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TAX EXPENDITURE REVIEW
EMPLOYMENT TAX INCREMENT FINANCING PROGRAM (ETIF)

	Summary	Notes
Why are we here?	1. The Tax Expenditure Review Law (3 MRSA c. 37) requires the Legislature to periodically review various tax expenditures[1]. Different procedures apply to: A. Full review provisions B. Expedited reviews. ETIF is a "full review" provision. 2. OPEGA has completed its evaluation of ETIF and submitted its report to the Government Oversight Committee (GOC) and TAX **(report in your folder)** 3. GOC has reviewed the OPEGA report and sent it to the TAX committee with related materials **(see related GOC chart and materials in your folder)**	OPEGA observation: ETIF may not strictly meet the definition of "tax expenditure;" operates more like a grant program. (pp. 5-6) Funds necessary for ETIF payments are transferred by State Controller from GF undedicated revenue in the withholding category to a special ETIF contingent account. DECD administers reporting process. STA makes payments to employers from the account. No appropriations are involved. Budget impact is reflected in the revenue forecasting process as a reduction of IT withholding revenue. 36 MRSA §6758.3
Taxation committee responsibility	1. Review the results of the OPEGA evaluation 2. Review GOC's review of report and other materials submitted to TAX 3. Submit a report to the Legislature documenting TAX Committee's activities and recommendations 4. May submit bill to "next regular session" of the Legislature to implement TAX Committee recommendations.	TAX reporting date : • in 2019 – 12/1/19 • after 2019 – later of * 90 days after receipt of materials submitted by OPEGA/GOC or * adjournment sine die of regular session in which materials received

[1] …"**Tax expenditures**" means those state tax revenue losses attributable to provisions of Maine tax laws that allow a special exclusion, exemption or deduction or provide a special credit, a preferential rate of tax or a deferral of tax liability." 5MRSA §1666

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What is ETIF?	ETIF provides a payment to a "qualified business" calculated as a percentage of income tax withheld by the business on behalf of "qualified employees"	
What is purpose; intent; goals?:	1. Creation of net new quality jobs 2. Improve and broaden tax base 3. Improve the general economy in the State 36 MRSA §6752. Enacted in 1996 (PL 1995,c. 669)	OPEGA recom 1: Legislature may want to consider ETIF's objectives based on Maines current economic development needs OPEGA recom 2. DECD should review ETIF's requirements in light of current business realities and make recommendations for updating where necessary. OPEGA recom 3: Legislature should amend statutes to clearly reflect all intended outcomes against which ETIF's effectiveness will be measured.
What is a "qualified business?	1. For-profit business other than a public utility 2. Adds 5+"qualified employees" above its base level of employment within a 2-year period 3. Retail operations only if the business: A. Has less than 50% of total annual revenues from Maine-based operations; or B. Can demonstrate to DECD that any increased sales will not include sales tax revenue derived from shifting retail sales from other businesses in the State 4. Must demonstrate to DECD that: A. The ETIF program would not go forward without approval ("but for" condition); B. The program will make a contribution to economic well-being of the State; and	OPEGA recom 6 Legislature should clarify whether same qualifying jobs may be claimed for both ETIF and MBHE (major business headquarters expansion credit) program OPEGA recom 4: Legislature should direct DECD to propose changes to ETIF's statute or rule to make "but for" application requirement effective OPEGA recom 5: Legislature should eliminate ETIF's economic consideration requirements – redundant with job

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	C. <u>No substantial detriment to other businesses</u> in State	creation requirement and eliminate or clarify "no substantial detriment" requirement (never identified)
What is a "qualified employee?"	A <u>new full-time employee</u> hired in this State above the business's "base level of employment" for whom: 1. A <u>retirement program</u> subject to ERISA is provided (offered) 2. <u>Group health insurance</u> is provided (offered) 3-A. <u>Income</u> derived from employer is <u>greater than</u> most recent <u>annual per capita personal income for county</u> in which employee is employed <u>OR</u> 3-B. For <u>call centers in Aroostook and Washington Counties</u>, income <u>is greater than the average weekly wage</u> for the most recent calendar year based on data of Dept. of Labor (or less based on adjustment authorized by DECD if average annual employment is less than state average). 4-A. Employee <u>may not be shifted from an "affiliated business"</u>	
What are ETIF benefits	Payment to business for <u>10 years</u> after qualification based on portion of income tax withholding for qualified employees 1. 30% for employees in which the labor market <u>unemployment</u> rate is <u>at or below</u> the State unemployment rate 2. 50% for employees in which the labor market <u>unemployment</u> rate <u>is greater than</u> the State unemployment rate 3. 75% for employees in which the labor market unemployment rate is <u>greater than 150%</u> of the State unemployment rate	

	Summary	Notes
	4. 80% for qualified Pine Tree Development Zone employees for period of PTDZ business qualification (10 year for tier 1; 5 years for tier 2)	
Limitations	1. Not for business which ceases to meet eligibility requirements to qualify 2. No Reimbursement after 10 years 3. Not for business electing to take Jobs and Investment Tax Credit (except PTDZ employees not included in JITC calculation) 4. Employee withholding amounts limited to standard amount required to be withheld (may not include excess withholding) 5. Aggregate annual amount of ETIF benefits may not exceed $20,000,000 (indexed).	
Cost of ETIF	2017 MRS estimate of costs reduced by Loring and MRRA JIF programs costs reported in the 2018 OPEGA Report on expedited review provisions: FY 18 $15,010,131 FY 19 $16,582,166	2019 MRS estimate of costs reduced by Loring and MRRA JIF programs costs: FY 18 $13,059,556 FY 19 $12,289,270 FY 20 $11,400,000 FY 21 $12,000,000 129 ETIF recipients in FY 129

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Process to demonstrate eligibility	1. Business submits application to Commissioner of DECD for approval of ETIF program and is required to submit: A. Base employment, payroll and state withholding data B. Number of qualified employees and payroll and withholding data necessary to calculate level of employment, payroll and State income tax withholding attributed to qualified employees the exceeds the base level. C. Certification that qualifying retirement program and health insurance program are available to qualified employees D. List of number of employment locations and number of employees at each E. List of all affiliated business and groups and employment, payroll and withholding data. F. State Economist review applications and provides advisory opinion to commissioner 2. Commissioner issues a certificate of approval 3. Annually by 4/15 business submits to STA info required to make payment for the preceding calendar year. 4. STA determines amount due. 4. By 7/31 STA makes payments to businesses	OPEGA recom 7: DECD should be recommend to Legislature amendments to address businesses that change ownership

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Length of benefits	10 years	
Administrative provisions	Commissioner of DECD administers the law. Commissioner and STA may adopt rules for implementation Commissioner may by rule establish fees to cover administrative costs. The following records are confidential (DECD): 1. Records obtained by DECD for designation or approval of ETIF program until receipt of an application or proposal. 2. Any record obtained that: a. The applicant has requested be designated confidential b. The commissioner determines that applicant would be competitively disadvantaged 3. Invasion of personal privacy 4. Records obtained by DECD or STA in connection with monitoring or servicing program 5. Creditworthiness records 6. Confidential financial statements. Tax records in possession of MRS are confidential.	OPEGA recom 8. Confidentiality status of ETIF data should be clarified. Statutes should be amended as needed. DECD and MRS have different standards. OPEGA recom 9. DECD and MRS should address opportunities to improve fiscal impact forecasts and update rules. OPEGA recom 10. MRS should strengthen controls to prevent overpayments and ensure accurate ETIF records. OPEGA recom 11. DECD should address information technology and staffing challenges.

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