

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

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

LD 1942 – “*An Act to Modify Taxes Applying to Adult Use Cannabis, Hemp and  
Hemp Products*”

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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 Neither For Nor Against LD 1942, “*An Act to Modify Taxes Applying to Adult Use Cannabis, Hemp and Hemp Products.*”

Beginning January 1, 2026, this bill would impose sales tax at the rate of 20% on hemp and hemp products that contain tetrahydrocannabinol (“THC”), and significantly change the cannabis excise tax by (1) switching from a dollar amount of tax per fractional pound or unit of cannabis sold to a tax rate of 10% on the “average wholesale price” of adult use cannabis sold by a cultivation facility licensee; (2) providing that an excise tax is not imposed on the sale or transfer of adult use cannabis between cultivation facilities and products manufacturing facilities; and (3) changing the reporting and payment requirements for cannabis excise tax from monthly to quarterly. The bill would also reduce the percentage, from 12% to 6%, of adult use cannabis sales and excise tax revenue that is transferred to the Adult Use Cannabis Public Health and Safety and Municipal Opt-in Fund.

Numerous bills have been proposed in prior legislative sessions to reduce the amount of excise tax imposed on the cultivation of cannabis, or to restructure or repeal the cannabis excise tax. The Governor’s Biennial Budget, Part F, proposes reducing cannabis excise tax rates by one-third and increasing the sales tax on adult use cannabis from 10% to 14%.

If LD 1942 moves forward, the Committee should note several significant technical concerns. The definition of “hemp” under 7 M.R.S. § 2231 includes agricultural commodities and products derived from hemp, as well as ingestible consumer products. Without further refinement, the imposition of the 20% sales tax rate on “hemp products that contain [THC]” could include products such as textiles, hemp rope, and topical or ingestible consumer products that contain trace amounts of THC but are not intoxicating.

Under current law, 36 M.R.S. § 4923 imposes an excise tax on cannabis sold by a cultivation facility, and § 4923(6) further provides that a “transfer” of cannabis from a cultivation facility to a vertically integrated licensee is subject to excise tax. This bill would repeal 36 M.R.S. § 4923, however, replacing it with proposed 36 M.R.S. § 4923-B(1) which would impose excise tax only on cannabis “sold” by a cultivation facility to another licensee, and in 36 M.R.S. § 4923-B(2) exclude from the excise tax sales and transfers between cultivation facilities and products manufacturing facilities. As noted below, clarification is needed regarding that exclusion.

Additionally, “average wholesale price” is defined as the “the median wholesale price . . . of cannabis *flower* or cannabis *trim* . . . ,” but the sale of immature cannabis plants and seedlings, mature cannabis plants and cannabis seeds would also be subject to excise tax at 10% of the “average wholesale price.” If the bill is intended to base excise tax on the “average wholesale price” for all types of

adult use cannabis, the term should be defined to include those items. As noted above, under proposed § 4923-B(1), excise tax would be imposed only on sales, not transfers, of cannabis. “Average wholesale price,” though, is defined to be the “the median wholesale price . . . of cannabis . . . that is *sold or transferred* from cultivation facility licensees to other licensees in the State. . . .” As written, the “average wholesale price” may be lower than expected because it presumably would include sales or transfers by vertically integrated licensees, where prices can be substantially lower than in arms-length transactions or even \$0.

Relatedly, the bill should clarify whether proposed § 4923-B(2) is intended to exempt sales between two cultivation facilities or between two manufacturing facilities, respectively, or instead intended to exempt sales by a cultivation facility to a manufacturing facility and vice versa. Under current law and as drafted in LD 1942, the cannabis excise tax is imposed on a cultivation facility licensee and not a products manufacturing facility.

The Committee should note that, if excise tax is not imposed on the sale or transfer of adult use cannabis from a cultivation facility *to a products manufacturing facility*, all manufactured cannabis products may fall outside of the imposition of the cannabis excise tax. Only adult use cannabis sold by a cultivation facility to a cannabis store would be subject to excise tax.

The proposed change to § 4924 should also be redrafted to include a clear end date for the monthly frequency and a clear start date for quarterly frequency. As written, the return and payment due on January 15, 2026, would be for the period October 1 through December 31, 2025 (assuming the “quarter” is a calendar quarter); October and November’s return and payment already would have been due. Similarly, the proposed change to § 4925 should include the date of the first quarterly required transfer of excise tax revenue.

The amendments to § 4925 should include the date of the first required quarterly transfer of excise tax revenue. It is unclear whether “the third month” from January 1, 2026, would be March or April. To capture revenue collected quarterly, for example, from January 1 through March 31, the first transfer should occur in April. In any event, the current effective date of January 1, 2026, is likely too soon for MRS to implement these changes within the MRS computerized tax administration and processing system – referred to as the STARS system.

Finally, because this proposal relates to both MRS and Office of Cannabis Policy, both of which are under DAFS, it is unclear which agency would conduct rulemaking. MRS is generally the rulemaking authority for taxation matters; however, MRS does not receive data that could be used to determine the average market rates.

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.