TESTIMONY OF
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Before the Joint Standing Committee on Taxation
Hearing Date: *May 14, 2025*

LD 1924 – "*An Act to Encourage New Residential Housing Through a Tax Exemption for the Sale or Rental of Such Housing*"

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 1924, "*An Act to Encourage New Residential Housing Through a Tax Exemption for the Sale or Rental of Such Housing.*"

For tax years beginning on or after January 1, 2026, but before January 1, 2031, the bill proposes an income tax subtraction modification to exempt any gain from the sale or lease of "new residential housing" in the State intended for occupancy by the purchaser or lessee. "New residential housing" is defined as a residential unit of which at least half of the square footage has not been occupied in the 12 months preceding the sale or lease and includes, but is not limited to, single-family and multi-unit residential housing, mobile homes, and manufactured housing. The gain may be deducted to the extent included in federal adjusted gross income.

It is important to note that this definition of "new residential housing" does not ensure that the housing is new to the State. It may even cause owners of residential property to intentionally vacate occupied property to qualify for the subtraction modification when the property is sold.

The taxpayer (i.e., seller, lessor) may also claim the subtraction modification beginning with the taxable year in which the new residential housing is occupied and continues until the purchaser or lessee vacates the housing or the taxable year ending December 31, 2031, whichever occurs first.

Under current Maine law, income from the sale or lease of real property in the State is taxable to the extent included in federal adjusted gross income for individuals or federal taxable income for corporations, estates, and trusts.

The Administration notes that several other bills have been presented this Session providing benefits related to the sale of mobile home parks. Additionally, the income tax benefit proposed by this bill should be better aligned with overall State housing policy and any intended benefit provided by a non-tax program.

While this bill would remove the Maine income tax on the income generated from the sale or lease of "new residential housing," it is not clear that this tax is limiting the production of housing or that the removal of the tax would be a cost-effective way to increase production of housing, and in particular affordable housing. For instance, the size of this benefit would increase based on the amount of income the property generates for the seller or lessor, not on the amount of housing that the taxpayer creates.

The Administration also notes the following technical concerns:

- The bill should be amended to define "residential unit" as used in Sections 1 and 2.
- The bill should be amended to replace the term "federal adjusted gross income" with "federal taxable income" as used in Section 2 (page 1 of the bill, line 18).

- With respect to the subtraction modification applicable to the lease of new residential housing, the term "gain" should be replaced with "income" in Sections 1 and 2 of the bill.
- The bill should be amended to clarify whether the taxpayer must own the property for the entire 12-month period preceding the sale or lease.
- The bill should be amended to clarify whether the requirement that the new residential property not have been occupied in the 12 months prior to the unit's sale or lease means the entire 12 months or any portion of the 12 months.
- The bill should be amended to remove "or the taxable year ending December 31, 2031, whichever occurs first" from the final sentence in Sections 1 and 2. This provision is unnecessary, appears to conflict with the first sentence of each Section, and does not consider taxpayers that file on a fiscal year basis.
- Contrary to the Summary of the bill, the subtraction modification is not limited to resident individuals and corporations and may also be claimed by estates and trusts subject to the fiduciary income tax.
- The gain from the sale of real property is reported in the taxable year of the sale. A taxpayer that sells eligible property that is not occupied until a subsequent tax year may not be able to utilize the subtraction modification.
- Details regarding vacancies or occupation of a property would be difficult for MRS to verify and may place a burden on taxpayers that need to provide documentation to support their claim.

The preliminary estimated fiscal impact is not available at this time.

The preliminary estimated administrative costs are under review. 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 income subtraction modification.

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.