



April 13, 2023

Senator Grohoski, Senate Chair
Representative Perry, House Chair
Members of the Joint Standing Committee on Taxation
100 State House Station
Augusta, Maine 04333

Re: Testimony in opposition to LD 1337, “An Act to Require a Corporation That Files a Tax Return in the State to File a Tax Disclosure Statement”

Senator Grohoski, Representative Perry, members of the Taxation Committee:

My name is Jeremy Payne and I am a principal with Cornerstone Government Affairs Group here to testify in opposition to LD 1337 on behalf of our client the Maine Renewable Energy Association (“MREA”).

The corporate disclosure requirements set forth in LD 1337 could cause harm to future investment in renewable energy development, and the associated economic benefits, in Maine. States have rejected similar and less onerous public information disclosures for corporate tax returns as it jeopardizes the privacy inherently beneficial to the growth of a company.

It would be easy to demonstrate the disadvantages of each specific disclosure but it’s imperative to communicate the broader implications. Corporations are purposely structured to leverage financial opportunities that support investment. Tax returns are complicated, and this proposal requires information that could propel misinformed opinions resulting in both political and investment risk.

This bill could compromise Maine’s ability to receive information from the Internal Revenue Service, impairing the state’s ability to enforce its own tax laws. Since 1976 Internal Revenue Code Section 6103 provides that tax returns are not subject to public disclosure and prohibits sharing with the state if the state does not have similar safeguards to protect the confidential taxpayer and return information. These rules were established following decades of debate and experiences associated with taxpayer privacy but also created an expectation that agencies required to enforce laws had the proper access to information.

Taxpayers have a justifiable expectation of privacy on the information that they provide and the policy on this has been well established under federal and state tax law. This bill violates those principles of taxpayer confidentiality, could compromise information sharing with the federal government, and is likely to reduce Maine’s economic competitiveness.

Privacy is important in the development of energy markets. For instance, section F, below, exposes critical information that could erode the competitive advantage a firm may have when in

the procurement process. Where intangible property generally means patents, copyrights, licenses, and royalties, this would all become part of the public domain.

“F. Total deductions for management services fees, for rent and for royalty, interest, license fee and similar payments for the use of intangible property paid to any affiliated entity that is not included in the affiliated group that includes the corporation and the names and principal office addresses of the entities to which the payments were made”

Included in the disclosures are the costs of goods sold. Depending on the range or projects some competitors may determine the advantages or disadvantages of their competitors. This would be effective when a developer has a single project within the State of Maine. That information becomes a liability in future competitive procurement.

According to the Total State and Local Business Tax Report published by the Council on State Taxation, businesses paid \$5.1 billion in state and local taxes to Maine in FY2021. In focusing on a single corporate income tax, this proposal ignores the multitude of state and local taxes that businesses are subject to in Maine and the dynamic impact on the overall state economy. Public disclosure is likely to perpetuate the misconception that businesses do not pay substantial taxes to the state, and one of the many reasons Federal tax privacy was determined to be in the best interest of our nation.

Recent tax credit policies through federal and state programs can be essential in both legislative policies and corporate expansion in Maine. The credits may not provide an accurate depiction of what programs were utilized, instead, add to the misconceptions. As an example, the Work Opportunity Tax Credit (WOTC) is a Federal tax credit available to employers for hiring and employing individuals from certain targeted groups who have faced significant barriers to employment. That would not be clear in the disclosure, and the benefits to those residents and Maine’s workforce are not accounted for in the tax return.

Maine Revenue Services is charged with enforcement of tax compliance and can interpret tax returns, audit, and enforce laws. If lawmakers are concerned that the tax laws are not being appropriately enforced, the appropriate avenue is oversight of the agency, not public disclosure of otherwise confidential taxpayer information.

Renewable energy investment is critical in Maine’s goal of reaching carbon neutrality. The competitive nature of procurement is emboldened by the greater participation of firms globally, both in the net price for consumers, and the establishment of business operations within our state. For all those reasons stated, we strongly urge the Committee to reject this bill.