

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 849

H.P. 538

House of Representatives, February 21, 2023

**An Act to Implement the Recommendations of the Working Group
to Review the Process for Ongoing Review of Tax Expenditures by
the Legislature**

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TERRY of Gorham.
Cosponsored by Representatives: CARMICHAEL of Greenbush, MATLACK of St. George,
MILLETT of Waterford, SACHS of Freeport, STOVER of Boothbay.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 3 MRSA §993**, as enacted by PL 2001, c. 702, §2, is amended to read:

3 **§993. Committee membership; chairs**

4 The membership of the committee and the selection of chairs are established by joint
5 rule of the Legislature. Beginning with the 132nd Legislature, at least 2 members of the
6 committee must be members of the joint standing committee of the Legislature having
7 jurisdiction over taxation matters and at least one member must be a member of the joint
8 standing committee of the Legislature having jurisdiction over economic development
9 matters.

10 **Sec. 2. 3 MRSA §998, sub-§2**, as amended by PL 2017, c. 266, §1, is further
11 amended to read:

12 **2. Schedule.** The committee, in consultation with the policy committee, shall establish
13 a prioritized schedule of ongoing review of the tax expenditures assigned to the full
14 evaluation and expedited review categories pursuant to subsection 1, paragraphs A and B.
15 To the extent practicable, the committee shall group the review of tax expenditures with
16 similar goals together. Beginning in 2024, when prioritizing ongoing review of tax
17 expenditures assigned to the full evaluation category, the committee, in consultation with
18 the policy committee, shall give priority to tax expenditures that are intended to provide an
19 incentive to businesses over tax expenditures that are directed primarily toward individual
20 tax relief and shall consider the impact of any statutory provisions regarding the expiration
21 of a tax expenditure that may be the subject of legislation to extend the tax expenditure.

22 **Sec. 3. 3 MRSA §998, sub-§5** is enacted to read:

23 **5. Policy committee meetings.** In order to perform its functions under this chapter,
24 the policy committee may meet monthly or as often as is determined necessary by the chairs
25 of the policy committee.

26 **Sec. 4. 3 MRSA §998, sub-§6** is enacted to read:

27 **6. Limited analysis projects.** Notwithstanding any provision of this chapter to the
28 contrary, the policy committee may request the committee to approve up to 2 limited
29 analysis projects related to legislation before the policy committee to be completed by the
30 office during each regular legislative session. For the purposes of this section, "limited
31 analysis project" means a limited review of a tax expenditure based on information readily
32 available to the office that is intended to be completed and submitted to the committee and
33 the policy committee within 30 days of approval by the committee.

34 **Sec. 5. 3 MRSA §1000, sub-§2**, as amended by PL 2019, c. 161, §2, is repealed.

35 **Sec. 6. 3 MRSA §1000, sub-§2-A** is enacted to read:

36 **2-A. Action by Maine Revenue Services.** By February 15th of each year beginning
37 in 2025, the Department of Administrative and Financial Services, Bureau of Revenue
38 Services shall report to the policy committee the following information with regard to tax
39 expenditures identified for expedited review under section 998, subsection 1:

40 A. A description of the tax policy under review;

1 B. Summary information on each tax expenditure associated with the tax policy under
2 review, including:

3 (1) A description of the tax expenditure and the mechanism through which the tax
4 benefit is distributed;

5 (2) The intended beneficiaries of the tax expenditure; and

6 (3) A legislative history of the tax expenditure; and

7 C. The fiscal impact of the tax policy and each related tax expenditure, including past
8 and estimated future impacts.

9 **Sec. 7. 3 MRSA §1000, sub-§4** is enacted to read:

10 **4. Frequency of reports.** Each tax expenditure categorized for expedited review
11 under section 998, subsection 1, paragraph B must be reviewed by the policy committee on
12 a rotating schedule of every 6 years. A newly enacted tax expenditure must be reviewed
13 first in the first year following enactment of the tax expenditure that the tax policy including
14 the tax expenditure is subject to review.

15 **Sec. 8. 3 MRSA §1002** is enacted to read:

16 **§1002. Review of proposed tax expenditures**

17 **1. Procedures before legislative committees.** Whenever a legislative measure
18 contains a proposed new tax expenditure or a proposed change that affects an existing tax
19 expenditure, the joint standing committee of the Legislature having jurisdiction over the
20 proposal shall hold a public hearing and determine the level of support for the proposal
21 among the members of the joint standing committee. If there is support for the proposal
22 among a majority of the members of the joint standing committee, the joint standing
23 committee shall request the policy committee to review and evaluate the proposal pursuant
24 to subsection 2 and to report to the joint standing committee. A proposed tax expenditure
25 or change to an existing tax expenditure may not be enacted into law unless the review and
26 evaluation pursuant to this section has been completed.

27 **2. Evaluation.** Upon referral pursuant to subsection 1 of a proposal from the joint
28 standing committee of the Legislature having jurisdiction over the proposal, the policy
29 committee, in consultation with the office, shall conduct a review and evaluation of the
30 proposal and shall report in a timely manner to the joint standing committee. The policy
31 committee shall evaluate whether the proposed or amended tax expenditure is likely to be
32 assigned to the full evaluation category under section 998, subsection 1, paragraph A. If
33 the tax expenditure is likely to be assigned for full evaluation, the policy committee shall
34 evaluate whether the proposal contains the provisions necessary for a full evaluation under
35 section 999, including whether the proposal:

36 A. Identifies the purposes and goals of the tax expenditure;

37 B. Identifies the data or other information necessary to evaluate the tax expenditure
38 and the person or agency responsible for collecting that data or information;

39 C. Requires the appropriate person or agency to provide the data or other information
40 identified in paragraph B to the office; and

41 D. Provides the necessary framework to permit the office to evaluate and report on the
42 tax expenditure as required under section 999.

1 **3. Report.** After its evaluation pursuant to subsection 2, the policy committee shall
2 report to the joint standing committee of the Legislature having jurisdiction over the
3 proposal its findings and recommendation on whether the proposed tax expenditure is
4 likely to be assigned to the full evaluation category under section 998, subsection 1,
5 paragraph A and, if so, whether it contains the provisions necessary to fulfill the
6 requirements of a full evaluation under section 999 or whether the legislation should be
7 amended to contain the necessary provisions.

8 **Sec. 9. 36 MRSA §199-B, sub-§1, ¶C,** as enacted by PL 2001, c. 652, §7, is
9 amended to read:

10 C. An estimate of the cost of the tax expenditure for the current biennium and the
11 previous 4 fiscal years, including actual revenue losses, if available;

12 **Sec. 10. 36 MRSA §199-B, sub-§1, ¶E,** as amended by PL 2017, c. 211, Pt. E, §4,
13 is further amended to read:

14 E. Any recommendation regarding the amendment, repeal or replacement of the tax
15 expenditure; ~~and~~

16 **Sec. 11. 36 MRSA §199-B, sub-§1, ¶F,** as enacted by PL 2017, c. 211, Pt. E, §4,
17 is amended to read:

18 F. The total amount of reimbursement paid to each person claiming a reimbursement
19 for taxes paid on certain business property under chapter 915-; and

20 **Sec. 12. 36 MRSA §199-B, sub-§1, ¶G** is enacted to read:

21 G. For tax expenditures intended primarily to enhance economic security for
22 individuals with low income or to provide other economic assistance to individual
23 taxpayers, an assessment of the number of taxpayers taking advantage of the tax
24 expenditure compared to the number of individuals estimated to be eligible for the tax
25 expenditure.

26 **Sec. 13. Review by Director of Office of Program Evaluation and**
27 **Government Accountability.** By November 1, 2024, the Director of the Office of
28 Program Evaluation and Government Accountability shall review the laws governing full
29 evaluations of tax expenditures under the Maine Revised Statutes, Title 3, chapter 37 and
30 identify and recommend to the Government Oversight Committee and the Joint Standing
31 Committee on Taxation potential statutory changes to enhance the efficiency and
32 effectiveness of the full evaluation process going forward, with particular attention to
33 evaluation parameters and the schedule and pace of full evaluation reports. The
34 Government Oversight Committee may submit legislation related to the recommendations
35 of the director to the First Regular Session of the 132nd Legislature.

36 **Sec. 14. Full Evaluation Review Task Force.** The Full Evaluation Review Task
37 Force, referred to in this section as "the task force," is created for the purpose of reviewing
38 tax expenditures subject to full evaluation under the Maine Revised Statutes, Title 3,
39 chapter 37.

40 **1. Members.** The task force is composed of 6 members appointed as follows.

41 A. The President of the Senate shall appoint 3 members of the Senate: one member
42 of the Government Oversight Committee, one member of the Joint Standing

1 Committee on Taxation and one member of the Joint Standing Committee on
2 Innovation, Development, Economic Advancement and Business.

3 B. The Speaker of the House shall appoint 3 members of the House of Representatives:
4 one member of the Government Oversight Committee, one member of the Joint
5 Standing Committee on Taxation and one member of the Joint Standing Committee on
6 Innovation, Development, Economic Advancement and Business.

7 When making appointments, the President of the Senate and the Speaker of the House shall
8 ensure that 3 of the members appointed represent the party holding the largest number of
9 seats in the Legislature and 3 of the members appointed represent the party holding the 2nd
10 largest number of seats in the Legislature.

11 **2. Duties.** The task force shall review the statutes establishing each tax expenditure
12 identified as a full review expenditure under the Maine Revised Statutes, Title 3, section
13 998, subsection 1, paragraph A, identify which of those statutes do not have adequate
14 elements to permit effective evaluation pursuant to Title 3, section 999 and recommend
15 statutory changes if needed to permit effective evaluation. The task force shall submit its
16 report and recommended legislation to the Joint Standing Committee on Taxation by
17 November 2, 2024.

18 **3. Staffing.** The Legislative Council shall provide necessary staffing services to the
19 task force from the Office of Program Evaluation and Government Accountability and the
20 Office of Fiscal and Program Review, except that Legislative Council staff support is not
21 authorized when the Legislature is in regular or special session.

22 **Sec. 15. Staffing for tax expenditure review.** By January 15, 2025, the Office
23 of Program Evaluation and Government Accountability and the Office of Fiscal and
24 Program Review shall notify the Legislative Council whether they can, within existing
25 resources, provide staffing adequate to support the Government Oversight Committee and
26 the joint standing committee of the Legislature having jurisdiction over taxation matters in
27 staffing the activities required by this Act or whether additional resources are needed.

28 **SUMMARY**

29 This bill implements the recommendations of the Working Group To Review the
30 Process for Ongoing Review of Tax Expenditures by the Legislature established in 2021
31 by Joint Order 2021, S.P. 578. The bill:

32 1. Beginning with the 132nd Legislature, changes the membership of the Government
33 Oversight Committee by requiring that the membership of that committee must include at
34 least 2 members who are members of the joint standing committee of the Legislature having
35 jurisdiction over taxation matters and at least one member who is a member of the joint
36 standing committee of the Legislature having jurisdiction over economic development
37 matters for the purpose of improving communications among those committees regarding
38 tax expenditure review activities;

39 2. Authorizes the joint standing committee of the Legislature having jurisdiction over
40 taxation matters to meet throughout the year as determined to be necessary by the chairs to
41 perform tax expenditure review functions;

42 3. Changes the process for expedited review of tax expenditures by repealing
43 requirements that the information be provided to the joint standing committee of the

1 Legislature having jurisdiction over taxation matters by the Office of Program Evaluation
2 and Government Accountability and by expanding the scope of information required to be
3 reported by the Department of Administrative and Financial Services, Bureau of Revenue
4 Services to facilitate review by the joint standing committee;

5 4. Prioritizes full review of business incentive tax expenditures over tax expenditures
6 directed primarily toward individual tax relief;

7 5. Requires that the schedule for review of full review tax expenditures take into
8 consideration any statutory expiration dates;

9 6. Establishes a procedure for review of current statutes containing full review tax
10 expenditures to identify and address the need for statutory changes to improve the ability
11 to analyze and evaluate those provisions;

12 7. Establishes a procedure for review by the joint standing committee of the Legislature
13 having jurisdiction over taxation matters of legislation under consideration that would enact
14 a full review tax expenditure. The review is for the purposes of identifying and
15 recommending provisions to facilitate tax expenditure review;

16 8. Establishes a process for the joint standing committee of the Legislature having
17 jurisdiction over taxation matters to request 2 limited analysis projects per year to be
18 completed by the Office of Program Evaluation and Government Accountability for the
19 purpose of assisting consideration of legislation before the committee; and

20 9. Directs the Office of Program Evaluation and Government Accountability and the
21 Office of Fiscal and Program Review to assess and report to the Legislative Council
22 regarding the need for additional staff to perform the additional functions contained in the
23 bill.