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Judicial Branch testimony Neither for Nor Against LD 1491, An Act to Provide a Tax Credit for New Attorneys Practicing in Underserved Areas:

Senator Grohoski, Representative Cloutier, members of the Joint Standing Committee on Taxation, my name is Barbara Cardone and I represent the Judicial Branch. I would like to provide some brief testimony neither for nor against LD 1491.

In 2021, the Legislature passed LD 978, An Act to Create an Access to Justice Income Tax Credit, now codified in 36 MRS § 5219-ZZ. This law authorized the Supreme Judicial Court (SJC) to initiate a program whereby up to 5 eligible attorneys are allowed a tax credit of up to \$6,000 per year. An “eligible attorney” is defined as one who (1) agrees to practice law in an underserved area for at least five years, (2) is rostered by the Maine Commission on Public Defense Services (MCPDS), (3) agrees to perform pro bono legal services in an underserved area, and (4) is certified by the court to be eligible.

After this law passed, the SJC designated the Maine Justice Foundation to administer the program and certify and decertify the attorneys. There was an interpretation from Maine Revenue Services that § 5219-ZZ means that up to five new attorneys may be certified each year beginning in 2022 through 2027 in addition to those previously certified and who continue to remain eligible.

In the years 2022-2024, fifteen attorneys have been certified to receive the tax credit in at least one year. These attorneys practice in the counties of Aroostook, Cumberland, Somerset, Androscoggin, York, Knox, Penobscot and Kennebec.

LD 1491 creates a similar program but expands it in several ways. The bill removes the limit on the number of attorneys who may apply each year; it increases the amount of the tax credit to \$18,000; and it eliminates the sunset date of 2027. The pending legislation differs in a few other respects. It defines an “eligible attorney” slightly more broadly than § 5219-ZZ. It also identifies MCPDS as the administrator of the new program rather than the Supreme Judicial Court and the Maine Justice Foundation.

Many areas in this state are significantly lacking in access to lawyers and legal services, both for criminal cases as well as civil and family cases. The Judicial Branch generally supports programs that will encourage lawyers to practice in underserved areas. We are taking the position of neither for nor against this bill because we do not want to opine on an issue of tax policy.

We respectfully suggest that Maine does not need two very similar tax credit proposals administered by two different bodies, creating potential confusion and duplication. If the Committee is in favor of passing out this bill, we suggest that the committee amend the bill to integrate this program with the existing program in 36 MRS § 5219-ZZ.

Thank you for your time. I would be happy to answer any questions.