

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

Before the Joint Standing Committee on Taxation  
Hearing Date: *May 14, 2025, Wednesday at 1:30 P.M.*

LD 1752 – “*An Act to Exempt Broadband Equipment from Sales and Use Tax*”

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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 1752, “*An Act to Exempt Broadband Equipment from Sales and Use Tax*.”

This bill would exempt the sale of machinery and equipment used to provide broadband communications service to a broadband communications service provider from the sales and use tax. In evaluating this proposed exemption, it’s important to remember that sales taxes are usually – but not always – a tax imposed on retail sales at the end-consumer level, and sales taxes are at their most efficient when imposed at the retail end-sale to a consumer, rather than on business-to-business intermediate transactions.

While the purchase of certain broadband communications equipment would be exempt from sales tax, if it is also “telecommunications equipment” as defined under the SPT in 36 M.R.S. § 2551(19), the installation of that equipment would remain a taxable service subject to SPT at the 6% rate. As such, this proposal would have no effect on the taxability of the installation, maintenance, or repair of telecommunications equipment under the Service Provider Tax (“SPT”).

The definition of qualifying “machinery and equipment” should be amended to require use *directly and primarily* in the provision of broadband communications service. Further, as defined, qualifying “machinery and equipment” is very broad and arguably could include any networkable device, software, or equipment. The term would also include “materials,” which although not defined in the Sales and Use Tax Law is widely understood to be separate from “machinery and equipment.” Materials are generally integrated or installed into tangible personal property for sale.

Similarly, the definition of “broadband communications service provider” should be amended to strike “engaged ~~principally~~ in the business of providing broadband communications service” (line 11). Terms like “primarily” or “exclusively,” or the phrase “engaged in the business of,” would be more consistent with current statute.

It is unclear what is intended by including affiliates within the definition of broadband communications service provider. As a technical drafting matter, the term “affiliate,” defined in 36 M.R.S. § 1752(6-F), is referenced in the proposed exemption text, but “affiliate” is only defined for purposes of § 1752(6-F). If the term “affiliate” as used in the bill (line 12) is intended to have the same meaning as in § 1752(6-F), the bill should include that same language. More broadly as to the intended scope of the exemption, the term “affiliate” as defined in § 1752(6-F) would set a very low bar if the intention is to allow the exemption for any person who has a direct or indirect ownership interest of more than 5% in a broadband communications service provider.

I will also note that the language “sales . . . to a broadband communications service provider” (lines 4-5) would not exempt sales of qualifying machinery and

equipment, for example, wire, cables, fiber, etc., to a provider's *contractors* for installation into the provider's real property.

While taxing business purchases under the sales tax is usually not a preferred approach, the cost of this exemption will be relatively high. Furthermore, a proposal of this nature would better be considered as part of a broader sales tax reform package.

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.