

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 538 - L.D. 849

**An Act to Implement the Recommendations of the Working Group to Review
the Process for Ongoing Review of Tax Expenditures by the Legislature**

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

Sec. 1. 3 MRSA §993, as enacted by PL 2001, c. 702, §2, is amended to read:

§993. Committee membership; chairs

The membership of the committee and the selection of chairs are established by joint rule of the Legislature. Beginning with the 132nd Legislature, at least one member of the committee must be a member of the joint standing committee of the Legislature having jurisdiction over taxation matters and at least one member must be a member of the joint standing committee of the Legislature having jurisdiction over economic development matters. No 2 members of the committee may be members of the same joint standing committee of the Legislature and also members of the same political party.

Sec. 2. 3 MRSA §998, sub-§2, as amended by PL 2017, c. 266, §1, is further amended to read:

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. 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.

Sec. 3. 3 MRSA §998, sub-§5 is enacted to read:

5. Policy committee meetings. In order to perform its functions under this chapter, the policy committee may meet monthly or as often as is determined necessary by the chairs of the policy committee.

Sec. 4. 3 MRSA §998, sub-§6 is enacted to read:

6. Limited analysis projects. Notwithstanding any provision of this chapter to the contrary, the policy committee may request the committee to approve up to 2 limited analysis projects related to legislation before the policy committee to be completed by the office during each regular legislative session. For the purposes of this section, "limited analysis project" means a limited review of a tax expenditure based on information readily available to the office that is intended to be completed and submitted to the committee and the policy committee within 30 days of approval by the committee.

Sec. 5. 3 MRSA §1000, as amended by PL 2019, c. 161, §2, is repealed.

Sec. 6. 3 MRSA §1001, sub-§1, as enacted by PL 2015, c. 344, §4, is amended to read:

1. Information requests; confidentiality; reporting. The following provisions apply to the performance of duties under ~~sections~~ section 999 ~~and 1000~~. These powers are in addition to the powers granted to the office and committee under this chapter.

A. The office may request confidential information from the Department of Administrative and Financial Services, Maine Revenue Services or other state agencies as necessary to address the evaluation objectives and performance measures approved under section 999, subsection 1. The office shall request any confidential information in accordance with section 997, subsection 4. The office shall request that confidential tax information, other than beneficiary contact information, be made accessible to the office as de-identified tax data. If Maine Revenue Services is unable to provide such data, the office and representatives of Maine Revenue Services shall determine appropriate methods for the office to access the requested information.

B. Upon request of the office and in accordance with section 997, subsection 4, the Department of Administrative and Financial Services, Maine Revenue Services or other state agencies shall provide confidential information to the office. The office shall maintain the confidentiality of the information provided, in accordance with section 997, subsections 3 and 4. This paragraph does not apply to federal tax information that is confidential under Title 36, section 191, subsection 3.

C. The office, the committee or the policy committee may consult with governmental agencies, other entities and experts, including members of the Consensus Economic Forecasting Commission under Title 5, section 1710.

D. The office may contract with other entities for the purpose of obtaining assistance in the review of tax expenditures. The office shall require a nondisclosure agreement as part of any contract entered into pursuant to this paragraph. The office may not disclose confidential taxpayer information to a contractor, except for:

- (1) Contact information for specific beneficiaries of tax expenditures for the purpose of conducting interviews, surveys or other data collection; and
- (2) Statistics classified so as to prevent the identification of specific taxpayers or the reports, returns or items of specific taxpayers.

The contractor shall retain physical control of any information obtained pursuant to this paragraph until the conclusion of the review for which the information was provided, after which the information must be immediately destroyed.

E. The office may report confidential information obtained under this section to Legislators, legislative committees, state agencies and the public only in the form of statistics classified so as to prevent the identification of specific taxpayers or the reports, returns or items of specific taxpayers.

F. Prior to the submission of a tax expenditure evaluation report under section 999, subsection 2, the office shall provide the State Tax Assessor an opportunity to review a draft of the report in accordance with the provisions of section 997, subsection 1. The State Tax Assessor may advise the office on compliance with paragraph E.

G. For purposes of this section, the following terms have the following meanings:

(1) "Beneficiary contact information" means the following information listed on a tax return or included in a tax return: the name, address, zip code, e-mail address and telephone number of the taxpayer, and of any related entity, officers, attorneys, personal representatives and other agents, tax preparers and shareholders of, partners of or members of the taxpayer or of a listed related entity.

(2) "De-identified tax data" means tax returns and other confidential tax information that are redacted or otherwise modified or restricted by Maine Revenue Services so as to exclude the following:

(a) Beneficiary contact information;

(b) Identification numbers including federal or state employer identification numbers, social security numbers and registration numbers; and

(c) Other information from which the State Tax Assessor determines that the identity of the taxpayer could reasonably be inferred.

Sec. 7. 3 MRSA §1002 is enacted to read:

§1002. Review of proposed tax expenditures

1. Procedures before legislative committees. Whenever a legislative measure contains a proposed new tax expenditure or a proposed change that affects an existing tax expenditure, the joint standing committee of the Legislature having jurisdiction over the proposal shall hold a public hearing and determine the level of support for the proposal among the members of the joint standing committee. If there is support for the proposal among a majority of the members of the joint standing committee, the joint standing committee shall request the policy committee to review and evaluate the proposal pursuant to subsection 2 and to report to the joint standing committee. A proposed tax expenditure or change to an existing tax expenditure may not be enacted into law unless the review and evaluation pursuant to this section has been completed.

2. Evaluation. Upon referral pursuant to subsection 1 of a proposal from the joint standing committee of the Legislature having jurisdiction over the proposal, the policy committee, in consultation with the office, shall conduct a review and evaluation of the proposal and shall report in a timely manner to the joint standing committee. The policy committee shall evaluate whether the proposed or amended tax expenditure is likely to be assigned to the full evaluation category under section 998, subsection 1, paragraph A. If the tax expenditure is likely to be assigned for full evaluation, the policy committee shall evaluate whether the proposal contains the provisions necessary for a full evaluation under section 999, including whether the proposal:

- A. Identifies the purposes and goals of the tax expenditure;
- B. Identifies the data or other information necessary to evaluate the tax expenditure and the person or agency responsible for collecting that data or information;
- C. Requires the appropriate person or agency to provide the data or other information identified in paragraph B to the office; and
- D. Provides the necessary framework to permit the office to evaluate and report on the tax expenditure as required under section 999.

3. Report. After its evaluation pursuant to subsection 2, the policy committee shall report to the joint standing committee of the Legislature having jurisdiction over the proposal its findings and recommendation on whether the proposed tax expenditure is likely to be assigned to the full evaluation category under section 998, subsection 1, paragraph A and, if so, whether it contains the provisions necessary to fulfill the requirements of a full evaluation under section 999 or whether the legislation should be amended to contain the necessary provisions.

Sec. 8. 5 MRSA §1666, 3rd ¶, as amended by PL 2015, c. 344, §5, is further amended to read:

A budget document transmitted by the Governor or Governor-elect must include a part that asks the Legislature whether it wishes to continue funding each individual tax expenditure provided in the statutes. For purposes of this paragraph, "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 part must include for each tax expenditure a statutory section reference, a brief description of each tax expenditure and the loss of revenue estimated to be incurred by funding source and fiscal year. The joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs shall consider any reports regarding the evaluation of tax expenditures completed during the previous 2 years pursuant to Title 3, ~~sections~~ section 999 and 1000 and shall hold at least one public hearing to receive public comment regarding those tax expenditures when reviewing the continuation of tax expenditures pursuant to this section. This paragraph applies with respect to the preparation of the budget document for the 2008-2009 biennium and thereafter.

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.

Sec. 10. Staffing for tax expenditure review. By January 15, 2025, the Office of Program Evaluation and Government Accountability and the Office of Fiscal and Program Review shall notify the Legislative Council whether they can, within existing

resources, provide staffing adequate to support the Government Oversight Committee and the joint standing committee of the Legislature having jurisdiction over taxation matters in staffing the activities required by this Act or whether additional resources are needed.