

Michelle Draeger
Falmouth, Maine
LD 883

Testimony in Support of Amendment to LD 883

Dear Senator Grohoski, Representative Sayre, and esteemed members of the Taxation Committee:

My name is Michelle Draeger, and I live in Falmouth. I am the Executive Director of the Maine Justice Foundation whose mission is to sustain, promote, and partner with civil legal aid providers and social justice organizations to inspire and support fairness and justice in Maine.

IN SUPPORT OF LD 883 WITH A FEW MODIFICATIONS

I respectfully submit my support for the proposed amendment to LD 883 - An Act to Provide a Tax Credit for New Attorneys Practicing Civil and Criminal Law in Underserved Areas, subject to a few modifications noted below.

At present, the Maine Justice Foundation (Foundation) administers a tax credit passed by the Legislature in 2021, LD 978, An Act to Create Access to Justice Income Tax Credit, now codified at 36 MRS § 5219-ZZ. This law authorized the Maine Supreme Judicial Court (SJC) to create a program running from 2022 through 2027 that provides a tax credit of \$6,000 for up to five attorneys annually who agree to (1) practice law in an underserved area for at least 5 years; (2) are rostered by the Maine Commission on Public Defense Services (MCPDS); and (3) agree to perform pro bono legal services in an underserved area; and (4) are certified by the court to be eligible. After this legislation passed, the SJC designated the Maine Justice Foundation to administer the program.

Since 2022, the Foundation has successfully administered an online annual application process for qualifying attorneys to obtain the tax credit and has annually certified attorneys. Maine Revenue Services has provided an interpretation of § 5219-ZZ that the law allows for up to five new attorneys to be certified each year in addition to those previously certified and continue to be eligible. Indeed, between 2022-2025, 19 attorneys have been certified as eligible to receive the tax credit. Eligible attorneys who have been certified and/or recertified practice law across the state in underserved areas of Aroostook, Somerset, Cumberland, Androscoggin, Knox, Penobscot, Somerset, York, and Kennebec counties.

After reviewing the proposed amendment to LD 883, it is evident that there are substantial similarities between the programs contemplated in it and § 5219-ZZ. Additionally, it appears that LD 883 materially expands the existing program in a couple of ways and the Foundation supports these provisions:

- It removes the limit on the number of attorneys who may annually apply.
- It increases the amount of tax credit to \$18,000 (from \$6,000).

IN ITS CURRENT FORM, LD 883 OMITTS AN IMPORTANT PROVISION NECESSARY FOR THE ADEQUATE PROVISION OF LEGAL SERVICES TO MAINERS IN NEED

LD 883 omits an important provision of § 5219-ZZ. In its current proposed form, it omits eligibility for attorneys who agree to perform pro bono legal services in an underserved area. We believe this provision is integral to the provision of much needed legal assistance in underserved areas of the state. The existence of legal deserts in several counties in Maine is cause for concern as many people, whether they can afford it or not, do not have access to legal counsel. These challenges cannot be adequately addressed without also including incentives for attorneys who agree to perform pro bono legal services in underserved areas. Therefore, we believe that programs such as the tax credit contemplated 36 MRSA § 5219-ZZ and the expansion proposed in the amendment to LD 883, are necessary tools for the State of Maine to deploy to encourage attorneys to provide legal assistance, whether paid or pro bono, in underserved areas of Maine. On behalf of the Foundation, we respectfully request that LD 883 be amended to include the pro bono provision.

FURTHER CLARITY IS NEEDED

Respectfully, clarity is needed on the designee for administration of the expanded tax credit contemplated by LD 883 and its effective date.

As currently written, LD 883 omits mention of the designation of the Maine Supreme Judicial Court (or its designee) as administrator of the program. The Foundation has the necessary expertise and infrastructure to facilitate the successful administration of the expanded tax credit in the proposed amendment to LD 883 as noted above, however, the addition of a state designee such as the Maine Supreme Court (or its designee), is needed.

Finally, it is unclear whether the intention for LD 883 is to supersede § 5219-ZZ sunset date of 2027 as LD 883 proposes eligibility “for tax years beginning on or after January 1, 2026” and § 5219-ZZ authorizes certification of eligible attorneys “through 2027.”

The Foundation respectfully requests clarity on the designated party responsible for administration of the tax credits and whether the timeframe for credits contemplated by § 5219-ZZ will be superseded by the effective date of LD 883.

We are grateful for your leadership and strategic foresight to properly incentivize attorneys practicing in underserved areas of Maine to ensure access to justice for Mainers in need.

Thank you,

Michelle Draeger
Executive Director