

**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: *Tuesday, January 23, 2024, at 1:00 P.M*

L.D. 1893 – “*An Act to Allow a Municipality to Impose a Fee on Short-term Rentals for the Benefit of That Municipality*”

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 L.D. 1893, “*An Act to Allow a Municipality to Impose a Fee on Short-term Rentals for the Benefit of That Municipality.*”

The Administration has not supported local option sales tax proposals in the past – and that policy position applies with equal force here to the closely allied fee levy proposed by L.D. 1893. Furthermore, this bill presents significant issues that should be weighed and addressed by the Committee with respect to complexity, timing, cost of implementation, tracking, transfer of revenues, and legal considerations. These concerns overlap with two similar proposals – L.Ds. 996 and 1298 – which have not yet been scheduled for public hearing by this Committee.

Turning briefly to the more significant concerns with L.D. 1893, I will note three. First, whether a levy is a tax or a fee is a legal conclusion and not simply a drafting choice – and there are different legal constraints that may apply whether the levy is a tax or a fee. L.D. 1893 would impose a local option “fee” on “short-term rentals” of living quarters within a municipality, but there are several aspects of this fee that may indicate it may have the legal status of a tax. In reviewing this

bill and the legal status of this new levy, the Committee should include in its considerations the validity of local option taxes under the Maine Constitution as well as possible concerns under the U.S. Constitutional following the U.S. Supreme Court's *Wayfair* decision of June 2018, which highlighted the importance of a simple tax system when imposing sales tax on remote sellers.

Second, incorporating a new local option fee-tax into Maine's new modernized computerized tax system could take one to two years from start to being ready for implementation, with not insignificant programming and other administrative cost. Third, if the Committee wishes to pursue a local option fee or tax, the proposed levy here in L.D. 1893 should be simplified as much as possible to ease compliance and administrative burden for all involved.

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.