

**TESTIMONY OF  
MICHAEL J. ALLEN, ASSOCIATE COMMISSIONER FOR TAX POLICY  
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

Before the Joint Standing Committee on Taxation  
Hearing Date: *May 16, 2025*

LD 1694 – “*An Act to Provide an Income Tax Credit for Certain Disaster  
Mitigation Projects for Working Waterfront Property*”

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Senator Grohoski, Representative Cloutier, and members of the Taxation Committee – good morning, 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 1694, “*An Act to Provide an Income Tax Credit for Certain Disaster Mitigation Projects for Working Waterfront Property.*”

For tax years beginning on or after January 1, 2025, this bill would establish a nonrefundable income tax credit for taxpayers that undertake a qualifying working waterfront disaster mitigation project. The credit is equal to 30% of the cost of a qualified working waterfront disaster mitigation project and may not exceed \$300,000. Unused credit amounts may be carried forward for up to 10 years. A taxpayer eligible for the credit may not claim any other income tax credit for the same or a similar project. To qualify, a trade or business must have average annual gross receipts for the three preceding taxable years of less than \$47,000,000. The maximum credit amount and the average annual gross receipt amount are subject to an annual inflation adjustment beginning in 2026.

Among other qualifications, working waterfront property, for purposes of the credit, means real property that is used by the taxpayer to carry on a qualifying trade or business and that provides access to navigable waters to persons engaged

in commercial fishing, recreational fishing and boating, boat building, aquaculture, dredging, or other water-dependent activities. Current law does not provide any income tax benefits specifically targeting waterfront mitigation project business expenses.

The Administration opposes LD 1694 both in terms of the use of an income tax credit to achieve its overall targeted approach, and as to numerous technical concerns. As currently written, the credit calculation proposed by LD 1694 is unclear. Further, as a practical matter the provisions that define a qualifying working waterfront disaster mitigation project in bill are not administrable. Due to the complexity of waterfront mitigation issues unrelated to its core mission, MRS does not have the capacity or capability to certify projects and expenses that align with the purpose of a working waterfront disaster mitigation project.

MRS suggests that a direct appropriation for qualifying businesses and disaster mitigation projects would be a better approach, which could be accomplished by converting the proposed income tax credit to a grant program administered by the Department of Marine Resources. Currently, the Department of Marine Resources administers the Working Waterfront Resiliency Grant Program in 2024, a program with similar objectives to the ones covered by this bill.

The Administration also notes the following technical concerns with respect to the credit calculation and other parts of the bill:

- The bill should clarify what costs of the disaster mitigation project would be allowed as the basis of the credit and whether the credit is limited to the cost of “eligible property” placed in service during the tax year.

- The bill should clarify the purpose of the credit enacted in 36 M.R.S. § 5219-CCC(4) and define the term “qualified investment.”
- The bill should specify what International Code Council model code should be used for projects placed in service on or after January 1, 2032, if no new code has been published within the previous 5 years.
- For clarification, the phrase "for a period of 3 taxable years preceding a taxable year" used to describe the gross receipts test in 36 M. R.S. 5219-CCC(2) should be replaced with “for the 3 taxable years immediately preceding the taxable year.”
- Since Maine income taxation of business entities is not based on federal controlled groups or affiliated service groups, the reference to such groups in proposed 36 M.R.S. § 5219-CCC(2), regarding the gross receipts test, via references to the Internal Revenue Code, §§ 52(a), 52(b), 414(m), and 414(o) should be replaced with a reference to a “unitary business” as defined by 36 M.R.S. § 5102(10-A).
- The inflation adjustment language included in 36 M.R.S. § 5219-CCC(7) should be moved to 36 M.R.S. § 5403.
- MRS already has general rulemaking authority under 36 M.R.S., Part 1. The rulemaking provision proposed by the bill in 36 M.R.S. § 5219-CCC(8) is unnecessary.

As currently written, the preliminary estimated fiscal impact cannot be determined.

The preliminary estimated administrative costs are under review. However, one-time computer programming and related systems testing costs are required to add an additional line to the individual, fiduciary, and corporate income tax returns

to accommodate the credit. Also, unless the bill is amended, MRS will incur ongoing administrative costs to certify eligibility of projects and expenses.

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.