

**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: *March 12, 2024*

LD 2251 – “An Act to Amend the Mining Excise Tax Laws”

Senator Grohoski, Representative Perry, and members of the Taxation Committee – good afternoon, my name is Daniel D’Alessandro, Associate Tax Policy Counsel in the Maine Revenue Services Office of Tax policy. I am testifying at the request of the Administration in Support of LD 2251, “*An Act to Amend the Mining Excise Tax Laws.*”

This bill implements the recommendations of the report on Maine’s Taxation of Metallic Mineral Mining Business Activity prepared by the Office of Tax Policy pursuant to Resolves 2023, chapter 83.

A well-designed mining or severance tax should raise sufficient revenue to compensate for the permanent loss of resource value in the state and fund protection measures for the risk of environmental damage, while allowing the profitable operation of regulated mining activity in an economically efficient manner. Because mining in Maine, and mining Lithium in the United States, is at an early stage in its development, there continue to be considerable unknowns regarding how these criteria should be balanced. This uncertainty suggests that a conservative approach in updating the State’s mining taxes be taken at the outset, making sure that the State is not left in a worse position due to the mining activity, and then, as necessary, revisiting as the market matures.

Comparing different state's mining tax rates is difficult because of differences in the ways states define the tax base and available exemptions or credits.

Nevertheless, a multistate comparison is useful to put Maine's tax rate in context. The Resolves 2023, chapter 83 study found that comparable states have a tax rate of 0.75% to 5.00%, placing Maine's current base tax rate of 0.90% at the low end of that range. In certain theoretical but very unlikely circumstances, Maine's tax rate can move as high as 3.5%, still well within the range of surveyed states.

The report recommends, and this bill implements, removing the variance in Maine's Mining Excise Tax rate and increasing the base rate toward the upper middle of the surveyed range, while remaining within the current range of the Maine Mining Excise Tax, by setting a static tax rate of 3.5%. In addition, it recommends removing the minimum tax based on property value and the credit for property taxes paid. Note, the Department is preparing an amendment that will correct a typo in the bill's tax rate.

While the size of this industry can't be reasonably estimated at this point, we can put some context into possible Mining Excise Tax revenue. First, should businesses fail to satisfy the environmental requirements, or should the economics of mining simply make mining in Maine cost prohibitive, then the current Mining Excise Tax revenue of \$0 would continue. Second, if one, or a few, mining sites were to open, generating \$10 to \$100 million of gross proceeds a year, the State would receive \$350,000 to \$3.5 million of Mining Excise Tax revenue a year. If the industry were to expand beyond that, generating say \$100 million to \$1 billion a year, then yearly Mining Excise Tax revenue would fall between \$3.5 million and \$35 million.

The Administration believes that the bulk of the Mining Excise Tax revenue, 50%, should be directed toward protecting and enriching Maine's environment and that

the Land for Maine's Future (LMF) program is the preferred vehicle to do so. LMF has a strong track record of helping to conserve Maine's natural resources. This funding would further these continued investments. The remaining revenue should be split between impacted municipalities and the General Fund. The Department is preparing an amendment to this bill that would set out that recommended allocation for future consideration.

The report found that the existing Mining Excise Tax, enacted in 1982, has become increasingly complex as the legal framework of the Maine property and income taxes has shifted around it. The intervening changes have left the Mining Excise Tax, and its interaction with other areas of State tax law, at a level of complexity that borders on unadministrable. The study explored the need and opportunity for simplification to further the policy goals outlined in Title 36, Section 2853.

Simplification is an important component of allowing companies to profitably operate mines within the State and in encouraging the economically efficient extraction of minerals. In addition, simplification is necessary for the administration of the Mining Excise Tax and the property tax on mining operations.

The bill implements the report recommendations of simplifying the tax structure around mining by:

- Aligning similar Title 36 mining tax definitions with the Title 38 mining regulation definitions.
- Repealing most of the Mining Excise Tax business property tax provisions, including mining specific municipal reimbursement, and instead relying on the existing Business Equipment Tax Exemption (BETE) and the general property tax administration and appeal processes, while maintaining the

property tax exemption for mining products. The Department is preparing an amendment that would clarify this exemption.

- Creating a new sales tax exemption for products used in commercial mining modeled after existing production exemptions. The Department is preparing an amendment that would clarify this exemption.

Administrative costs for computer programming are currently under review.

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.