

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

Before the Joint Standing Committee on Taxation
Hearing Date: *April 26, 2023, at 9:30 A.M.*

L.D. 1493 – *“An Act to Increase Affordable Housing by Expanding Tax Increment Financing”*

Senator Grohoski, Representative Perry, 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 Neither for Nor Against L.D. 1493, *“An Act to Increase Affordable Housing by Expanding Tax Increment Financing.”*

This bill would authorize the creation of Pine Tree Housing Zones to allow retained value resulting from tax increment financing districts within a municipality to be used to purchase, rehabilitate, or establish affordable rental or workforce housing anywhere in that municipality. Like the existing Pine Tree Development Zone program, this bill would create a sales tax exemption and reimbursement for associated purchases of goods, services, and electricity used by or sold to a “qualified project” within the Pine Tree Housing Zone.

My testimony today is limited to providing information specific to Sections 5 and 6 of the bill, with a comment for consideration regarding Section 4 of the bill. As to Section 4, the bill would require the Department of Economic and Community Development to promulgate rules to implement the Pine Tree Housing program, including rules for determining and certifying eligibility of a qualified project. For clarity and ease of administration, terms such as “qualified project,” “affordable rental housing,” and “workforce housing” should be defined within the

statutory text of the bill, rather than through the rulemaking process. The definition of “Qualified project” should also be clarified to identify the type of entity able to receive the sales tax benefits – as drafted, it is unclear whether the intended beneficiary is a property manager of the workforce housing, the owner of the land area containing the workforce housing, or the contractor of the housing project.

Next, the sales tax exemption proposed in Section 5 is limited “to sales occurring within a period of 10 years of the beginning of construction of the qualified project.” Yet, the bill’s summary refers to the “purchase, rehabilitation or establishment” of affordable housing in relation to a qualified project. It is therefore unclear whether the exemption only applies to newly constructed projects, or if projects previously constructed also qualify.

Note that the exemption may not be necessary after completion of a project; electricity used in individual affordable housing units would be residential and likely purchased directly by the tenant, not by the qualified project. Note also that the bill does not specifically require that the units be occupied.

Finally, in addition to tangible personal property installed into realty that is owned by or sold to a qualified project, Section 6 of the bill would reimburse sales tax paid on all sales of tangible personal property to a qualified project regardless of whether the property is used for the project. Assuming the exemption and reimbursement benefits are available only after a project becomes “qualified,” the proposal should limit the refund’s application to tax paid between the date of application for the program and the date of final certification.

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.