done their best to meet this deadline, but it has not always been achievable from session to session. **<u>What Remains to Be Done?</u>** OPEGA recommends that moving the deadline to January or early February of each year may better align with the beginning of new sessions. This would allow the GOC to consider priorities for the tax evaluation schedule alongside the annual review of OPEGA's non-tax evaluation work plan and with the benefit of knowing which tax expenditures are subject to pending legislation. This timing would also provide ample time for OPEGA staff to review the relevant changes to tax expenditure legislation from the most recently completed legislative session and to prepare a proposed categorization and schedule for the Committee's consideration.
6. Incentive Data Centralization *Would Require Committee Action*	**<u>Why This Topic Area?</u>** A recurring finding of OPEGA's tax expenditure evaluations has been that the data available to analyze incentives is often either not available, or not maintained to a standard needed to support legislative oversight. This is a barrier to transparency generally, and it reduces the efficiency with which OPEGA can conduct evaluations. Having a repository of basic usage data for tax expenditures would increase the efficiency of the tax expenditure evaluations, but would also address legislator interest in the co-use of incentives by business and allow OPEGA to more readily provide information on review Objective (f) "The extent to which there are other state or federal tax expenditures, direct expenditures or other programs that have similar purposes, intent or goals as the tax expenditure, and the extent to which such similar initiatives are coordinated, complementary, or duplicative." **<u>What Has Already Been Done?</u>** OPEGA has raised this issue in past tax expenditure evaluations where it is applicable. Office staff also continue to discuss this matter, and related issues, with the agencies that administer tax expenditures and with other interested parties. **<u>What Remains to Be Done?</u>** OPEGA suggests that the state would benefit from a system, such as a data portal, that is centralized under the management of a designated entity, to ensure the consistency, reliability, and completeness of the tax expenditure data. If there is interest in pursuing such a system, OPEGA could support next steps for the GOC or Tax Committees, or a collaboration of both.

SENATOR CRAIG V. HICKMAN, SENATE CHAIR
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MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
October 16, 2024

Call to Order

The Chair, Senator Hickman, called the Government Oversight Committee to order at approximately 9:32 a.m.

ATTENDANCE

Senators:	Senator Hickman, Senator Keim, Senator Bennett, Senator Duson, Senator Tipping, and Senator Timberlake
Representatives:	Representative Fay, Representative Arata, Representative Mastraccio, Representative Millett, Representative Blier, and Representative O'Neil
Legislative Staff:	Peter Schleck, Director, OPEGA Jen Henderson, Senior Analyst, OPEGA Kari Hojara, Senior Analyst, OPEGA Virginia Ryan, Temporary GOC Committee Clerk

82 State House Station, Room 104 Cross Building
Augusta, Maine 04333-0082
TELEPHONE 207-287-1901 FAX: 207-287-1906

…

Recommendations by OPEGA Pursuant to PL 2023, Ch. 417, Section 9

Senator Hickman then turned the Committee's attention to the proposal offered by OPEGA in keeping with the subject provision of statute, concerning recommended improvements to the tax expenditure review process. Senator Hickman invited OPEGA Senior Analyst, Jen Henderson, to present OPEGA's proposal.

The OPEGA proposal and an accompanying memo may be found at the following links:

Memo to GOC re: PL 2023, Ch. 417, Section 9 Recommendations from OPEGA re: Tax Expenditure Reviews

PL 2023, Ch. 417, Section 9 Recommendations from OPEGA re: Tax Expenditure Reviews

Ms. Henderson explained that in the subject enactment, the Legislature directed OPEGA to review the laws governing the tax expenditure reviews and to recommend, by November 1, 2024, any possible changes to improve the process.

Ms. Henderson further shared how OPEGA identified six items, which are described in the above links. Ms. Henderson also referenced the requirement that OPEGA share these recommendations with the Tax Committee, as well.

Ms. Henderson described the first area identified for improvement—parameters development—and noted that this is an area where there has already been significant progress. Ms. Henderson also noted that Chapter 417 enacted a new process that requires the Tax Committee to review future legislation, enacting a new tax expenditure or amend an existing one, to ensure that legislation adequately defines an expenditure's purpose and performance measures. Ms. Henderson noted that this new process also requires the Tax Committee to ensure that the associated data collection provisions and responsibilities are included in any such legislation. Although this process was in place for the most recent session, Ms. Henderson said that it had not been triggered by any legislation during that session. Consequently, OPEGA staff have not yet gotten a chance to see how the process will work in implementation.

Representative Mastraccio asked how OPEGA understood, as a practical matter, the new process prescribed in 3 M.R.S. Section 1002 would work. Representative Mastraccio noted that there are various committees where these bills could come up, and asked how OPEGA sees this new process getting triggered.

Ms. Henderson acknowledged that it was not clear, including because the process had not yet been triggered and applied. She noted that this process requires OPEGA's tax expenditure staff to take on some new work, beyond just conducting the evaluations, to support the tax expenditure review process as a whole. Ms. Henderson said that OPEGA has initiated outreach to the Tax Committee on this matter, including reaching out to that Committee to communicate OPEGA's availability to consult on this process, as called for in statute. Ms. Henderson said OPEGA also prepared a guidance document for the Tax Committee about this process. She said that document was shared with the 131st Tax Committee and will be included in OPEGA's tax expenditure review orientation for the 132nd. Ms. Henderson also said that OPEGA has plan for additional outreach about this matter to those who staff the policy committees.

Ms. Henderson noted that OPEGA has also observed that the attention the GOC has brought to having clear evaluation parameters has made that a priority in the minds of those drafting tax expenditure legislation. She said that sometimes drafts are now brought to OPEGA ahead of time to get OPEGA's perspective on whether the parameters are spelled out clearly.

Ms. Henderson also observed that 17 of the 19 remaining full evaluation tax expenditures do not have established parameters. She described OPEGA's proposals for possible avenues for getting parameters established for these 17.

Ms. Henderson then described the second area in which OPEGA identified opportunities for improvement—the timing and scope of evaluations. In this discussion, she also noted that OPEGA continues to monitor developing evaluation methods for topic areas where OPEGA hears that policymakers would like additional information, such as cost-effectiveness. Ms. Henderson said tax expenditure evaluation is a fairly new area of study and so doesn't have a very deep foundation on matters like these, so Maine is not alone in seeking new and better methods.

Senator Hickman asked whether OPEGA has found resources on this matter at the federal level, for example, perhaps from the Government Accountability Office (GAO).

Ms. Henderson responded that OPEGA always looks to applicable GAO materials where they exist, but that methods are not always transferrable from one type of expenditure to another.

Senator Bennett asked whether OPEGA looked at the question of the advantages and disadvantages of having OPEGA do this work in statute instead of another office such as OFPR.

Ms. Henderson said that OPEGA had not considered that as part of the current proposal, and she referred to the reasons why OPEGA was chosen as the office to conduct the tax expenditure review work when the process was enacted.

Senator Bennett raised a question about whether it would be appropriate to consider alternatives and whether the initial rationale has proven correct. Senator Bennett expressed concern that the Tax Committee taking an increasing role in directing matters being worked on by OPEGA and about the lines of accountability between the Tax Committee and Government Oversight Committee when it comes to managing the work of OPEGA.

Representative Mastraccio suggested that the statute creating OPEGA makes pretty clear who directs OPEGA's work. Representative Mastraccio suggested there is a good process in place by which the GOC ensures it governs OPEGA work and priorities, and other committees can make requests to the GOC if they would like to see OPEGA perform particular work. Representative Mastraccio also observed that having OPEGA perform the tax evaluation role was mandated for reasons that are appropriate, including the capacity to handle confidential information. Representative Mastraccio also noted that having two members of Tax on the new GOC should be helpful. Representative Mastraccio then asked what OPEGA's recommendation was on this matter.

Senator Hickman noted that the discussion had started touching on the third topic and that perhaps OPEGA would like to respond from that perspective.

Ms. Henderson assured the Committee that OPEGA is always aware that the GOC is the Committee oversees and directs OPEGA's work and that the Tax Committee has been mindful of this as well. Ms. Henderson described how OPEGA's outreach to the Taxation Committee has been partly to make that Committee aware that OPEGA's tax expenditure staff are available to perform basic support for the tax expenditure process, including presenting reports and consulting on evaluation parameters as called for in statute. Ms. Henderson also noted that the FTEs funded for and devoted to tax matters is limited.

Ms. Henderson then described OPEGA's third area identified for potential improvement—coordination between the GOC and Tax Committees—and noted that one idea OPEGA developed for addressing this was to form a GOC-Tax Committee subgroup.

Representative Mastraccio indicated she was supportive of having a GOC-Tax Committee subgroup to be formed, and as recommended by OPEGA, and hoped this would be something the next GOC discusses. Representative Mastraccio said she would appreciate the expertise of a subgroup that could come back and make recommendations, including whether legislation is needed and by which committee.

Ms. Henderson next described OPEGA's fourth area identified for potential improvement—information to support consideration of tax expenditure legislation—and noted that the newly enacted "30-day" projects may address this opportunity, but that none have been requested yet. Ms. Henderson noted that OPEGA been reaching out to the Tax Committee about this newly enacted process and has provided a guidance document.

Representative Mastraccio stated she looked forward to seeing how the "30-day" reviews of tax expenditures worked and that it would be helpful for OPEGA to come back to the Committee in the next session to report on how this new process went. Representative Mastraccio said that this was an important new addition to the tax expenditure statute and making sure it is working is important.

Ms. Henderson next described OPEGA's fifth area identified for potential improvement—adjusting the deadline for the GOC's annual review and approval of the tax expenditure categorization and review schedule. Ms. Henderson said OPEGA is recommending the deadline be moved from October to January or February and noted that this change would require legislation.

Representative Mastraccio asked whether this is something about which the GOC would propose legislation, which would then be referred to the Tax Committee, and whether this is something OPEGA could be ready to bring to the GOC in January.

Ms. Henderson indicated that OPEGA could be ready to assist with this and suggested that legislation on the tax expenditure review process may be referred to the State and Local Government Committee.

Senator Hickman clarified that the Committee did not have to vote on OPEGA's recommendations but could vote to endorse the recommendations if desired and to send a letter memorializing the Committee discussion for the next Legislature. Senator Hickman asked that OPEGA present the sixth opportunity area and then the Committee could move to discussion.

Ms. Henderson described OPEGA's sixth area identified for potential improvement—centralization of incentive data. Ms. Henderson said OPEGA has raised this in past reports and discussed this with the agencies that administer tax expenditures, but that there is a lot of work remaining here.

Representative Mastraccio asked if OPEGA had thoughts about the scope of this and what it would take to achieve the goal of the OPEGA recommendation concerning a centralized repository of tax expenditure-relevant data.

Ms. Henderson suggested that what would be required would vary depending on where the Legislature wanted to go on this matter. For example, an immediate step of funneling all of the relevant data through a central agency with data management expertise would be a big improvement and wouldn't necessarily requires major investments in new computer systems. Ms. Henderson noted that OPEGA welcomes the opportunity to be supportive with additional research and suggestions if this matter is of interest to the GOC or Tax Committee as a whole or to a GOC-Tax subgroup.

Senator Bennett referenced LD 1804, which he had introduced in the last session, that sought to achieve this goal and could be built upon. Senator Bennett encouraged the Committee to take a look at the list of items in his prior legislation as part of this further consideration and noted the value of having standardized and centralized data available to policymakers ongoingly rather than only when a tax expenditure comes up for evaluation. Senator Bennett said it would be appropriate for the GOC to put in bill form the recommendations that OPEGA is offering, even if the Committee doesn't embrace them all, so that at least it is ready for the next GOC to take up.

Senator Tipping asked whether the contemplated data portal would be accessible by the public.

Ms. Henderson said that this was the approach in some other states.

Representative Fay asked whether OPEGA knew how many different Maine agencies are collecting such data.

Ms. Henderson suggested, based on OPEGA evaluations to data, that there have even been different data collection systems within individual agencies. Ms. Henderson noted that in evaluations conducted to date OPEGA has found data collection occurring within FAME, two different DECD offices, and the Maine Historic Preservation Commission, in addition to multiple collection systems in MRS. Ms. Henderson noted that in some cases the individuals tasked with collecting and managing data are program experts in their fields but may have limited data management training, which doesn't position them well to collect reliable data.

Representative Fay said that best practices and training across the board would help with a lot of the goal setting and other things the Committee has talked about too.

With Senator Hickman's permission, Ms. Henderson also observed that in OPEGA's opinion this centralized data collection links to a recommendation in some of OPEGA's recent reports that the state move away from single-entity tax credits and toward some more structure process for awarding targeted incentives. Ms. Henderson noted that some states use a closing fund or a grant program that drive consistency across specific awards, with exceptions as needed, and are managed more as a portfolio. Ms. Henderson noted that a benefit of this structure is having consistent standards for data collection and things like statutory provisions to limit risk to the state, so that policymakers don't have to recreate those elements from scratch in a new bill every time there is a targeted incentive needed.

Representative Fay expressed her view that this was a helpful discussion and her hope that the next iteration of the Committee explore these matters to come up with a process that is more efficient and provides greater transparency. Representative said that it is all about government oversight and making sure that taxpayer dollars are being spent in a way that is the most efficient and effective and the way that the Legislature intended.

Representative Millett expressed appreciation for OPEGA's work on this matter and encouraged the Committee to direct OPEGA to make this an annual process (to make suggestions).

Motion and Committee Vote

Representative Millett made a motion, seconded by Representative Mastraccio, that the Committee direct OPEGA to transmit these recommendations to the 132nd GOC, with some draft language for any required legislation. The motion passed unanimously by the 11 members present at the time of the vote. One Member did not later vote in the time permitted following the meeting.

DRAFT BILL LANGUAGE

An Act to Improve the Tax Expenditure Review Process *and Centralize Incentive Data Collection*

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

Sec. 1. 3 MRSA §998, sub-§§ 1 through 3, as enacted by PL 2015, c. 344, §4, are amended to read:

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; <u>and</u>

~~B. Expedited review for tax expenditures that are intended to implement broad tax policy goals that cannot be reasonably measured; and~~

~~C.~~ <u>B.</u> No review for tax expenditures <u>that are intended to implement broad tax policy goals that cannot be reasonably measured,</u> 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~~ <u>category</u> pursuant to subsection 1, paragraph~~s~~ A~~ and B~~. To the extent practicable, the committee shall group the review of tax expenditures with similar goals together. Beginning in 2024, when prioritizing ongoing review of tax expenditures assigned to the full evaluation category, the committee, in consultation with the policy committee, shall give priority to tax expenditures that are intended to provide an incentive to businesses over tax expenditures that are directed primarily toward individual tax relief and shall consider the impact of any statutory provisions regarding the expiration of a tax expenditure that may be the subject of legislation to extend the tax expenditure.

3. Annual review of assignments and schedule. By ~~October 1st~~ <u>February 15th</u> of each year, beginning in ~~2016~~ <u>2026</u>, 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.

Sec. 2. Incentive Data Centralization Task Force. The Incentive Data Centralization Task Force, referred to in this section as "the task force," is created for the purpose of developing a plan for the centralization and standardization of data related to Maine tax expenditures and incentives.

1. Members. The task force is composed of 6 members appointed as follows.

A. The President of the Senate shall appoint 3 members of the Senate: one member of the Government Oversight Committee, one member of the joint standing committee of the Legislature having jurisdiction over taxation matters and one member of the joint standing committee of the Legislature having jurisdiction over economic development matters.

B. The Speaker of the House shall appoint 3 members of the House of Representatives: one member of the Government Oversight Committee, one member of the joint standing committee of the Legislature having jurisdiction over taxation matters and one member of the joint standing committee of the Legislature having jurisdiction over economic development matters.

When making appointments, the President of the Senate and the Speaker of the House shall ensure that 3 of the members appointed represent the party holding the largest number of seats in the Legislature and 3 of the members appointed represent the party holding the 2nd largest number of seats in the Legislature.

2. Duties. The task force shall develop a plan for centralizing and standardizing data related to Maine tax expenditures and incentives in order to ensure this data is reliable and routinely available to support transparency and oversight. The task force shall be informed by research about similar efforts in other states, best practices in data collection and management, and related recommendations in tax expenditure review reports from the Office of Program Evaluation and Government Accountability. The task force shall also identify the population of tax expenditures and other incentives for which data will be centralized and standardized and the resources needed to implement its plan. The task force shall submit its report and recommended legislation to the Government Oversight Committee by November 2, 2025.

3. Staffing. The Legislative Council shall provide necessary staffing services to the task force from the Office of Program Evaluation and Government Accountability, the Office of Policy and Legal Analysis, and the Office of Fiscal and Program Review, except that Legislative Council staff support is not authorized when the Legislature is in regular or special session.

SUMMARY

This bill increases the efficiency of the tax expenditure review process and establishes a task force to address the need for data centralization for tax expenditures.