

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

Before the Joint Standing Committee on Taxation
Hearing Date: *February 7, 2024*

LD 2027 – “*An Act to Clarify the Property Tax Exemption for Air Pollution Control Facilities*”

Senator Grohoski, Representative Perry, and members of the Taxation Committee – good afternoon, my name is Peter Lacy, Staff Attorney with the Office of Tax Policy in the Department of Administrative and Financial Services. I am testifying at the request of the Administration Neither For Nor Against LD 2027 - “*An Act to Clarify the Property Tax Exemption for Air Pollution Control Facilities.*”

The bill specifies that a facility that stores spent nuclear fuel or radioactive waste classified by the United States Nuclear Regulatory Commission may not be considered an air pollution control facility for purposes of the property tax exemption for air and water pollution control facilities under 36 M.R.S. §§ 655(1)(N) and 656(1)(E). The bill applies retroactively to property tax years beginning on or after April 1, 2022.

Since the Department of Environmental Protection is the agency responsible for certifying the exemption addressed in this bill, MRS will defer to their analysis on the legal impact.

However, I would like to highlight several points from an administrative perspective. First, because the bill is retroactive, enactment may result in a single

property tax bill covering multiple years being issued to taxpayers that have not previously been taxed on the related property.

It should be noted that there is a possibility that removal of this tax exemption may instead make that property eligible for exemption under the Business Equipment Tax Exemption (BETE) program. The State does not currently reimburse municipalities for the tax loss associated with pollution control facilities because that exemption predates the reimbursement requirement in the Maine Constitution, Article IV, Part Third, Section 23. However, the State is required under the Constitution to reimburse municipalities for at least 50% of the tax lost as a result of business property qualifying for exemption under the BETE program, and so passage of this bill may result in an associated fiscal cost to the State.

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.