

**TESTIMONY OF
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Before the Joint Standing Committee on Taxation
Hearing Date: *April 24, 2025*

LD 1630 – “*An Act to Amend the Open Space Tax Law*”

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 1630, “*An Act to Amend the Open Space Tax Law*.”

As the committee may know, certain open space land may be taxed at its current use value, rather than its highest and best use value, under Art. IX, § 8 of the Maine Constitution and 36 M.R.S. §§ 1101 – 1121. As a general matter, the value of open space land is determined by applying statutory discount rates to the land’s assessed value. The Open Space Current Use Program currently allows eligible taxpayers to claim a discount on the assessed value of enrolled land of up to 95%.

With this context in mind, I will begin with the Administration’s technical concern with the bill. There is a conflict in the requirements of the proposed 36 M.R.S. § 1106-A(2)(F) and § 1102(12), where the latter requires that a wildlife habitat management plan be prepared by a licensed professional forester *or* a wildlife biologist, but the former requires that the plan be prepared by a licensed professional forester. This should be clarified.

Shifting to legal and statutory concerns, the bill does not contain compliance and enforcement provisions with the same clarity and specificity as is provided under the Tree Growth Tax Law program for landowners who do not comply with the ten-year renewal period for wildlife habitat management plans or carbon conservation management plans. Furthermore, as structured, the new language appears to allow a 120% tax reduction if certain requirements are met. For example, permanently protected, public-access open space land with an approved wildlife management plan appears to be entitled to a 70% reduction under the new 1106-A(2)(B), then an additional 25% reduction under 1106-A(2)(D), then another 25% reduction under 1106-A(2)(F). These aspects should be clarified.

From an administrative perspective, while this bill would significantly reduce the current use value of most land in the Open Space program, it is not clear how this would impact existing participants since the overlap between the forest climate resilience and carbon management plans and the existing designations is not fully known. Thus, there may be some taxpayers that end up with an increase in current use value due to this change.

In addition, many of the nearly 3,000 taxpayers with land currently in the Open Space program will have to apply for applicable agreements with the Department of Agriculture, Conservation and Forestry (“DACF”) or Department of Inland Fisheries and Wildlife (“DIFW”) and then reapply for the Open Space program, creating a significant amount of work for taxpayers, municipal assessors, DACF, and DIFW.

Any fiscal impacts incurred under the bill can be absorbed under current budgetary allotments. An estimate of the administrative costs associated with the bill is not available at this time, but the bill will incur some initial programming costs.

In closing, the Administration is Neither For Nor Against this bill because a change of this magnitude should be carefully considered. At this point, it is clear there is not enough time left in this session to make these kinds of changes to a longstanding tax program without creating undue risk of unintended consequences.

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.