

**TESTIMONY OF
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DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

Before the Joint Standing Committee on Taxation
Hearing Date: *March 12, 2024*

LD 803 – *“Resolve, Directing the Department of Economic and Community Development to Review Tax Expenditures Related to Economic Activity”*

Senator Grohoski, Representative Perry, and members of the Taxation Committee – good afternoon, my name is Michael Allen, Associate Commissioner for Tax Policy in the Department of Administrative and Financial Services. I am testifying at the request of the Administration Against LD 803 – *“Resolve, Directing the Department of Economic and Community Development to Review Tax Expenditures Related to Economic Activity.”*

The bill, as amended, creates a review group headed by the Department of Economic and Community Development (DECD) and including the Office of Program Evaluation and Government Accountability (OPEGA) and the Office of Tax Policy in the Department of Administrative and Financial Services. The review group is tasked by the resolve with reviewing all tax expenditures related to economic activity. Among other requirements when reviewing the tax expenditures, the review group is to identify programs with similar goals, review the costs and return on investment of the expenditures, and identify how the expenditures fit together within the State economic development scheme.

The scope of this review group’s responsibilities is considerable, covering the review of “all tax expenditures related to economic activity,” a phrase which the resolve does not further define. At minimum, that review would conceivably include dozens of different programs and expenditures and is unlikely to be

possible by the January 15, 2025, due date in the resolve. For context, full tax expenditure reviews by OPEGA, which generally only cover an individual expenditure, often take around a year to complete. A narrowing of the review group's scope, or alternatively an extension of the due date until at least January 15, 2026, would make the report and the review much more feasible.

From a technical perspective, we would point out that many of the tax expenditure programs that this bill would presumably cover are subject to confidentiality provision which would limit the effectiveness of the review. While some of the evaluation objectives could be reviewed and identified by the review group, some of the objectives, such as "whether the tax expenditure is meeting established goals" would likely require some review of tax data, which is confidential under state and/or federal law. Maine Revenue Services can only provide confidential data to other agencies in certain limited circumstances.

Important to note as well that the Legislature already has an entity in OPEGA that is responsible for reviewing tax expenditures and other State programs and determining their effectiveness. The types of evaluation that this bill asks the review group to conduct are very similar to the objectives that OPEGA is required to evaluate when conducting their full tax expenditure reviews, see 3 M.R.S. § 999. In addition, OPEGA has already conducted full reviews of several of the expenditures which are conceivably intended to be evaluated by the review group under this bill. We would suggest that, if the Committee is looking for this type of comprehensive review of all tax expenditures, it would be better accomplished by the Legislature's own nonpartisan office OPEGA, who could better leverage the reviews and evaluations that have already been performed to provide the type of holistic view this bill seeks. In addition, review by OPEGA would negate the confidentiality concerns mentioned earlier, as there are existing

structures in statute that allow OPEGA access to certain confidential tax data as part of their reviews.

Similarly, as noted by DECD in their letter to the Committee, the Legislature has already tasked DECD with conducting a comprehensive evaluation of state economic development investments, which includes many of the programs and the evaluation objectives in this bill, see 5 M.R.S. § 13070-P.

The Administration looks forward to working with the Committee on the bill; representatives from MRS will be here for the Work Session to provide additional information and respond in detail to the Committee's questions.