TESTIMONY OF
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Before the Joint Standing Committee on Taxation
Hearing Date: *April 2, 2025*

LD 926 – "*An Act to Promote Research and Development in the State by Amending the Research Expense Tax Credit*"

Senator Grohoski, Representative Cloutier, 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 926, "*An Act to Promote Research and Development in the State by Amending the Research Expense Tax Credit.*"

This bill is substantially similar to LD 643, presented during the 131st Legislature which was unanimously voted out of Committee as Ought Not To Pass, except that this bill includes annual reporting and evaluation requirements.

LD 926 changes multiple credit parameters that, when taken together, increase the credit amount by significantly more than any one of the changes considered separately. It increases the Maine research expense tax credit from 5% to 10% of the qualified research expenses that exceed 50% (previously 100%) of the average research expenses for the previous three taxable years <u>plus</u> 15% (increased from 7.5%) of the amount of basic research payments relating to research performed by qualified universities or scientific research organizations. The limitation on the credit that may be claimed by a corporation is increased to 100% of the first $50,000 (increased from $25,000) of tax due plus 75% of the tax due in excess of $50,000.

Applying the credit to qualified research expenses that exceed 50% instead of 100% of the average research expenses for the previous three taxable years significantly changes the nature of the credit by providing a credit for a constant level of research expense instead of applying to an increase in research expenses (relative to the previous three years).

Taken together, these changes present a significant expansion in the credit and, despite the fact that the credit is not refundable, will have a relatively large revenue impact with benefits that are highly concentrated in a few large corporations.

In addition to increasing the credit, the bill imposes new disclosure, reporting, and expenditure review requirements. The public policy objectives, performance measures, and reporting requirements should be carefully considered to make sure that they work together to measure the effectiveness of the credit. As drafted, the reporting requirements include information that is not currently maintained by MRS, is not needed for tax administration purposes, and is non-tax information to which MRS has only limited, time-delayed, and uncertain ongoing access. Further, it is not clear that the required information is sufficient or necessary for the Legislature or the Office of Program Evaluation and Government Accountability (OPEGA) to effectively analyze the credit or the proposed changes to the credit.

Turning now to more technical concerns, the Administration notes that:

- OPEGA has previously reviewed this tax expenditure and released a report on March 11, 2022. The report is available on the Legislature's website at https://legislature.maine.gov/doc/8379.
- The bill does not contain an application date relative to the changes to the research expense tax credit.

- The bill requires DECD to first report certain information, including information received from MRS on or before March 1, 2027; however, MRS is not required to first report information to DECD until December 31, 2027.
- It may be necessary to enact an exception to Maine's confidentiality provision in 36 M.R.S. § 191 to allow MRS to share taxpayer information with DECD. DECD is not currently involved with the administration of this tax credit.
- The bill should be amended to define the "industry sectors" that are to be used for purposes of the annual report. This information is not currently required to be captured for the tax credit.

The preliminary fiscal impact is an estimated revenue loss of $7.5M to $10M per year.

The preliminary estimated administrative costs are under review. If the Bureau is required to annually report the industry sectors to DECD, computer programming costs will be required to update the credit worksheet and capture this data; otherwise, estimated administrative costs are nominal and can be absorbed within current budgetary allotments.

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.