

**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 1499 – “*An Act to Revoke the Tax-exempt Status of an Organization That Fails to Report Sexual Assaults Committed by Employees, Board Members, Volunteers or Affiliates*”

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 1499, “*An Act to Revoke the Tax-exempt Status of an Organization That Fails to Report Sexual Assaults Committed by Employees, Board Members, Volunteers or Affiliates.*”

The Administration opposes this bill because utilizing the tax code as an enforcement method for other violations of law raises important issues on the proper role of that code and of Maine Revenue Services at large. In addition, it would require MRS to develop expertise in areas currently outside of its purview. Further, the precedent this bill might set could have unintended consequences. Alternative methods, for instance adjusting the applicable criminal laws, should be considered if their current application is not working as intended. This is not an area where involving the State Tax Accessor would add value.

This bill requires an organization that is tax exempt pursuant to the Internal Revenue Code, Section 501(c), including a religious, charitable, educational or nonprofit entity, to report all allegations of sexual assault involving that organization's employees, board members, volunteers or affiliates to law

enforcement authorities. “Sexual assault” is defined as any criminal act that constitutes a sexual offense under state or federal law.

If a tax-exempt organization fails to report at least 2 separate allegations of sexual assault within a 10-year period, as determined by a court or fact finder in an administrative hearing, that must be reported to the Department of Administrative and Financial Services, Bureau of Revenue Services, which is then required to revoke the organization's tax-exempt status in the State for all activities conducted within the State and provide the organization with the opportunity to appeal that revocation.

An organization may apply for reinstatement of tax-exempt status after 5 years by demonstrating full compliance with reporting laws, implementation of child protection policies and training programs as well as cooperation with law enforcement investigations related to prior failures to report.

Regarding technical concerns, the bill requires a court or fact finder to report findings of sexual assault to MRS. Certain proceedings and court records having to do with sexual assault, particularly regarding minors, are confidential under Maine law. The bill also does not address when a court or fact finder must report their finding to MRS and at what stage in the process. This may create confusion if a decision is under appeal, for example.

Additionally, while the bill seems to focus on religious, educational, and charitable organizations (which largely qualify under IRC Section 501(c)(3)), the bill defines a tax-exempt organization as qualifying under IRC Section 501(c). Section 501(c) includes a broad range of organizations, including credit unions, mutual insurance companies, pension trusts, and other types of organizations. It's not clear whether this is intentional.

From a legal standpoint, the bill does not define what “tax-exempt status” means by reference to any specific provision of Maine law. It is therefore unclear which tax benefits a tax-exempt organization would lose if it did not adhere to the mandatory reporting requirements. For example, a nonprofit organization may qualify for exemption from income tax, sales tax, property tax, vehicle excise tax, or some combination thereof.

The exemptions for each tax differ in important ways, as do the implications of revoking the exemptions. As such, if the Committee moves forward with this bill, the bill should be amended to specify which taxes it applies to and how the revocation should be administered – details that should be specific to each tax.

The preliminary fiscal impact estimate is not available at this time.

The preliminary administrative cost estimate is not available at this time.

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.