

**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 9th, 2024*

LD 1900 – *“An Act to Establish a Tax Credit for Employers Who Employ Persons Recovering from Substance Use Disorder”*

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 Against LD 1900, *“An Act to Establish a Tax Credit for Employers Who Employ Persons Recovering from Substance Use Disorder.”*

This testimony is limited to the bill as it affects taxation and Maine Revenue Services. For tax years beginning on or after January 1, 2024, the bill establishes a tax credit for certified employers who employ an eligible person during the tax year. An eligible employee is a person with a substance use disorder who is in a state of wellness that is participating in, or has completed, a substance use disorder treatment program certified by the Maine DHHS and has worked a minimum of 500 hours for the employer. The credit is equal to \$1 per hour worked with respect to each eligible employee, up to \$2,000. The credit may be claimed beginning in the year of the eligible employee’s 500th hour of employment. To claim the credit, an employer must be certified by the Maine DHHS as an eligible employer (eligibility requirements to be established by routine technical rules), receive a certificate of tax credit from the assessor, and allow MRS to share employer tax information with the Maine DHHS. An employer must apply for a certificate of

tax credit by January 15th each year the credit will be claimed. The assessor must review the application and issue a certificate to the employer by March 31st, which includes information about the employer and the amount of credit determined by the assessor that may be claimed by the employer. Aggregate credits may not exceed \$2 million per tax year. If aggregate credits claimed for the year exceed the annual limit, the assessor must reduce the amount of credit allowed to each certified employer on a pro rata basis and reflect that amount on the employer's tax credit certificate. The credit is not refundable, but unused credit amounts may be carried forward up to 6 years.

The bill creates a complex process to determine the amount of credit a taxpayer is eligible to claim for the tax year, subject to an annual cap for all taxpayers. The timing of the reporting by employers and the assessor has the potential to impact the ability of taxpayers to timely file required tax returns.

While the purposes of the bill are laudable, the Administration opposes the bill for two important reasons. First, the complexity of the credit would significantly reduce the potential benefit to taxpayers. Taxpayers, especially small businesses, will need to dedicate a disproportionate amount of time and money to complying with the law's requirements. These compliance costs for small businesses that may only have a few employees covered by the credit will in many instances outweigh the offered credit.

Second, a key criterion for an effective tax system is that it be simple enough for taxpayers to understand and comply with, and for the State to administer. These goals cannot be achieved if the tax code is used to address every issue facing the State. Instead of creating a new tax credit, funding should be focused on those

agencies, institutions and providers with knowledge and skill, and a proven track record, in addressing substance use disorder and related issues.

The administration notes the following technical concerns:

- The bill does not coordinate the timing of employer certification by the DHHS relative to the hiring date of an eligible employee.
- As drafted, proposed 36 M.R.S. § 5217-G(2)(B) conflicts with the summary statement. If the intent is to exclude the first 500 hours of employment from the credit computation, the bill should be clarified.
- Proposed 36 M.R.S. § 5219-G(3)(C) is not necessary and should be removed. If retained, the information sharing agreement should be limited to information needed by the DHHS for purposes of administering the credit.
- The annual aggregate credit limitation is based on tax year, which may differ for each participating taxpayer.
- The determination as to whether an employer has hired an eligible employee should be part of the DHHS certification requirements. See Section 5 of the bill, 36 M.R.S. § 5217-G, sub-§ (1)(C) & (1)(D).

The estimated fiscal impact is not currently available.

The estimated administrative costs are \$33,000 in fiscal year 2024-2025. Computer programming costs are required to add an additional line to the individual, fiduciary, and corporate income tax returns to accommodate the credit. Additional administrative costs related to credit certification by the assessor under proposed 36 M.R.S. § 5217-G(4) and staff that will be required for processing and auditing claims are under review.

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.