



Testimony Neither For Nor Against LD 883:

“An Act to Provide a Tax Credit for New Attorneys Practicing Civil and Criminal Law in Underserved Areas”

Senator Grohoski, Representative Sayre, and distinguished members of the Joint Standing Committee on Taxation, my name is Montana Towers, and I serve as policy analyst for Maine Policy Institute. Maine Policy is a free market think tank, a nonpartisan, nonprofit organization that advocates for individual liberty and economic freedom in Maine. Thank you for the opportunity to submit testimony neither for nor against LD 883, “An Act to Provide a Tax Credit for New Attorneys Practicing Civil and Criminal Law in Underserved Areas.”

While we recognize the legitimate concern surrounding access to legal representation in parts of Maine, this bill attempts to address that problem by creating yet another targeted tax credit in an already complex and uneven tax code. Rather than solving the underlying problem, this approach risks expanding the state’s reliance on narrow incentive programs that favor specific professions while leaving broader structural issues unaddressed.

The State’s Obligation to Provide Counsel

Ensuring access to legal representation for indigent defendants is a fundamental constitutional responsibility of the state. The right to counsel, affirmed by the United States Supreme Court in *Gideon v. Wainwright*, requires states to provide legal representation to individuals who cannot afford it.¹ This obligation is not optional, and the state must ensure that systems are in place to meet this requirement.

In recent years, Maine has faced growing challenges in maintaining a sufficient pool of attorneys willing to take indigent defense cases, particularly in rural and underserved areas of the state. The shortage of available attorneys has placed increasing strain on courts, delayed proceedings, and raised legitimate concerns about the state’s ability to consistently meet its constitutional obligations. Addressing these shortages is therefore both necessary and urgent.

Concerns with Targeted Tax Credits

While the challenge is clear, policymakers should carefully consider whether targeted tax credits are the most effective mechanism to address it. MPI generally supports

¹ <https://supreme.justia.com/cases/federal/us/372/335/>



broad-based tax reform that lowers the overall tax burden rather than targeted incentives that provide benefits to specific professions or industries.

Targeted tax credits can add complexity to the tax code while creating unequal treatment between professions. When the government begins to use the tax code to direct labor toward particular fields, it raises reasonable questions from other sectors experiencing workforce shortages. Rural physicians, mental health providers, teachers, and other essential professionals may justifiably ask why similar incentives should not apply to their industries as well. Over time, this approach can lead to an expanding patchwork of tax carve-outs that complicates the tax system and obscures the true cost of government programs.

Additionally, tax credits may not always address the structural causes of workforce shortages. In the case of indigent defense, issues such as compensation rates, administrative burdens, and case management practices may play a larger role in discouraging attorney participation than tax liability alone. If those underlying challenges remain unaddressed, the effectiveness of a tax credit as a recruitment tool may be limited. This is especially true with this bill, which is only set to last for 5 years.

Alternative Approaches to Addressing the Shortage

The Legislature may wish to consider reforms that address the issue more directly and transparently. Adjusting reimbursement structures for indigent defense services, improving the administration of the indigent defense system, or exploring service based incentives for attorneys who commit to practicing in underserved areas may prove more predictable and accountable than tax expenditures. Policies that directly address compensation and working conditions may ultimately be more effective in expanding the pool of attorneys willing to take these cases.

Such approaches also allow policymakers and taxpayers to more clearly evaluate costs and outcomes through the appropriations process rather than through the tax code.

Ensuring Accountability if a Credit Is Adopted

If the Legislature determines that a tax credit is the appropriate policy tool to address this problem, then they should ensure that any such credit is narrowly tailored to the specific issue it seeks to address. Structuring the program in a way that limits its scope and allows for future evaluation can help ensure that it remains focused on improving access to indigent defense services without unnecessarily expanding the state's tax code.



Maine Policy Institute appreciates this bill's efforts to address the serious challenge of providing legal representation to indigent defendants across the state. While we remain cautious about the use of targeted tax credits as a policy tool, we recognize the importance of ensuring that Maine fulfills its constitutional obligations and that defendants receive timely access to counsel.

Thank you for your time and consideration and thank you for listening to Maine Policy Institute's thoughts and concerns with LD 883.