TESTIMONY OF
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Before the Joint Standing Committee on Taxation
Hearing Date: *April 16, 2025*

LD 1217 – "*An Act Regarding the New Markets Tax Credit and the Maine New Markets Capital Investment Program*"

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 1217, "*An Act Regarding the New Markets Tax Credit and the Maine New Markets Capital Investment Program.*"

DAFS wants to draw the Committee's attention to the fact that this bill would not go into effect until FY29, and thus the bill's true $15 million per year fiscal impact will not be captured by the fiscal note process at this time. However, in light of current revenue projections, we urge the Committee and Legislature to consider the future spending commitment this bill would make.

This testimony is limited to the bill as it affects taxation and Maine Revenue Services. The bill expands the Maine New Markets Tax Credit ("NMTC") program by establishing the "program 2 tax credit authority." Generally, program 2 tax credit authority allows the Finance Authority of Maine ("FAME") to allocate an additional $250 million of qualified equity investments that are made on or after January 1, 2026, including $30 million in impact qualified equity investments of which 50% must be invested in a diverse Maine fund. Impact qualified equity investments must be made in qualified active low-income community businesses.

A diverse Maine fund is a Maine fund or a community development financial institution that has its principal place of business located in Maine and that is more than 50% owned, or governed, by individuals who are racial or ethnic minorities or members of a federally recognized Indian nation, tribe, or band in the State. The Maine NMTC program is administered by FAME; credit claims are administered by Maine Revenue Services. Qualifications and eligibility relative to tax credit authority allocated by FAME before January 1, 2026, are unchanged.

The bill also proposes to expand the definition of "qualified community development entity" ("QCDE") to include a Maine fund (i.e., a QCDE whose principal place of business is located in Maine). Under program 2 tax credit authority, the QCDE must invest 85% of the qualified equity investment ("QEI") in investments made in qualified active low-income community businesses in Maine within 12 months of the QEI being issued by FAME.

The current Maine NMTC provides investors with a refundable tax credit equal to 39% of the qualified equity investment, made through an approved community development entity, in a qualified active trade or business located in a community designated a low-income community. The credit must be claimed over a period of seven years. FAME was previously authorized in 2011 to allocate NMTC credits for up to, in the aggregate, $250 million of qualified equity investment. The QCDE was required to invest 85% of the QEI in investments made in qualified active low-income community businesses in Maine within 24 months of the QEI being issued by FAME. The aggregate of all credits allowed during any one State fiscal year is capped at $20 million. Credit recapture provisions apply.

This bill is substantially similar to LD 1974, presented during the 131st Legislature, which was amended and replaced with a Resolve and enacted as

Resolves 2023, c. 151. The Resolve directed FAME, in conjunction with the Department of Economic and Community Development, to examine and evaluate the Maine NMTC program and submit a report of its findings and any recommended legislation to the Taxation Committee by January 31, 2025, and authorized the Taxation Committee to report out a bill relating to the report to the 132nd Legislature.

This is an extremely complex refundable tax credit that may not be necessary given the enactment of the Dirigo Business Incentives program ("DIRIGO") in 2023 administered jointly by MRS and the Department of Economic and Community Development.

The Administration notes that the bill reserves 50% of the Program 2 impact qualified equity investment for diverse Maine funds, those entities that are more than 50% owned, or governed, by individuals who are racial or ethnic minorities or members of a federally recognized Indian nation, tribe, or band in the State. Linking a State tax benefit to a taxpayer's race or ethnicity may raise concerns under the U.S. and Maine Constitutions. The same level of concern does not apply to federally recognized Indian tribes.

Also, the time limitation in 36 M.R.S. § 5219-HH(1)(I)(1) and proposed 10 M.R.S. § 1100-Z(8)(A)(9) should be amended to reflect the reduced investment period instituted in Section 11 of the bill with respect to program 2 tax credit authority.

The preliminary estimated revenue impact is a revenue loss of approximately $15 million per year beginning in Fiscal Year 2029.

The preliminary estimated administrative costs are nominal and can be absorbed within the current budgetary allotments.

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.