

TESTIMONY OF
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DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

Before the Joint Standing Committee on Taxation
Hearing Date: April 17, 2025

LD 1491 – “*An Act to Provide a Tax Credit for New Attorneys Practicing in Underserved Areas*”

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 Neither For Nor Against LD 1491, “*An Act to Provide a Tax Credit for New Attorneys Practicing in Underserved Areas*.”

Targeting one profession for preferential tax treatment creates a concerning precedent. There are worker shortages in many professions around the state and having tax credits for each would be complex and costly, as well as likely ineffective at addressing the underlying issue.

This testimony is limited to the bill as it affects taxation and Maine Revenue Services. For tax years beginning on or after January 1, 2026, the bill proposes to establish the legal services income tax credit for eligible attorneys who, after January 1, 2026, first begin practicing law in the State and agree to practice law full-time in an underserved area (as identified by the Maine Commission on Public Defense Services) for at least 5 years. The nonrefundable credit, up to \$18,000, may be claimed in the first year that the eligible attorney meets the conditions of eligibility for at least 6 months and in each of the 4 subsequent years. Unused credits may not be carried back or forward to other tax years.

The proposed credit is similar to the existing access to justice credit (36 M.R.S. § 5219-ZZ). For tax years beginning on or after January 1, 2022, individuals certified as eligible attorneys to practice law by the Supreme Judicial Court may qualify for a nonrefundable tax credit of up to \$6,000. Generally, to be eligible for certification, an attorney must agree to practice law in an underserved area for at least 5 years, be rostered by the Maine Commission on Public Defense Services to accept court appointments to represent clients in an underserved area, and agree to perform pro bono legal services in an underserved area. The individual is eligible for the credit during the tax year in which they meet the conditions of eligibility for at least six months and in each of the 4 subsequent years, subject to continued eligibility under the terms of certification. The court may certify up to five eligible attorneys each year 2022 through 2027. The credit is nonrefundable. Unused credits may not be carried back or forward to other tax years.

If the Legislature chooses to move forward with this proposal, the current access to justice tax credit should be amended rather than creating another similar credit.

The Administration notes the following technical concerns:

- The existing access to justice income tax credit under 36 M.R.S. §5219-ZZ allows new attorneys to be certified through 2027 and to claim the credit for up to five years. The bill should clarify whether an “eligible attorney” could qualify for both the access to justice credit and the legal services credit during the same tax year.
- The bill should be amended to clarify when the 5-year period during which the eligible attorney must practice law in the underserved area in the State commences.

- The bill does not include decertification and recapture provisions in the case that an attorney claiming the credit agrees to, but does not, practice law in an underserved area in Maine for at least 5 years.
- Section 4 of the bill will exclude otherwise qualified new attorneys who begin practicing law in the State on January 1, 2026. It is likely intended to apply to tax years beginning “on or after January 1, 2026.”
- The lack of a capped certification process distinguishes this credit from similar credits for attorneys, dentists, and doctors. It is recommended that the bill be amended to include certification requirements for eligible attorneys for purposes of claiming the legal services credit, similar to the existing access to justice credit.
- The report date of January 15, 2027, is not feasible given that most income tax returns for tax year 2026 will be filed after this date.

The estimated fiscal impact of this bill depends on how many taxpayers claim the credit. For example, if 25 taxpayers claim a credit averaging \$10,500 in the first year then the initial cost would be \$262,500. The revenue impact will escalate as new taxpayers become eligible each year while prior credit recipients continue to claim a credit.

The estimated administrative costs are under review. One-time computer programming costs would be required to add an additional line to the individual income tax return to accommodate the 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.