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: *April 16, 2025*

LD 203 – "*An Act to Provide an Income Tax Credit for Employer-supported Child Care*"
LD 1555 – "An Act to Establish an Employer Tax Credit for Qualifying Child Care Costs"

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 Against LD 203, "*An Act to Provide an Income Tax Credit for Employer-supported Child Care*" and LD 1555 "*An Act to Establish an Employer Tax Credit for Qualifying Child Care Costs*."

Expanding access to child care has been, and continues to be, an important goal of the Administration. In addition to stipends and other non-tax investments, the State currently provides child care benefits through conformity to the federal tax treatment of dependent care Flexible Spending Accounts or FSAs, and through the child care tax credit. While the Administration supports the goals of the bill, those goals can be better addressed without creating another child care income tax benefit and instead directing available dollars to proven non-tax programs.

These bills are nearly identical to LD 1222 presented during the 131st Legislature that was subsequently voted Ought Not To Pass, except that LD 1555 uses a different credit limitation.

For tax years beginning on or after January 1, 2026, the bill creates the refundable employer-supported child care credit for employers that provide child care services for children of its employees. Providing child care services means 1) expenses, or in-kind resources, used to build, furnish, license, staff, operate, or subsidize a child care center licensed by the Maine DHHS to provide early care and education services to the children of employees at no profit to the employer, or to contract with a child care facility licensed by, or registered with, the DHHS to provide early care and education services to the children of employees; 2) payments made to employees to pay for early care and education services under a dependent care assistance program; and 3) the provision of child care resources and referral services to employees.

For LD 203, the credit, available for individual, fiduciary, and corporate income tax taxpayers, is equal to the lesser of 50% of the cost of providing child care services or $3,000 for each child of an employee for which the employer is providing child care services. For LD 1555, the credit is equal to 50% of the cost of providing child care services up to a maximum of $8,000 for each child of an employee for which the employer is providing child care services up to a maximum credit of $80,000.

The bills also repeal the employer-assisted day care credit that was in effect for tax years 1988 through 2015. The credit was sunset as part of the 2016-2017 biennial budget due to lack of use and for tax simplification. Unused credits may be carried over through 2030. That credit was limited to the lower of $5,000, 20% of the costs incurred to provide day care services for children of employees, or $100.00 for each child of an employee enrolled in day care services. For tax years beginning after 2000, the credit amount was doubled if the day care services provided were for quality child care services.

The State's experience with the employer-assisted day care credit should be taken into account when considering this new proposal. While the credit targeted an important need of the State, additional child care, the attempt to address the issue through the tax code was ultimately unsuccessful, resulting in few, if any, employers taking the credit. At the same time, it added additional complexity to an already complex State income tax code.

Dependent care FSAs already receive significant tax benefits at the federal and State levels. Employers receive an income tax deduction for their contributions and the resulting income is excluded from the employee's income. In addition, contributions are exempt from both the employer and employee portion of FICA (Social Security and Medicare) taxes. Careful consideration should be given before allowing additional tax benefits to FSA contributions.

The Administration recommends that any new refundable tax credit for employers should be coordinated with the Dirigo Investment Credit, if possible, and other state funded programs. Small businesses often will not avail themselves of credits like this because of the administrative costs associated with compliance. The benefit of this credit will primarily accrue to large businesses that can navigate the complexities of both this credit and the provision of dependent care benefits.

The estimated revenue impact of LD 203 is a revenue loss of approximately \$4-\$5 million per year. The revenue impact of LD 1555 is still under review.

The estimated administrative costs are \$37,126 in FY 2026-2027 for one-time computer programming and related system testing costs required to add an additional line to the individual, fiduciary, and corporate income tax returns in order to accommodate the credit. The administrative costs LD 1555 are still under review.

The Administration also notes the bills contain several technical concerns that should be addressed if the Committee is interested in supporting this bill. Including:

- The bill does not provide an application date for the repealed credit.
- The bill does not repeal the employer-assisted day care credit for, nor does it extend the proposed credit to, employers subject to insurance premiums tax under 36 M.R.S., Part 4, Chapter 357.
- If the bill is intended to coordinate with specific programs administered by DHHS, such as the Help Me Grow Maine Program, the First4ME Program, or the Rising Stars for ME Program to be eligible for the credit, and/or a rating system such as the Quality for ME Program or the Quality Rating and Improvement System (QRIS), that coordination should be clarified.
- The bill should define “dependent care assistance program” or cite the IRC if it is intended to refer to dependent care FSAs.
- The bill should clarify whether “children of the employee” includes stepchildren and grandchildren, etc.
- The bill contains both refundability and carry-over provisions. If the credit is intended to be refundable, the carry-over provisions are unnecessary.
- For purposes of evaluation of the credit, the bill does not detail the public policy objective or provide performance measures by which to determine whether the policy objectives have been achieved.

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.