

**TESTIMONY OF
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DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

Before the Joint Standing Committee On Appropriations and Financial Affairs
Hearing Date: *May 13, 2025*

LD 1739 – “An Act to Authorize a General Fund Bond Issue to Support Maine's Agricultural Sector, to Create an Agricultural Buildings Property Tax Exemption and to Direct the Department of Agriculture, Conservation and Forestry to Study Barriers to Its Financial Assistance Programs and Study the Potential for a Common Application for Those Programs”

Senator Rotundo, Representative Gattine, and honorable members of the Committee On Appropriations and Financial Affairs – 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 1739, *“An Act to Authorize a General Fund Bond Issue to Support Maine's Agricultural Sector, to Create an Agricultural Buildings Property Tax Exemption and to Direct the Department of Agriculture, Conservation and Forestry to Study Barriers to Its Financial Assistance Programs and Study the Potential for a Common Application for Those Programs.”*

As the Committee may know, the Farm and Open Space Tax Law Program under 36 M.R.S. §§ 1101 – 1121 and Art. IX, § 8 of the Maine Constitution allows eligible farmland to be taxed according to its current use, rather than its best and highest use. This method reduces the assessed value of the property and the taxes owed. LD 1739 creates a property tax exemption under the Farmland Program for buildings used for agricultural purposes and finances the exemption by issuing a bond.

The proposed exemption provides that for property tax years beginning on or after April 1, 2026, the exemption is “equal to any increase in value of a structure or building” essential to and actively used for agricultural or horticultural purposes. The exemption continues for the period if used for the identified purposes, but not for more than 10 years.

The Administration has several technical concerns with the bill. For one, LD 1739 creates new definitions for this exemption that conflict with the definitions provided for the same or similar terms in the same subchapter under 36 M.R.S. § 1102. The bill also leaves a number of key terms undefined, including “horse racing,” “riding academy,” “dude ranch,” and “reconstructed.” Finally, the bill duplicates the existing property tax exemption for beehives provided under 36 M.R.S. § 655(O).

Further, there are legal and statutory concerns that should be addressed. First, the penalty imposed for improper application of the exemption, as well as certain income and acreage requirements, are inconsistent with the parallel provisions under the Farm and Open Space Program. This may create confusion for taxpayers and property tax administrators.

Second, some property identified as eligible for exemption under the bill could be taxed as personal property, rather than real property. It is therefore unclear if the bill creates an exemption for both personal property and real property.

Third, this bill places the new exemption within the Farm and Open Space statute, which is a current use program. It would be more appropriate to place a property tax exemption with the other real and personal property tax exemptions in

36 M.R.S. §§ 655 and 656, rather than under the Farm and Open Space Tax Law Program.

Fourth, the bill does not include a requirement that the exempted buildings be on or adjacent to land that is enrolled in the Farmland program, only that a building be essential to the operation of “[l]ands actively devoted to agricultural or horticultural use.” What is considered “essential” is not defined, creating ambiguity which could result in a much broader exemption. For example, a warehouse in Portland that stores potatoes grown in Aroostook County before they are shipped out of state could arguably be “essential to the operation of” the Aroostook County potato fields.

LD 1739 would also have a significant impact on taxpayers and the administration of property taxes in Maine. First among these, the bill requires that applicants for exemption shall apply and “furnish information as the bureau may require.” It is unclear whether this “bureau” reference means Maine Revenue Services, which is the bureau responsible for the administration of the tax code, or the Bureau of Agriculture, Food and Rural Resources at DACF, which is also mentioned throughout the bill. The rulemaking authority in the bill similarly refers to a nonspecific “bureau.” This should be clarified.

In addition, this bill appears to provide both a total exemption and a stabilization/partial exemption for similar property depending on when the property was built or “reconstructed.” These exemptions, administered in parallel, would be complicated and create a significant administrative burden on municipal assessors. The Property Tax Stabilization Program, which similarly exempted from taxation the increased value of property for certain taxpayers, was found to be very complicated to administer for local assessors.

The bill limits the time that property is eligible for the exemption to ten years. This requirement is unique amongst exemptions. Furthermore, the stabilization/partial exemption of taxes for select groups raises constitutional concerns regarding Art. IX, § 8 of the Maine Constitution, which states that all property taxes must be assessed and apportioned equally.

The State would also be responsible for reimbursing municipalities for at least 50% of the revenue lost as a result of the exemption under 36 M.R.S. § 661 and Art. IV, § 20 of Maine's Constitution.

The Administration has two final concerns with this bill. First, it may be difficult for assessment and appraisal software systems used by local assessors to calculate the dual withdrawal penalty for property that is enrolled in both the Farmland Program and the exemption proposed under this bill.

Second, Part A of the bill lists \$5,000,000 to be allocated for the tax exemption program. It is unclear if that amount is a limit to the reimbursement that would be available to municipalities for revenues lost as a result of the exemption. This funding mechanism is also different than other exemption programs, could cause confusion, and increase the complexity of administration.

An estimate of the fiscal impact of this bill is not available at this time, but there would be a significant increase in annual reimbursement costs to municipalities for revenues lost as a result of the Program, as well as increased mandate reimbursement costs.

An estimate of the administrative costs is also not available, but the bill will incur administrative and programming costs.

In conclusion, the Administration is opposed to this bill. If there is interest in expanding the Farmland Program, it may be better to include that proposal in a property tax reform bill following a legislative study group.

The Administration looks forward to working with the Committee on the bill.