

Testimony delivered by Anya Trendy of DAFS

TESTIMONY OF MICHAEL J. ALLEN, ASSOCIATE COMMISSIONER FOR TAX POLICY DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

Before the Joint Standing Committee on Taxation
Hearing Date: *January 20th, 2026*

LD 2044 – *“An Act to Allow for the Transferability of the Biofuel Production and Renewable Chemicals Tax Credits”*

Senator Grohoski, Representative Sayre, 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 Neither For Nor Against LD 2044, *“An Act to Allow for the Transferability of the Biofuel Production and Renewable Chemicals Tax Credits.”*

This bill would permit a taxpayer that is certified by the Commissioner of Environmental Protection to claim the Biofuel Commercial Production and Commercial Use Tax Credit to transfer that certification and eligibility, in whole or in part, to any individual or entity.

The Biofuel Commercial Production and Commercial Use Tax Credit was reinstated for tax years beginning on or after January 1, 2021. This credit is equal to 5¢ per gallon of qualified biofuel produced and may only be used to reduce the Maine income tax imposed on income derived during the taxable year from the production of biofuel. The credit is nonrefundable, but unused credit amounts may be carried forward for up to 10 years.

For tax years beginning on or after January 1, 2021, a taxpayer engaged in the production of renewable chemicals is allowed a credit equal to 8¢ per pound of

renewable chemicals produced. The credit may only be used to reduce the Maine income tax imposed on income derived during the taxable year from the production of renewable chemicals. The credit is nonrefundable, but unused credit amounts may be carried forward for up to 10 years.

Transferable credits would represent a significant departure from Maine's current approach which utilizes refundable credits to achieve similar goals. Unlike nonrefundable credits, transferable and refundable credits allow a certified taxpayer with no, or limited, income tax liability to benefit from a credit, similar to a grant program. While both transferable and refundable credits accomplish this goal, the taxpayer must sell transferable credits in order to obtain the benefit. This sale would result in the tax benefit being spread between the taxpayer performing the incentivized activity and the taxpayer purchasing the credit. In addition, it would require Maine Revenue Services to develop new tracking and verification processes. Refundable credits, by contrast, are given directly, in their entirety, to the taxpayer generating the credit.

A grant program should be considered as an alternative to the credits utilized by this bill. These credits are narrowly targeted and are expected to apply to only a few taxpayers. OPEGA recommended in their recent report, "Evaluation of the Credit for Major Business Headquarters Expansions," that the Legislature consider other tools for providing incentives to single entities in the future.

The Department of Administrative and Financial Services shares OPEGA's concern that "a structure with broad reach like the tax filing system is not an efficient way to administer narrowly targeted incentives." The Maine tax code and tax filing system affect every taxpayer in the State and are ideally suited to implement programs with substantial uptake and broad applicability. It is difficult

for such a broad-based system to efficiently administer a narrow program tailored to a very particular set of facts and circumstances. The Minnesota Bioincentive Program is a much better model for providing development incentives to renewable chemical or biofuels sectors: [AGRI Bioincentive Program | Minnesota Department of Agriculture](#)

The preliminary fiscal impact estimate is not available at this time, but the current combined tax expenditure for both credits is negligible, which is another reason this should be a grant program administered by another department such as the Department of Environmental Protection. The preliminary administrative costs are nominal and can be absorbed within the current budgetary allotment.

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.

Appendix:

- The credit amount that may be claimed by the taxpayer engaged in the production of biofuels or renewable chemicals is limited to the Maine tax liability imposed against the income derived from the production of biofuels or renewable chemicals. However, credits transferred to another taxpayer are not similarly limited.
- As written, it is unclear whether the credits may be transferred to more than one other individual or entity.
- The bill should clarify whether the 10-year carryforward period for claiming unused credit is based on when the credit is originally generated or as of the transfer date.
- Sections 1 and 2 of the bill should be amended to clarify that the transfer is limited to the extent that the credit has not yet been claimed "in any tax year."