

**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: 2/14/23

*LD 191 - An Act to Amend the Laws Regarding Certain Business Equipment Tax
Benefits*

Senator Grohoski, Representative Perry, 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 here today at the request of the Administration to testify Against LD 191 - *An Act to Amend the Laws Regarding Certain Business Equipment Tax Benefits*.

The bill proposes to exclude from eligibility for the business equipment tax exemption (BETE) and the business equipment tax reimbursement (BETR) programs a person that, based on 3rd-party certifications, bans, boycotts, or otherwise restricts or prevents the sale or distribution of any product legally produced, harvested, or grown in Maine.

BETE affords a property tax exemption for eligible business property that would otherwise be subject to property tax in Maine. BETR, on the other hand, reimburses taxpayers for property taxes paid on eligible business property. BETE is largely administered locally by municipal assessors, while BETR is administered by the State (MRS). Both property tax relief programs are designed to encourage capital investment in the State.

This bill contains several references to a certification process and criteria that would trigger the new exclusion from BETE or BETR, but fails to elaborate on

the details of these terms. For this reason, language referencing the certification process should be defined to clarify the intent of the legislation and facilitate the administration of the BETE and BETR programs. In particular, further clarification regarding a “third-party certification” would be needed for MRS and local assessors to effectively monitor certifications and ultimately determine which taxpayers are subject to the exclusion.

In addition, it is unclear the process by which municipal assessors (for BETE) and MRS (for BETR and the unorganized territory) would determine whether an applicant is excluded from program eligibility. Regardless, this type of review would require additional time and work for the assessors. Consequently, the 90% reimbursement mandate under the Maine Constitution, article IX, section 21 for administration costs to a municipality would likely be triggered.

Beyond clarification, the eligibility exclusion in the bill does not appear to be limited to bans and restrictions in Maine – this may raise constitutional concerns with a possible conflict with the Commerce Clause of the U.S. Constitution that would require further research.

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. I would be happy to respond to any questions you may have now.