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

Before the Joint Standing Committee on Government Oversight
Hearing Date: February 28, 2020

Office of Program Evaluation and Government Accountability
report on
Maine Capital Investment Credit

Senator Chenette, Representative Mastraccio, and members of the Government Oversight Committee – good morning, my name is Michael Allen, Associate Commissioner for Tax Policy in the Department of Administrative and Financial Services (DAFS). I am here today at the request of the Administration to testify on the Office of Program Evaluation and Government Accountability (OPEGA) report on the Maine Capital Investment Credit (MCIC).

This report addresses the interrelated topics of federal accelerated and bonus depreciation, the previous MCIC program, and the current iteration of the MCIC. I would like to begin with federal bonus depreciation.

OPEGA reaches the conclusion in this report that "research has not typically shown [bonus depreciation] to have a significant impact on business investment." We would like to highlight for the Committee that this is *not a consensus view*.

In fact, a peer-reviewed paper in the Journal of Public Economics, a top field journal, comes to the opposite conclusion:

> A number of recent papers in the area have used this strategy to measure the investment effects of the bonus depreciation policy (see House and Shapiro, 2008; Desai and Goolsbee, 2004; Edgerton, 2010; Zwick and

> Mahon, 2017; Ohrn, 2018). These papers, like this study, find that accelerated depreciation policies have large effects on investment.[1]
>
> Of particular application to this report, the paper finds that:
>
> Due to the high mobility of capital, accelerated depreciation provisions can have extra-large effects when implemented at the subnational-level. Therefore, accelerated depreciation policies are especially cost-effective tools for state and local policy makers looking to stimulate investment.

We don't offer this paper as an endorsement of its findings, but rather as a recent example of an economist looking at a similar issue and coming to a different conclusion than OPEGA.

OPEGA goes on to find that the "MCIC is unlikely to encourage business to expedite their capital investments to any significant degree." This finding is largely based on their earlier conclusion that bonus depreciation is ineffective. With significant bodies of research suggesting that bonus depreciation *is* effective, this conclusion remains in question.

It is also worth noting that OPEGA's analysis on the effectiveness of the MCIC does not appear to apply to the previous version of the MCIC which provided a higher value benefit than bonus depreciation in certain circumstances. However, as OPEGA noted, it did raise equity concerns.

This brings us to an area where our analysis lines up with that of OPEGA. Maine's income tax is substantially based on the federal income tax. This conformity to the federal income tax is key to the effective administration of the State income tax and to minimizing the compliance burden on taxpayers.

[1] Eric Ohrn. *The Effect of Tax Incentives on U.S. Manufacturing: Evidence from State Accelerated Depreciation Policies.* J. Public Econ. (Volume 180, December 2019).

As OPEGA noted, decoupling from bonus depreciation creates significant complexity. It is administratively difficult for the State and imposes real compliance burdens on taxpayers. Whenever the State is faced with a choice of whether to conform or not to federal tax law the Legislature should carefully weigh any potential benefits of decoupling against the added complexity of nonconformity.

While we agree with OPEGA that decoupling from bonus depreciation is complex, we do not necessarily agree with their conclusion that the "MCIC is complex for business." There are two distinct issues at play here. First is the complexity caused by decoupling from bonus depreciation – an area where we agree with OPEGA. But second is whether any additional complexity is caused by the MCIC. Here we disagree - the current iteration of the MCIC should not add significant complexity beyond that created by decoupling from bonus depreciation. In comparison, the previous iteration of the MCIC provided some of the simplicity of conformity to bonus depreciation with respect to in-State property.

The current version of the MCIC, while often discussed in the context of bonus depreciation, is a type of investment credit where a business is allowed a credit for an investment in addition to any depreciation they are allowed. Thirty-eight other states also have investment credits.

Whether Maine's MCIC is more or less effective, or more or less complex, than the investment credits offered by other states was not studied by OPEGA and is currently unknown. Much of this uncertainty is due to the recent enactment of the current MCIC, which first became available for property placed in service after January 1st, 2020. We expect more concrete information will become available as the credit is utilized.

Thank you for giving us the opportunity to testify and I would be happy to answer any questions from the Committee.

To: Joint Government Oversight Committee

From: Albert A. DiMillo, Jr., Retired Corporate Tax Director & CPA

Subject: Comments on OPEGA Report on MCIC – 2/28/20

Good morning members of the Joint Government Oversight Committee. My name is Albert DiMillo and I am a retired corporate tax director and CPA with more than 30 years of tax experience with both Maine's tax laws and most other states. The first 17 years of my experience included working with major Maine corporations and individuals including over seven years as the Director of Taxes and Chief Tax Officer of Bath Iron Works. I then worked in senior management positions with two international corporations headquartered in Massachusetts including 7 years managing all federal and state taxes as the Director of Income Taxes and Audits for Raytheon Company ($20 billion in sales). I am not a paid lobbyist and have testified before the taxation committee for sound tax policies over the past eleven years.

OPEGA REPORT IS 3 YEARS LATE, INCOMPLETE & ITS FAILURE TO ACT COST THE STATE $20 MILLION IN TAX REVEUNE TO DATE & WILL INCREASE TO $40 MIILION WITHOUT FURTHER CORRECTIVE ACTION

I will go into greater detail why the report is incomplete and why the inaction by the OPEGA has cost the State of Maine $20 million in lost tax revenue to date and will cost an additional $20 million if corrective action is not taken. But first I will comment on the report's conclusions. **I agree with the report's conclusion that the MCIC is a "Complicated Response to Federal Bonus Depreciation that is Unlikely to Significantly Encourage Capital Investment in Maine". I made a similar comment nine years ago when I testified before the taxation committee on 2/28/2011. I would also like to make it clear that the error in treatment of multi-state businesses (businesses with less than 100% apportionment to Maine) was not a "loophole" designed to help those businesses, it was a clerical computation error, which until I bought it to the attention of the Maine Revenue Services in 2016, they were not aware of it.** While it is not a major issue, I would like to point out that the OPEGA report incorrectly stated that the on page 6 that the 2019 changes to MCIC "adds increased complexity" is incorrect it makes the system less complex going into the future. The old system required a credit calculation in year one of an investment and the reversal of the credit over the life of the asset usually over 7 additional years. Under the new law there is a credit in year one and there is no reversal of the credit in future years.

The much bigger issue that OPEGA was tasked to answer and it failed to do was to address the tax revenue lost due to the unintended tax benefit given to multi-state businesses. The untimely action by OPEGA which took four years to issue this incomplete report has already cost the state $20 - $40 million in unintended tax benefits to multi-state businesses, many with apportionment to Maine of less than 10%.

SIMPLE EXPLANATION OF THE PRE 2020 MCIC MULTI-STATE CALCULATION ERROR

The MCIC system in Maine was like giving the businesses an interest free loan equal to the MCIC credit in the year of an investment and repaying the loan over the depreciable life of the property. For 100% apportioned to Maine corporations if your MCIC credit was $100,000, you would repay the $100,000 over the life of the property (3, 5 or 7 years usually). For Multi-state corporations only a portion of the loan is repaid due to a clerical error on the tax forms. Accordingly, Wal-Mart would get their $100,000 loan in year one but would only repay less than $1,000 of the loan because its apportionment to Maine is less than 1%. A significant portion of the MCIC credits taken in years 2011 - 2018 were by corporations that were less than 20% apportioned to Maine. Many businesses that you think of as Maine businesses are likely less than 10% apportioned to Maine. For example, BIW, IDEXX and Hannaford's probably were less than 10% apportioned to Maine in years 2011 - 2018. In the past, before mergers with other companies many Maine businesses were mostly Maine companies with high apportionment to Maine. **Using public data on just one multi-state corporation in Maine, I was able to calculate an estimated $2 million unintended tax benefit for just that one business.**

BACKGROUND ON OPEGA'S FAILURE TO TIMELY RESPOND TO MCIC CALCULATIONS FOR MULTI-STATE CORPORATIONS

In February of 2016, I contacted Beth Ashcroft (OPEGA Director) about my concerns that the Maine Capital Investment Credit (MCIC) calculations for corporations that had less than 100% of their sales apportioned to Maine were receiving unintended tax benefits under the MCIC (**Attachment 1**). I was told at that time, I as an individual could not request a review by OPEGA and that I had to have a legislator sponsor my request for a review. After meeting my state representative and my state senator and the staff of the Speaker of the House, I was able to illustrate the problem with the law and they agreed to sponsor my OPEGA review request. I had asked that my issue be a separate issue from the overall review of the MCIC, but they decided to have both issues combined. **Attachment 2** is the **April 14, 2016** letter to this committee from the President of the Senate and the Speaker of the House which stated in part referring to my February request, "**We have heard that OPEGA is already in possession of a review request pertaining to the nature of the credit, its calculation and its benefits accruing to out of state corporations. We urge you to consider this matter as part of the efficacy review**." It should also be noted that the letter stated in part "**The full review of this program in the 2017 cycle is a responsible way to ensure we are proper stewards of tax payer dollars**".

At the **May 19, 2016 GOC meeting** Ms. Hicks spoke on behalf of the Maine Speaker and Maine President and stated in part "**The Speaker and President are interested in a broad review of the MCIC program," and "whether the credit is benefitting Maine companies or mostly out of state companies"** (**Attachment 3** is the summary minutes of that meeting) **Clearly, the incomplete OPEGA report does not address that issue of out of state corporations (multi-state corporations).**

OPEGA's first mistake in handling this issue was that it either did not understand the tax issue and lacked the expertise to do so and did not understand the impact of delaying action on the issue or it just did not want to changed its inflexible process that usually follows a first in first out (FIFO) approach to OPEGA projects (although I have seen in the past three years that OPEGA has not always followed the FIFO approach on some more public and politically sensitive issues). In the future, OPEGA needs to use more common sense on which issues should be prioritized.

On **April 14, 2017**, a full year after OPEGA was asked to look at the unintended tax benefit going to multi-state businesses; it had its first meeting addressing MCIC and proposed parameters for the MCIC review. **Attachment 4** is a copy of my testimony on the review by OPEGA. I stated that it would take less than a day for me to prove there was an unintended clerical error in the MCIC calculation for multi-state businesses and that my estimate is that there was already a $20 million problem and that it would grow to $40 million if not corrected. I also said this issue should be investigated immediately separate from the overall review of whether the MCIC was effective in getting more investments in Maine.

On **April 21, 2017**, the chair of the GOC Senator Katz wrote to the taxation committee requesting that the issue of the unintended tax benefit going to multi-state businesses be investigated (**Attachment 5**). Subsequent to this letter there were meetings in which the Maine Revenue Services (MRS) agreed that I was correct that there was an unintended tax benefit going to multi-state businesses, however, the LePage administration denied the staff from MRS to attend the taxation committee meeting on the MCIC and nothing was done to correct the issue.

At the **May 12, 2017** GOC meeting, OPEGA presented their evaluation parameters for the MCIC. OPEGA rejected my suggestion that OPEGA deal immediately with the issue of the unintended tax benefits to multi-state businesses. Again, it is unclear why the OPEGA director made this decision as delaying it would costs the state millions each year it was delayed. The director suggested that the taxation committee was looking at this, but that committee had already decided not to go forward because the Governor's staff was not allowed to participant in any solution to the known problem. I also made it clear that the OPEGA report needed to report on the amount of the MCIC credit taken based on apportionment. This would have illustrated the magnitude of the unintended tax benefit. **Attachment 6 is the OPEGA document from May, 12, 2017 in which OPEGA agreed to an "expanded" analysis of the MCIC by taxpayer apportionment. Why OPEGA deemed this as an expansion is questionable when the original April 16, 2016 letter (Attachment 2) and the May 19, 2016 letter (Attachment 3) were clear that OPEGA was tasked with looking at the impact of the MCIC system on out of state corporations (multi-state corporations).**

On **January 10, 2018**, I once again email the GOC and OPEGA to ask them to deal with the unintended tax benefit going to multi-state businesses at their **January 12, 2018** meeting (**Attachment 7**). I received no response and the OPEGA director stated it was not working on the MCIC review (**Attachment 8**). Again it is amazing that OPEGA did not understand the time sensitivity of this issue.

On **January 20, 2019**, I email all of the new current GOC members, the new OPEGA director and Representative Tipping of the taxation committee (**Attachment 9**) concerning the lack of action on the MCIC. Only two GOC members responded to ask questions and Representative Tipping said he would try to get a bill passed to fix the MCIC issue.

After several months of discussions with the taxation committee and MRS prior to June 2019, a bill was proposed and passed that eliminated the unintended tax benefit for businesses with less than 100% Maine apportionment. **I had recommended that the new system begin for investments made in tax years ended 12/31/18. This would not be a problem for the vast majority of corporations because they normally do no file their tax returns for 2018 until September 15, 2019. I was originally told that they preferred having it effective with years begging in 2019. However, due to lobbyist's complaints the system change was made effective for the 2020 tax year. Delaying the change until the tax year 2020, cost the state at least another $10 million in unintended tax benefits versus having it effective for the tax year 2018 and forward.**

In addition to having the MCIC system fixed going forward, I proposed that the errors from earlier years could also be fixed for all the open years. This was rejected costing the state at another $10 to $15 million.

OPEGA NEEDS TO COMPLETE ITS ANAYSIS REALTED TO APPORTIONMENT AND CALCULATE THE UNITENDED MCIC TAX BENFIT TO MULTI-STATE BUSINESSES FOR THE YEARS 2011-2019

As noted in **Attachment 6**, OPEGA was tasked to do an analysis of the MCIC by apportionment, which it did not do. MRS can provide a tax distribution report for those corporations claiming the MCIC by year by corporations under various apportionment levels. A report that listed corporations by apportionment in 10% increments like less than 10%, 10%-

20% through 90%-100%, would provide the data needed to address the issue of who has claimed the credit in the past and would allow a good estimate of just how much unintended tax benefits went to multi-state businesses. If OPEGA lacks the skills to do this calculation, I will again volunteer my time to do the calculation or MRS should be able to do the calculation.

CORRECTIVE ACTION TO ELIMINATE UNITENDED TAX CREDITS TO MULTI-STATE CORPORATIONS

1). **The effective date of the changes to MCIC in PL 2019, c. 527 should be changed to from tax year 2020 to 2019.** This will not be a burden to Maine corporations because most do not file their tax returns until September 15, 2020. **This will probably save the state $5 million**.

2). **It should be noted that the problems with the MCIC credits taken by multi-state businesses in years 2015 – 2018, can still be partially corrected in years 2020 – 2025, because the Maine capital investment credit bonus depreciation add-back associated with those credits are taken on Maine tax returns for seven years after the credit years (for 7 year property).** One fix would be to gross up the depreciation add-back by the apportionment factor. For example if there was a $6,000 Maine capital investment credit bonus depreciation add-back, the add-back would be grossed up (divided by the apportionment factor % from the year of the credit). Accordingly, if the corporation's apportionment factor was 15% in the year of the credit, the depreciation add-backs in the later years would become $40,000 (6,000/15%). For 100% Maine apportioned corporations the add-back would still be 6,000 (6000/1.0). This would have the impact of eliminating the permanent tax benefit and returning the benefit to just a timing issue and would create a system where in state and out of state businesses would get the same tax benefit. I suggested this approach to the taxation committee last year and they apparently did not understand the calculation and incorrectly stated that it might be unconstitutional. I would gladly again meet with MRS to resolve this issue.

Albert A. DiMillo, Jr.
Falmouth, Maine
aadimillo@yahoo.com

Attachment 1

aadimillo@yahoo.../Inbox

FW: Maine capital investment credit

Mar 7, 2016 at 5:01 PM

Farwell, Scott <scott.farwell@legislature.maine.gov>
To: 'aadimillo@yahoo.com' <aadimillo@yahoo.com>

Mr. DiMillo, Director Ashcroft has discussed this issue with the Chairs of the Government Oversight Committee and they have decided that the best way to address these concerns are as a request for an OPEGA review. I have attached the OPEGA review request form and guidance materials. Please complete the form with the information provided in your e-mail and submit it to OPEGA Director Beth Ashcroft at the address on the form. As explained in the attached documents, an OPEGA review request must be initiated or sponsored by a member of the Maine Legislature. Please contact me via e-mail or at 287-1956 if you have any questions.

Thank you –

Scott

Scott Farwell, Analyst
Maine State Legislature
Office of Program Evaluation
and Government Accountability
OPEGA
82 SHS
Augusta, Maine 04333
207-287-1956
http://www.maine.gov/legis/opega/

From: Albert DiMillo [mailto:aadimillo@yahoo.com]
Sent: Friday, February 26, 2016 10:42 AM
To: Ashcroft, Beth
Cc: Katz, Roger; Kruger, Chuck
Subject: Maine capital investment credit

Ms. Ashcroft,

I am a retired corporate tax director and CPA with over 30 years tax experience including 20 years with multistate corporations that filed tax returns in Maine.

I am sure you are aware of the on going dispute over the effectiveness of the Maine capital investment credit. While I will not get into the politics of the credit, I believe there is a drafting problem with how the credit is claimed by multistate corporations that results in multistate corporations getting a credit that is up to nine times as great as in state corporations.

The Maine capital investment credit in combination with Maine capital investment bonus depreciation add-back is a very complicated system to approximate the benefit of bonus depreciation. However, the problem with the system is that while it works for a Maine corporation that is 100% in Maine (no apportioned sales out of Maine); it does not work for the hundreds of multi-state corporations who operate in Maine and claim the Maine capital investment credit. The problem is that the Maine capital investment credit is applied to offset Maine tax after Maine apportionment, while the depreciation add-back related to the credit is applied to income before apportionment.

The result is what should be a timing issue becomes a very large permanent tax benefit much greater in value than bonus depreciation. My attached file illustrates for the year 2014, the current system results in a net permanent tax benefit of only $600 for a 100% Maine corporation that invests $2.0 million in Maine in 2014. This compares to a corporation that has a 10% apportionment to Maine (90% of sales outside of Maine), that gets a $69,485 permanent tax benefit.

I believe this apportionment problem has resulted in millions of excessive tax credit benefits given to out of state corporations for years 2011 -2014. With regard to individual pass-through businesses, there may also be a problem with apportionment, so that should be investigated. Extending this system to 2019 will add more unintended windfall tax breaks to out of state corporations.

The magnitude of the problem could be in the millions just on the corporation side alone. What you need from Maine Revenue Services is a distribution analysis that breaks down the Maine capital investment credit by corporations by "apportionment". I believe a significant amount of the Maine capital investment credits are claimed by corporations that have an apportionment factor of 10% or less. What a 10% apportionment factor means is that the corporation has 90% of its sales (revenues) outside of Maine and only 10% in Maine.

Companies like Walmart have more than 99% of their sales outside of Maine. But many businesses that you think of as Maine businesses are actually less than 10% in Maine. For example, BIW and Hannaford's were all less than 10% apportioned to Maine in 2014. In the past, before mergers with other companies they were all mostly Maine companies with high apportionment to Maine. Maine corporate income taxes are filed on a unitary basis, which means all of the related corporations are combined and one apportionment factor is determined based on the revenue of all the entities. So BIW, which was 99% in Maine in 1993 (the last year I was their Chief Tax Officer) is now part of General Dynamics and less than 10% of the group.

Please let me know if I need to request that my South Portland representatives contact you in order for you to investigate this issue.

Albert A. DiMillo Jr.
South Portland
207-899-0165

3 Files | 143.6kB

OPEGA Audit Request Form Updated.doc
50kB

OPEGA Review Request FAQ-.pdf
50kB

Revised Policy and Process for Handling Requests for OPEGA Audits August 2010.pdf
44kB

Attachment #2

State of Maine
127th Maine Legislature

Michael D. Thibodeau
President of the Senate

Mark Westwood Eves
Speaker of the House

April 14, 2016

Senator Roger Katz, Chair
Representative Kruger, Chair
Government Oversight Committee
Cross State Office Building, Room 220
Augusta, ME 04333

Dear Senator Katz and Representative Krueger,

In March, the legislature voted to fully fund the Maine Capital Investment Credit. We write to ask that the Government Oversight Committee and the Office of Program Evaluation and Government Accountability expedite a review of the efficacy of the Maine Capital Investment Credit. A full review of this program in the 2017 cycle is a responsible way to ensure we are proper stewards of tax payer dollars.

We have heard that OPEGA is already in possession of a review request pertaining to the nature of the Credit, its calculation and the benefits accruing to out of state corporations.

We urge you to consider this matter as part of the efficacy review.

Sincerely,

Michael D. Thibodeau
Michael D. Thibodeau
President of the Senate

Mark W. Eves
Speaker of the House

Attachment 3

MCIC are expected to cost about $38 million over the next four years. She said during the legislative debate many legislators expressed concerns about the costs and putting this in place for the next four years rather than having the chance to vote on it in individual years. The Speaker and President are interested in a broad review of the MCIC program, as the GOC is already doing with other tax expenditures, that will look at which businesses are affected or taking advantage of this benefit, whether the credit is benefitting Maine companies or mostly out of State companies, and are businesses making decisions about whether or not to buy equipment in Maine based on the Credit. Is it providing the boost to the economy that was expected and is it helping to maintain and create new jobs?

Ms. Hicks said the Speaker believes it is important to take the opportunity now that the MCIC is in place to better understand the program and whether it is meeting its intended goals. She said the Speaker was pleased that the GOC was doing that work with other tax expenditures and hopes they will add it to their list in an expedited fashion.

Chair Katz said the MCIC would be coming up for the GOC's consideration at some point in time, even absent this request, and asked Director Ashcroft when that would be. She said it would be sometime prior to October 1st of this year. The statute requires that by that time the GOC review the entire population of tax expenditures, reconsider what category they are in in terms of full evaluation versus expedited versus no review. As part of that process, the GOC will also be considering tax expenditures that have been enacted or amended in the previous session and now are part of the population of tax expenditures. The MCIC would be one of those. Director Ashcroft noted that MCIC is not a new credit, but it was not part of OPEGA's population before because Maine Revenue Services has not been including it in the Red Book because it has been a year-by-year thing. It is not a new Credit, but the extension of the Credit over time has brought it to our attention and it really should have been on the original list.

Chair Katz asked if the GOC voted today for a full review of MCIC to be done in the earliest cycle, would the Committee be moving the review up in time. Director Ashcroft said the current approved tax expenditure schedule calls for tax expenditures whose basic purpose is to incentivize equipment purchases to be reviewed in 2017. If the Committee were to agree that is the Rationale category that MCIC belongs in, then OPEGA would try to group it together with the others that are in that Rationale category. Director Ashcroft said there would have to be a conversation about whether some of the other tax expenditures scheduled for 2017 would need to go to a different year to stay within the OPEGA resources that are dedicated to these reviews.

Rep. Mastraccio said her concern is the Credit is a lot of money that deserves to be reviewed as soon as possible before the Legislature makes it one of the continuing programs that everybody just continues to pass. She did not care if it was done today or in October, but she will be pushing for a 2017 evaluation of the MCIC because there were a lot of legislators who agreed to a compromise. She is hopeful the GOC would want to make sure the program is doing what the Legislature had intended because of its cost.

Chair Katz recognized Mr. Caverly. Mr. Caverly said that the Senate President thought the October time line to decide on the review would be fine.

Director Ashcroft said if the GOC votes today that they want to do the MCIC review in 2017, in October OPEGA will come to the GOC with what is definitely scheduled for 2017 tax reviews and what the other programs are that they need to think about. The Committee will have to do some prioritization if it looks like there is too much to be reviewed in 2017. She said if the GOC waits to make a decision, then MCIC will become part of the Committee's conversation about what the priorities are. Director Ashcroft said there are already five reviews listed on the schedule for 2017.

Rep. Mastraccio said she was not sure MCIC would be a crossover at all unless the GOC did it.

Chair Kruger said he wanted to make sure that it is not forgotten and made the following motion.

Attachment 4

To: Joint Government Oversight Committee

From: Albert A. DiMillo, Jr., Retired Corporate Tax Director & CPA

Subject: Comments on OPEGA Review Of MCIC – 4/14/17

Good morning members of the Joint Government Oversight Committee. My name is Albert DiMillo and I am a retired corporate tax director and CPA with more than 30 years of tax experience with both Maine's tax laws and most other states. The first 17 years of my experience included working with major Maine corporations and individuals including over seven years as the Director of Taxes and Chief Tax Officer of Bath Iron Works. I then worked in senior management positions with two international corporations headquartered in Massachusetts including 7 years managing all federal and state taxes as the Director of Income Taxes and Audits for Raytheon Company ($20 billion in sales). I am not a paid lobbyist and have testified before the taxation committee for sound tax policies over the past eight years.

MCIC CALCULATIONS FOR OUT OF STATE CORPORATIONS

In February of 2016, I contacted Beth Ashcroft about my concerns that the Maine Capital Investment Credit (MCIC) calculations for corporations that had less than 100% of their sales apportioned to Maine were receiving unintended tax benefits under the MCIC. I was told at that time, I as an individual could not request a review by OPEGA and that I had to have a legislator sponsor my request for a review. After meeting my state representative and my state senator, I was told that they would sponsor my review request. I had asked that my issue be a separate issue from the overall review of the MCIC, but they decided to have both issues combined. **Attachment A** is the letter to this committee noting my concern with the "nature of the Credit, its calculation and the benefits accruing to out of state corporations."

Yesterday, I e-mailed to all members of this committee several files which I believe clearly illustrate the problems with the administration of the credit that could have resulting in as much as $20 million in unintended credits going to less than 100% apportioned corporations. If not fixed by a technical corrections change to the Maine tax laws, another $20 million in unintended credits may go to these less than 100% Maine corporations.

The magnitude of the problem could be in the millions just on the corporation side alone. To estimate the problem you would need to request from Maine Revenue Services a distribution analysis that breaks down the Maine capital investment credit by corporations by "apportionment" for the years 2011 through 2015. A significant amount of the Maine capital investment credits are claimed by corporations that have an apportionment factor of 10% or less. What a 10% apportionment factor means is that the corporation has 90% of its sales (revenues) outside of Maine and only 10% in Maine.

Companies like Walmart have more than 99% of their sales outside of Maine. But many businesses that you think of as Maine businesses are likely less than 10% in Maine. For example, BIW and Hannaford's probably were less than 10% apportioned to Maine in 2014. In the past, before mergers with other companies many Maine businesses were mostly Maine companies with high apportionment to Maine.

<u>SUGGESTED CHANGES TO THE OPEGA PARAMETERS FOR MCIC REVIEW</u>

1). OPEGA should immediately review the calculation of the MCIC for less than 100% apportioned corporations. I believe my concerns over the calculation could be confirmed with Maine Revenue Services in less than a day. Once this is confirmed, I believe corrective action could be immediately developed and emergency technical corrections tax legislation could be acted on by the taxation committee and the legislature before end of this legislative session. In addition to the problem with corporations, there may be a problem with non corporate businesses that operate both in Maine and outside of Maine. Partnerships, S-corps and other pass through entities also have to apportion their income between Maine and other states. It is unclear if these less than 100% Maine apportioned businesses are also incorrectly receiving unintended tax benefits. The analysis of these businesses should also be undertaken immediately. However, that processes I believe will take significant more time to investigate.

2). The parameters should be expanded to provide information on the percentage of these credits utilized by manufactures vs. retailers and by the size of the businesses (for each year 2011 – 2015). Finally, Maine Revenue Services should provide a distribution analysis of the credits based on their Maine apportionment factor (sales in Maine vs. sales out of Maine).

Attachment A

Michael D. Thibodeau
President of the Senate

State of Maine
127th Maine Legislature

Mark Westwood Eves
Speaker of the House

April 14, 2016

Senator Roger Katz, Chair
Representative Kruger, Chair
Government Oversight Committee
Cross State Office Building, Room 220
Augusta, ME 04333

Dear Senator Katz and Representative Krueger,

In March, the legislature voted to fully fund the Maine Capital Investment Credit. We write to ask that the Government Oversight Committee and the Office of Program Evaluation and Government Accountability expedite a review of the efficacy of the Maine Capital Investment Credit. A full review of this program in the 2017 cycle is a responsible way to ensure we are proper stewards of tax payer dollars.

We have heard that OPEGA is already in possession of a review request pertaining to the nature of the Credit, its calculation and the benefits accruing to out of state corporations.

We urge you to consider this matter as part of the efficacy review.

Sincerely,

Michael D. Thibodeau
Michael D. Thibodeau
President of the Senate

Mark W. Eves
Speaker of the House

ATTACHMENT B

COMPARISON OF MAINE CAPITAL INVESTMENT CREDITS ON MULTI-STATE CORPORATIONS WITH 10% / 20% MAINE APPORTIONMENT TO 100% MAINE CORPORATION

ASSUMING A CORPORATION MADE $2,000,000 IN MAINE INVESTMENTS IN 2014 (ASSUMED ALL 7 YEAR PROPERTY)

MAINE APPORTIONMENT - 100%

MAINE TAX DECREASE (INCREASE) - CORPORATION 100% APPORTIONED TO MAINE

		2014	2015	2016	2017	2018	2019	2020	2021	TOTAL 2014-2021
MAINE CAPITAL INVESTMENT CREDIT	(A)	77,139								77,139
ME CAPITAL INVESTMENT BONUS DEPR ADD-BACK		0	(244,900)	(174,900)	(124,900)	(89,300)	(89,200)	(89,300)	(44,600)	(857,100)
APPORTIONMENT FACTOR	(1)	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	
APPORTIONED TO MAINE		0	(244,900)	(174,900)	(124,900)	(89,300)	(89,200)	(89,300)	(44,600)	(857,100)
MAINE TAX INCREASE AT 8.93%	(B)	0	(21,870)	(15,619)	(11,154)	(7,974)	(7,966)	(7,974)	(3,983)	(76,539)
NET TAX DECREASE (INCREASE)	(A)+(B)	77,139	(21,870)	(15,619)	(11,154)	(7,974)	(7,966)	(7,974)	(3,983)	600 (C)

MAINE APPORTIONMENT - 10%

MAINE TAX DECREASE (INCREASE) - CORPORATION 10% APPORTIONED TO MAINE

		2014	2015	2016	2017	2018	2019	2020	2021	TOTAL 2014-2021
MAINE CAPITAL INVESTMENT CREDIT	(A)	77,139								77,139
ME CAPITAL INVESTMENT BONUS DEPR ADD-BACK		0	(244,900)	(174,900)	(124,900)	(89,300)	(89,200)	(89,300)	(44,600)	(857,100)
APPORTIONMENT FACTOR	(F) (1)	0.100	0.100	0.100	0.100	0.100	0.100	0.100	0.100	
APPORTIONED TO MAINE		0	(24,490)	(17,490)	(12,490)	(8,930)	(8,920)	(8,930)	(4,460)	(85,710)
MAINE TAX (INCREASE) AT 8.93%	(B)	0	(2,187)	(1,562)	(1,115)	(797)	(797)	(797)	(398)	(7,654)
NET TAX DECREASE (INCREASE)	(A)+(B)	77,139	(2,187)	(1,562)	(1,115)	(797)	(797)	(797)	(398)	69,485

MAINE APPORTIONMENT - 20%

MAINE TAX DECREASE (INCREASE) - CORPORATION 20% APPORTIONED TO MAINE

		2014	2015	2016	2017	2018	2019	2020	2021	TOTAL 2014-2021
MAINE CAPITAL INVESTMENT CREDIT	(A)	77,139								77,139
ME CAPITAL INVESTMENT BONUS DEPR ADD-BACK		0	(244,900)	(174,900)	(124,900)	(89,300)	(89,200)	(89,300)	(44,600)	(857,100)
APPORTIONMENT FACTOR	(1)	0.200	0.200	0.200	0.200	0.200	0.200	0.200	0.200	
APPORTIONED TO MAINE		0	(48,980)	(34,980)	(24,980)	(17,860)	(17,840)	(17,860)	(8,920)	(171,420)
MAINE TAX (INCREASE) AT 8.93%	(B)	0	(4,374)	(3,124)	(2,231)	(1,595)	(1,593)	(1,595)	(797)	(15,308)
NET TAX DECREASE (INCREASE)	(A)+(B)	77,139	(4,374)	(3,124)	(2,231)	(1,595)	(1,593)	(1,595)	(797)	61,831

(A) - INVESTMENT CREDIT IS 9% X 857,100. The 857,100, EQUALS $1.0 MILLION - 142,900, WHICH IS THE FIRST YEAR MACRS DEPRECIATION ON $1.0 MILLION OF 7 YEAR PROPERTY.
(1) - UNDER MAINE CORPORATE LAW THE CREDITS ARE APPLIED AFTER APPORTIONMENT, BUT DEPRECIATION ADD-BACKS ARE APPLIED BEFORE APPORTIONMENT.
(F) - A SIGNIFICANT AMOUNT OF CORPORATE INCOME TAXES AND ME CAPITAL INVESTMENT CREDITS RELATE TO CORPORATIONS WITH LESS THAN 10% MAINE APPORTIONMENT.
(C) - THIS NUMBER WOULD BE ZERO IF THE TAX CREDIT WAS AT 8.93% (CORPORATE TAX RATE) INSTEAD OF THE 9.0% TAX CREDIT RATE.

Attachment 5

[redacted]

SEN. ROGER J. KATZ, SENATE CHAIR
REP. ANNE-MARIE MASTRACCIO, HOUSE CHAIR

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

To: The Honorable Dana L. Dow, Senate Chair
The Honorable Ryan Tipping, House Chair
And Members of Taxation Committee

From: Senator Roger J. Katz, Senate Chair
Representative Anne-Marie Mastraccio, House Chair
Government Oversight Committee

Date: April 21, 2017

Re: Concerns Regarding Benefits to Out-of-State Corporations from the Maine Capital Investment Credit

At our last meeting on April 14, 2017, the Government Oversight Committee took stakeholder comment on the Evaluation Parameters proposed for an OPEGA review of the Maine Capital Investment Credit. At that time, Mr. Albert DiMillo, Jr. raised concerns about out-of-state corporations who had less than 100% of their sales apportioned to Maine receiving unintended tax benefits due to the way the credit is calculated. Mr. DiMillo also provided documents to illustrate his concerns which he believed showed that as much as $20 million in unintended credits had gone to these corporations. Mr. DiMillo advocated that the Legislature should take immediate action to confirm his concerns were valid and, if so, to make technical corrections to Maine's tax laws to stop the unintended benefits from continuing.

GOC members agreed that this seemed a matter that warranted quicker examination, and potential action, than what an OPEGA evaluation would provide. GOC members also agreed, after conferring with Senator Dow, who was in attendance that the proper avenue for examining the matter with Maine Revenue Services was through the Taxation Committee.

Consequently, we are hereby forwarding this concern to your committee for prompt consideration and action as appropriate. We are including Mr. DiMillo's written testimony and the other documents he provided. An audio recording of Mr. DiMillo's testimony and the GOC's discussion, or the written meeting summary of it, can be made available at your request.

We also respectfully request that you inform the GOC, as soon as possible, whether your Committee intends to take up this matter and, if so, when it expects to do so. We also request to be informed of the results of your examination of the matter and what action, if any, you determined should be taken.

Enclosure
Cc: Julie Jones, Senior Analyst, Office of Fiscal and Program Review
Suzanne Voynik, Analyst, Office of Fiscal and Program Review
Members of the Government Oversight Committee

82 State House Station, Room 107 Cross Building
Augusta, Maine 04333-0082
TELEPHONE 207-287-1901 FAX: 207-287-1906

Summary of Comments for GOC Consideration Regarding Evaluation Parameters for BETR, BETE and MCIC

3 MRSA §999.1.B requires that "Before final approval pursuant to paragraph A, the committee shall seek and consider input from the policy committee and stakeholders and may seek input from experts."

The following is a summary of the points made, in written and verbal comments, that pertain specifically to the parameters for full evaluations (as defined by 3 MRSA §999.1.A) of the following programs:

- Business Equipment Tax Reimbursement;
- Business Equipment Tax Exemption; and
- Maine Capital Investment Tax Credit.

Comments regarding other portions of the documents or the evaluation effort in general have been taken into account, but are not summarized here as they do not pertain to the GOC's statutory requirement under 3 MRSA §999.

Key to OPEGA's Reponses:

- **No Change** – OPEGA does not recommend any change to the original parameters
- **Clarifying Language Only** – OPEGA recommends a change that clarifies the original intent of the parameters but does not change them
- **Substantive Change** – OPEGA recommends a change that substantially alters the original parameters

Summary of Comment	Comment Contributor	OPEGA Response
BUSINESS EQUIPMENT TAX REIMBURSEMENT & BUSINESS EQUIPMENT TAX EXEMPTION		
The evaluation should focus on how Maine compares to other states, provinces and countries with varying levels of taxation on property and equipment	Jonathan Block, Pierce Atwood	**Substantive Change** – The proposed intent for these programs are: "To overcome the disincentive to growth of capital investment in Maine stemming from the high cost of owning business property." OPEGA agrees that within that intent there is the notion that part of the purpose is to level the playing field for Maine compared to other locales. We suggest amending one of the current proposed Goal statements to incorporate a specific reference to this purpose. The proposed Goal as amended would read "To reduce the cost of owning qualifying business property in Maine, particularly in comparison to other relevant states and countries." Objectives #2 and 3 would then address the extent to which the tax expenditure is achieving this goal.

Issued 5/12/17 Attachment 6

Indicators of economic impact should not include employment growth	Linda Caprara, Maine State Chamber of Commerce Jonathan Block, Pierce Atwood	**No Change** – Although OPEGA recognized that BETR and BETE have no specific job-related goals, overall economic growth indicators such as employment growth seemed like appropriate possible measures of whether the programs had accomplished their broad intent of "promoting the general welfare of the people of the State of Maine." We suggest no change is needed to the evaluation parameters.
MAINE CAPITAL INVESTMENT CREDIT		
An accidental loophole in the calculation of the MCIC credit should be investigated immediately, separate from the comprehensive MCIC evaluation	Mr. Albert DiMillo, CPA	**No Change** – The Taxation Committee is currently engaged in verifying Mr. DiMillo's concern and determining whether action is needed. The current evaluation objectives do not speak directly to Mr. DiMillo's concern, but are broad enough to allow OPEGA to investigate his concern to the degree necessary to support the efforts of the GOC and the Taxation Committee. OPEGA suggests that the evaluation parameters not be changed.
Measures should be expanded to include analyses of MCIC credits claimed based on apportionment factor, business size, and industry	Mr. Albert DiMillo, CPA	**Clarifying Language Only** – The proposed evaluation parameters include language indicating that OPEGA will conduct additional analyses of data, when appropriate and pertinent, by a number of factors such as business sector or size. OPEGA proposes expanding the list of potential additional analyses to include analysis based on apportionment factor.

SENATE

DANA L. DOW, District 13, Chair
ANDRE E. CUSHING III, District 10
JUSTIN M. CHENETTE, District 31

JULIE S. JONES, Legislative Analyst
SUZANNE VOYNIK, Fiscal Analyst
DIANNE DUBORD, Committee Clerk

HOUSE

RYAN TIPPING, Orono, Chair
STEPHEN S. STANLEY, Medway
JANICE E. COOPER, Yarmouth
GAY M. GRANT, Gardiner
JOYCE McCREIGHT, Harpswell
MAUREEN F. TERRY, Gorham
GARY L. HILLIARD, Belgrade
BRUCE A. BICKFORD, Auburn
MATTHEW G. POULIOT, Augusta
KARLETON S. WARD, Dedham

State of Maine
ONE HUNDRED AND TWENTY-EIGHT LEGISLATURE
COMMITTEE ON TAXATION

May 12, 2017

TO: Sen. Roger Katz, Chair
Rep. Anne-Marie Mastraccio, Chair
Government Oversight Committee

FROM: Sen. Dana Dow, Senate Chair DLD
Rep. Ryan Tipping, House Chair RT
Joint Standing Committee on Taxation

RE: Maine Capital Investment Credit

At your request the Joint Standing Committee on Taxation has reviewed the materials provided to you by Mr. Albert DiMillo relating to the Maine Capital Investment Credit. We made a request of the Governor for permission for representatives of Maine Revenue Services and the Office of Tax Policy to attend our meeting to provide information regarding the operation of the credit and fiscal impact. Our request was denied.

In the absence of a complete understanding of the credit and Mr. DiMillo's concerns, the Taxation Committee is unable to provide guidance on this matter to the Government Oversight Committee at this time. It is our intent to present a joint order authorizing the Taxation Committee to report out legislation regarding the credit. It is our hope that this will permit us to hold a public hearing to obtain public input regarding the credit and possible the needed information from the executive branch. Obviously, this will take some time. We will let you know immediately if we decide that legislative action is warranted.

Thank you for your consideration.

cc:
Beth Ashcroft, Director OPEGA

Attachment 7

Fw: OPEGA REVIEW REQUEST - MAINE CAPITAL INVESTMENT CREDIT

aadimillo@yahoo.../Sent

Albert DiMillo <aadimillo@yahoo.com>
To: Roger.Katz@legislature.maine.gov <roger.katz@legislature.maine.gov>,
Senator Nate Libby <nathan.libby@legislature.maine.gov>,
Paul Davis <paul.davis@legislature.maine.gov>,
William Diamond <william.diamond@legislature.maine.gov>,
Geoffrey Gratwick <geoffrey.gratwick@legislature.maine.gov> more...
Cc: Beth Ashcroft <beth.ashcroft@legislature.maine.gov>,
Ryan Tipping <ryan.tipping@legislature.maine.gov>, Dana Dow <dana.dow@legislature.maine.gov>

Jan 10, 2018 at 3:41 PM

Members of the Government Oversight Committee,

On Thursday of this week, you will be meeting and one item on the agenda is an update on the status of projects in progress from Beth Ashcroft. One project that was brought to the attention of this committee in an April 14, 2016 letter (copy below) related to the Maine Capital Investment Credit and in particular the calculation of the benefits accruing to out of state corporations. I am very disappointed that this issue, which could amount to tens of millions of dollars in tax benefits given in error to out of state corporations has not been given the proper amount of concern by either OPEGA or this committee. The longer you delay in addressing this issue the greater the amount of tax benefits that are being given to corporations in error, which can not be reversed.

I believe it would take less than one day of effort by OPEGA to either confirm or disprove my conclusions on this issue. If they do not have the time or expertise to deal with this issue, then I would be willing to be hired as a consultant (paid $1.00) and get this issue settled. To continue to delay a final finding on this issue is irresponsible.

Albert DiMillo

----- Forwarded Message -----
From: Albert DiMillo <aadimillo@yahoo.com>
To: "roger.katz@legislature.maine.gov" <roger.katz@legislature.maine.gov>; Senator Nate Libby <nathan.libby@legislature.maine.gov>; Paul Davis <paul.davis@legislature.maine.gov>; William Diamond <william.diamond@legislature.maine.gov>; Geoffrey Gratwick <geoffrey.gratwick@legislature.maine.gov>; Thomas Saviello <thomas.saviello@legislature.maine.gov>; "Paula.Suton@legisature.maine.gov" <Paula.Suton@legisature.maine.gov>; "deane.rykerson@legislature.maine.gov" <deane.rykerson@legislature.maine.gov>; "Matthew.Harrington@legislature.maine.gov" <Matthew.Harrington@legislature.maine.gov>; "jeff.pierce@legislature.maine.gov" <jeff.pierce@legislature.maine.gov>; "jennifer.dechant@legislature.maine.gov" <jennifer.dechant@legislature.maine.gov>; "anne-marie.mastraccio@legislature.maine.gov" <anne-marie.mastraccio@legislature.maine.gov>
Cc: Beth Ashcroft <beth.ashcroft@legislature.maine.gov>
Sent: Thursday, April 13, 2017 4:06 PM
Subject: Fw: OPEGA REVIEW REQUEST - MAINE CAPITAL INVESTMENT CREDIT

Members of the Government Oversight Committee,

I will be presenting comments at your April 14, 2017 meeting regarding the proposed OPEGA parameters of their review of the Maine Capital Investment Credit (MCIC). Below is my E-mail to Beth Ashcroft from April 16, 2016. This information will provide you with the detail analysis that I prepared more than a year ago that I believe clearly illustrates that the MCIC is being administrated incorrectly resulting in out of state corporations receiving unintended tax credits that could be in excess of $20 million for prior years and will result in another $20 million in years 2017 and later. This issue is not a subjective look at the value of the credits, but solely a technical error in the administration of the law and how the credit is calculated for corporations that are less than 100% apportioned to Maine. The result is that out of state

Attachment 8

Director Ashcroft said that in addition the GOC had some questions for MRS about the programs or tax expenditures that they were no longer going to be reporting in the Biennial Report that they do. The GOC had asked OPEGA to dig in a little and understand MRS's reasoning. OPEGA sent MRS a specific set of questions about five of the tax expenditures and MRS is in the process of putting together responses. Hopefully OPEGA will have those responses in a couple of weeks and will share them with the Taxation Committee as well the GOC when they are received.

REPORT FROM DIRECTOR

Status of Projects in Progress

Director Ashcroft said OPEGA is still in fieldwork on the **Beverage Container Recycling (Bottle Bill)** review. OPEGA is hoping to have its report on this review to the GOC by the end of the first quarter of 2018. That date is, however, pending receipt of data that OPEGA is looking for from MRS to be able to complete an analysis for the Report. She wanted to be clear that OPEGA just made the request to MRS, it is not a matter that they have been putting OPEGA off.

OPEGA is in preliminary research on the **Review of Maine Citizen-Initiative Process.** OPEGA committed to coming back to the GOC at the January 26th meeting with a proposed project direction which would include suggestions for what questions OPEGA thinks would be worthwhile for them to try to answer for the GOC in detail.

OPEGA is in fieldwork on **Temporary Assistance for Needy Families (TANF)** and it is OPEGA's goal to have a report out to the GOC by the end of June.

OPEGA is in fieldwork on the tax expenditure evaluation of the **Employment Tax Increment Financing Program** and is looking to releasing a report sometime this Summer. OPEGA has a lot of data analysis ahead still on this review.

The **Maine Capital Investment Credit** is in the planning phase. It is in planning because OPEGA developed the evaluation parameters for that review, presented them to the GOC, and the GOC approved. Other than that, however, OPEGA is not working on the review at this time because there are currently three other tax expenditure reviews and projects in process.

BETR and BETE is moving along a little bit more slowly because OPEGA does not have as many resources working on it.

The **Special Project Tax Expenditure: Design Evaluation for Major Business Headquarters Expansion Credit** is due to the Taxation Committee and to the GOC by the end of February. OPEGA is on track to put that out at that time. It is not going to look like a typical report because it is a special project. The suggestions that OPEGA will be making will be for the Taxation Committee primarily, but the report will be issued to the GOC at the same time and a GOC discussion of it will be scheduled for the first GOC meeting in March and at the meeting after it is issued they will talk about it.

There are also two "Planned" projects, **DHHS Audit Functions** and **Substance Abuse Treatment Programs in Corrections System** that OPEGA has not gotten to yet.

ANNOUNCEMENTS AND REMARKS

Director Ashcroft said OPEGA's statutorily-required Annual Report to the Legislature on its performance and accomplishments is due January 15, 2018. She said that Report is going to be delayed until probably February because of OPEGA's other priorities they have been working on.

Attachment 9

Re: OPEGA Delaying Review of MCIC Costing Maine $30-50 Million

aadimillo@yahoo.../Inbox

Arata, Amy <amy.arata@legislature.maine.gov>
To: Albert DiMillo <aadimillo@yahoo.com>

Jan 20, 2019 at 7:23 PM

Dear Mr. DiMillo,
I am a new member of the committee. Thank you for the email. We just had our orientation on Friday. I'm afraid I need you to explain this to me as if I'm a 5th grader. Is the issue whether the tax credit was intended to benefit only Maine tax-payers or to stimulate investment (by anybody) in Maine?

Best Regards,

Representative Amy B. Arata
Maine House District 65 (New Gloucester & Poland)

From: Albert DiMillo <aadimillo@yahoo.com>
Sent: Sunday, January 20, 2019 10:06:47 AM
To: Chenette, Justin; Mastraccio, Anne-Marie; Davis, Paul; Arata, Amy; Keim, Lisa; DeChant, Jennifer; Libby, Nathan; Dillingham, Kathleen; Sanborn, Linda; Millett, Sawin; Timberlake, Jeffrey; O'Neil, Margaret
Cc: Fox, Danielle; Tipping, Ryan
Subject: Fw: OPEGA Delaying Review of MCIC Costing Maine $30-50 Million

Government Oversight Committee

It is now almost three years since this committee was notified in an April 14, 2016 letter (attached below) of an issue related to the Maine Capital Investment Credit (MCIC) and how an error on the Maine tax forms is causing large out of state corporations to receive millions in unintended tax benefits. As noted in my emails below, I have tried unsuccessfully to get this committee and the former OPEGA director to complete the review of this issue (it is still listed in the planning phase). As I stated below, the work would take less than a few days to confirm the error and to fix it. Each year this committee fails to act, several more million in unintended tax benefits are going to these out of state corporations. To date the failure to act has cost the state of Maine at least $15 million. Failure to act will cost the state another $15-30 million over the next few years. It should be noted that the last legislature increased the MCIC which makes the error even bigger starting in 2018. Over the past three years, there has been no issue more important than this issue and which could be addressed with so little effort by OPEGA, yet it has been passed over with several new issues that in my opinion were not nearly as important. It is time for this committee to flag this issue as the number one priority.

I understand that the former OPEGA director and the Government Oversight Committee did not have the proper tax experience to fully understand this issue, but failure to act in the past two years is a major failure and must be fixed immediately. I an requesting that each member of this committee please respond to this email, as in the past I believe my emails are loss among thousands others and are never read.

For the several knew members on the committee who do not know me, I am a retired CPA and Corporate Tax Director with more than 30 years tax experience and I spoke to the Committee on this issue 2 years ago.

Albert A. DiMillo, Jr.
South Portland

----- Forwarded Message -----
From: Albert DiMillo <aadimillo@yahoo.com>
To: "Roger.Katz@legislature.maine.gov" <roger.katz@legislature.maine.gov>; Senator Nate Libby <nathan.libby@legislature.maine.gov>; Paul Davis <paul.davis@legislature.maine.gov>; William Diamond <william.diamond@legislature.maine.gov>; Geoffrey Gratwick <geoffrey.gratwick@legislature.maine.gov>; Thomas Saviello <thomas.saviello@legislature.maine.gov>; Paula Sutton <paula.sutton@legisature.maine.gov>; "Deane.Rykerson@legislature.maine.gov" <deane.rykerson@legislature.maine.gov>; "matthew.harrington@legislature.maine.gov" <matthew.harrington@legislature.maine.gov>; "Jeff.Pierce@legislature.maine.gov" <jeff.pierce@legislature.maine.gov>; "Jennifer.DeChant@legislature.maine.gov" <jennifer.dechant@legislature.maine.gov>; Anne-Marie Mastraccio <anne-marie.mastraccio@legislature.maine.gov>
Cc: Beth Ashcroft <beth.ashcroft@legislature.maine.gov>; Ryan Tipping <ryan.tipping@legislature.maine.gov>; Dana Dow <dana.dow@legislature.maine.gov>
Sent: Wednesday, January 10, 2018 3:41 PM
Subject: Fw: OPEGA REVIEW REQUEST - MAINE CAPITAL INVESTMENT CREDIT

Members of the Government Oversight Committee,

On Thursday of this week, you will be meeting and one item on the agenda is an update on the status of projects in progress from Beth Ashcroft. One project that was brought to the attention of this committee in an April 14, 2016 letter (copy below) related to the Maine

MAINE
STATE
CHAMBER
of
COMMERCE

The voice of Maine business

Good Morning Sen. Chenette, Rep. Masttracio and Members of the Government Oversight Committee (GOC). My name is Linda Caprara. I am a resident of Winthrop and I represent the Maine State Chamber of Commerce. I am here to testify in opposition to the report on Maine's Capital Investment Credit (MCIC) by the Office of Program Evaluation and Government Accountability (OPEGA).

We feel that the findings in this report are flawed and that the Maine Capital Investment Credit does what it was designed to do that is to encourage capital investment, especially helping small and medium sized businesses.

In 2011, the Legislature enacted Maine's version of the Federal Bonus Depreciation Deduction to *stimulate* the Maine economy. The purpose of the credit, was the same as it was at the federal level, that was to ***encourage*** companies to invest sooner by allowing them to take accelerated depreciation on equipment purchased in Maine. This was done to stimulate the economy by encouraging more investment. The Legislature also decided to offer Maine's version as a credit instead of adopting the Federal Bonus Depreciation Deduction in full because of the potential cost. If Maine adopted the federal bonus depreciation deductions as is, Maine companies would have been allowed to take accelerated depreciation on investments made in other parts of the country. The Maine Investment Credit is limited to Maine investment only.

If Maine chooses **NOT** to continue this credit, Maine will be no doubt be an outlier as (according to OPEGA) most states do adopt a version. This will no doubt place Maine companies at a competitive disadvantage with companies that operate in states that offer that accelerated depreciation and the competitive advantage it provides.

At the presentation of the report to the GOC last week, OPEGA staff indicated that when compiling the MCIC report, No Maine companies, including ones that took the MCIC credit, were interviewed for the report. In fact, OPEGA indicated that their findings were based on reviews of "robust" literature at the Federal level only. OPEGA simply indicated to the GOC that the same findings outlined in these pieces of literature could be applied to Maine's credit. We find it hard to understand how one could deduce that the credit does NOT help Maine businesses if Maine businesses were never asked.

Again, we feel that this report is flawed. I would be happy to answer any questions.