TESTIMONY OF
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DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

Before the Joint Standing Committee on Taxation
Hearing Date: *April 16, 2025, Wednesday at 1:00 P.M.*

LD 1419 – "*An Act to Provide a Sales Tax Exemption for Housing Constructed Off-site Similar to That for On-site Construction*"

Senator Grohoski, Representative Cloutier, 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 in Support of LD 1419, "*An Act to Provide a Sales Tax Exemption for Housing Constructed Off-site Similar to That for On-site Construction.*"

Current law provides a sales tax exemption for sales of new manufactured housing to the extent of all costs, excluding materials, included in the sale price of the manufactured housing, to a maximum of 50% of the sale price. This bill would amend that exemption, 36 MRSA § 1760(40)(B), to increase the exemption amount to 75% of the sale price. The apparent tax policy basis for the bill, as indicated in the bill title and the LD Summary, is to provide sales tax parity between sales of new manufactured housing and sales of housing built on the site of its location, also referred to as "stick built" housing.

Because a sale of manufactured housing is a sale of tangible personal property – and not a sale of realty as in the case of stick-built housing – the lumber and other materials is not taxed when purchased by the manufacturer. Instead, sales tax is imposed on the sale of the completed manufactured housing to the end consumer. For stick-built housing, the situation is the reverse: sales tax is imposed (or use tax imputed) on the contractor's purchase of the materials but not imposed on the sale of the on-site built house.

To provide parity between these different types of sales of housing to the consumer (i.e., a sale of tangible personal property in one case, and a sale of realty in the other) section 1760(40)(B) exempts the sale in the amount of all costs included in the sale price, *other than costs of materials*, up to 50% of the total sale price. Effectively, the exemption assumes that 50% of the sale price – the amount to be taxed – corresponds to the cost of the materials used to construct the housing. It thus appears that the proponents of LD 1419 contend that the costs of the materials should have a default assumed lower cost amount and thus yield a higher sales tax exemption amount.

The Office of Tax Policy has participated in meetings on this topic with our colleagues in the Governor's Office of Policy Innovation and the Future as well as the bill sponsor. Given the interest in supporting this industry to expand and increase housing availability, we suggest that the Committee may want to consider an alternative approach to sales tax cost parity that is not tied to fluctuating costs of materials but instead would adjust to a changing marketplace in terms of materials costs. This could be done by providing that both manufactured housing and stick-built housing materials are taxed up front and having the end sale be exempted from sales tax by statutory exemption, or excluded from sales tax as is the case for stick built housing. There are different drafting approaches to how this might be accomplished.

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.