

**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, February 13, 2024, at 1:00 P.M*

L.D. 1298 – “An Act to Allow a Local Option Sales Tax on Short-term Lodging to Fund Affordable Housing”

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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 here today at the request of the Administration to testify Against L.D. 1298 – “An Act to Allow a Local Option Sales Tax on Short-term Lodging to Fund Affordable Housing. 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. That policy applied to the fee-levy proposed by LD 1893 – voted Ought Not to Pass at work session on January 31<sup>st</sup> – and that same policy position applies here to L.D. 1298 before you today. Further, while LD 1298 is by comparison more straightforward in concept and structure than LD 1893, it nevertheless still presents important issues that should be weighed by the Committee. These concerns also overlap with the remaining local option sales tax proposal – L.D. 996 – which has not yet been scheduled for public hearing by this Committee.

Turning briefly to the more significant concerns with L.D. 1298. First, the Committee should include in its considerations the validity of local option taxes under the Maine Constitution. Analysis and predictions may differ, but the legal question remains unsettled. Second, while as noted above L.D. 1298 is

comparatively straightforward, it is worth repeating that any local sales tax should be structured with an eye to U.S. Constitution concerns noted by the U.S. Supreme Court in its *Wayfair* decision of June 2018, which highlighted the importance of a simple tax system when imposing sales tax on remote sellers. Thus, any local sales tax enactment should limit local authority to few and only expressly authorized choices with respect to a local tax. Third, there are several technical drafting concerns that should be addressed, including harmonization with existing exemptions, inclusion of use tax, clarification that the local option tax base of short-term rentals matches that of the state sales tax, and timing with respect to tracking and transfer of revenues. Finally, there are questions of administrative costs and timing needed for MRS to incorporate a new local option fee-tax into Maine's new modernized computerized tax system.

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.