

**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: *March 14, 2024*

LD # 2258 – “An Act to Create an Income Tax Credit for Investments in a Team’s
Qualified Minor League Baseball Facility to Keep the Team in the State”

Senator Grohoski, Representative Perry, 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 2258, *“An Act to Create an Income Tax Credit for Investments in a Team’s Qualified Minor League Baseball Facility to Keep the Team in the State.”*

The bill as printed proposes an income tax credit for a qualified investment of at least \$1,000,000 and not more than \$15,000,000 in a qualified professional baseball facility made between October 1, 2023, and November 30, 2026, by a certified applicant. The credit is equal to 10% of the qualified investment, up to \$100,000 per year and \$1,000,000 in cumulative total. The bill provides that a certified applicant must be the operator of the baseball facility and be certified by the Maine Department of Economic and Community Development (DECD). A baseball facility includes the real and personal property located in Maine that is used for the operation of a minor league baseball team recognized by a national organization of major or minor league baseball teams.

The credit may be first claimed in the tax year during which DECD issues a certificate of completion to the certified applicant. Additionally, the bill contains an income modification providing that any bonus depreciation claimed by the

qualified applicant related to the qualified investment is disallowed for Maine income tax purposes. The bill contains a recapture provision, under which the credit allowed must be recaptured if the qualified investment is not used as a baseball facility for the 60-month period following the qualified investment.

The Administration notes the following technical concerns:

- There is an inconsistency in the credit provisions. The credit is equal to 10% of the investment made up to \$15,000,000; however, the credit is limited to \$1,000,000 in aggregate, therefore, the bill, as written, provides no benefit for investments made above \$10,000,000.
- Title 36 already contains an add-back modification for bonus depreciation. Thus, the bill should clarify the intended Maine tax treatment of bonus and ordinary depreciation of any qualified investment in a depreciable asset.
- Although the header language proposed in 36 M.R.S. § 5219-BBB, sub-§3 indicates the credit is refundable, as currently written, the credit is limited to the income tax due for the taxable year.
- The term “investment” is not defined. Clarifying the relationship of incurrence of expense and the term “investment” is particularly important here because the bill provides that a certified applicant must be a person or entity who “operates” a qualified baseball facility. Investments made by the owner of a qualified facility would not qualify for the credit unless the owner is also the operator of the qualified professional baseball facility.
- The interaction of the credit cap and DECD certification provisions should be clarified. The bill should be amended to clarify whether

DECD is authorized to issue multiple certificates of completion to a qualified professional baseball facility based on incremental investments.

- The recapture provision should be clarified. As drafted, the recapture provision may require an amended return to be filed for a year that may be beyond the statute of limitations in which the assessor may assess and collect the amount due or refund any overpayment. Generally, recapture provisions for similar incentive programs require the recapture to be reported on a return for the tax year in which the recapture requirement is triggered.

The estimated revenue impact of the bill is not currently available.

The estimated administrative costs are \$33,000 in fiscal year 2024-2025 for one-time computer programming costs to add an additional line to the individual, fiduciary, and corporate income tax returns to accommodate the new tax credit.

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.