

**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: *January 24<sup>th</sup>, 2024*

LD 2106 – *“An Act to Accelerate the Production of Affordable Housing and  
Strengthen the Historic Property Rehabilitation Tax Credit”*

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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 testifying at the request of the Administration Neither For Nor Against LD 2106, *“An Act to Accelerate the Production of Affordable Housing and Strengthen the Historic Property Rehabilitation Tax Credit.”*

For tax years beginning on or after January 1, 2024, the bill proposes to increase the maximum credit for rehabilitation of historic properties to \$10 million. While the bill title suggests that the intent is to accelerate the production of affordable housing, this credit cap increase is not limited to housing projects. The bill also proposes to allow certain nonprofit organizations that are exempt from federal income tax that are claiming the Maine credit for rehabilitation of historic properties or the Maine credit for affordable housing to elect a calendar year reporting period for Maine income tax purposes.

Under current Maine law (36 M.R.S. § 5219-BB), the credit for rehabilitation of historic properties may not exceed the greater of \$5 million for each certified rehabilitation as defined by Internal Revenue Code (“Code”), Section 47(c)(2)(C) placed in service during the taxable year, and \$5 million for each building that is a component of a certified historic structure for which the

Maine credit is claimed. Twenty-five percent of the allowable credit must be claimed during the tax year in which the credit may first be claimed and for each of the subsequent three tax years. The credit is refundable.

Nonprofit organizations exempt from income tax under the Code are generally not required to file a Maine income tax return. However, a tax-exempt organization may be subject to income tax if it realizes unrelated business income (“UBI”). A tax-exempt organization that is subject to Maine income tax on UBI must use its federal tax year for Maine income tax purposes. Here, the federal tax year follows the tax-exempt organization’s fiscal year, which does not have to follow the calendar year.

The Administration notes that the calendar year election included in Section 2 of the bill will increase administrative burden on Maine Revenue Services (“MRS”) and create confusion for nonprofit organizations that elect a calendar year reporting period for Maine income tax purposes but otherwise operates on a fiscal year basis that does not begin on January 1. As written, the bill does not specify how to reconcile a fiscal year and calendar year mismatch for Maine reporting purposes, which affects the calculation, timing, and reporting of (i) Maine taxable income, (ii) applicable state tax credits, and (iii) state withholding amounts.

The Administration also notes that the bill will allow previously certified businesses to qualify for the increased credit to the extent the rehabilitation is placed in service in a tax year beginning on or after January 1, 2024.

The portion of the bill that increases the credit cap to \$10 million is estimated to reduce General Fund revenue by \$2.5 million a year. The portion of the bill that impacts the filing of tax returns by nonprofit organizations may or may

not have a revenue impact; the bill needs to be clarified to better estimate that part of the bill.

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.