TESTIMONY OF
DANIEL D'ALESSANDRO, DEPUTY TAX POLICY COUNSEL
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

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LD 1939 – "*An Act to Close Maine's Tax Loophole for Offshore Profit Shifting*"

Senator Grohoski, Representative Sayre, and members of the Taxation Committee – good morning, my name is Daniel D'Alessandro, Deputy Tax Policy Counsel in the Department of Administrative and Financial Services. I am testifying at the request of the Administration Against LD 1939, "*An Act to Close Maine's Tax Loophole for Offshore Profit Shifting*."

Mandatory worldwide combined reporting would significantly burden Maine taxpayers and impair the ability of the State to administer the corporate income tax while unnecessarily attempting to fix a problem that, in Maine, has already been substantially addressed through the State's taxation of Global Intangible Low-Taxed Income, or "GILTI."

For tax years beginning on or after January 1, 2027, the bill establishes a mandatory worldwide combined reporting ("mandatory WWCR") method to determine the Maine taxable income of certain large corporate groups subject to Maine's corporate income tax.

Under current law, Maine imposes an income tax on entities subject to the federal income tax as a corporation, that have nexus with the State, and that realize Maine net income during the tax year. The tax generally does not apply to S corporations, financial institutions that are subject to Maine's franchise tax, or to insurance companies subject to Maine premiums tax.

Maine conforms to federal provisions enacted in 2017, which subject certain global intangible income (i.e., "GILTI") to U.S. taxation. In general, GILTI is designed to address potential shifting of intangible income from the U.S. to foreign jurisdictions. Maine allows a 50% state level deduction for such income. The 2025 federal tax legislation (the "OB3") somewhat expands this taxation and renames it to Net CFC-Tested Income, or "NCTI." You will be hearing more about NCTI in the context of Internal Revenue Code conformity.

Maine is both a "water's edge" and "combined reporting" state. The "water's edge" methodology limits the income subject to apportionment to the income required to be reported on the taxpayer's federal income tax return as modified by Maine law. This includes the taxation of GILTI. In addition, Maine taxpayers may utilize the "Augusta Formula" for apportionment when "water's edge" apportionment factors do not adequately reflect the sourcing of their income. The "Augusta Formula" method employs, in part, WWCR.

Shifting away from "water's edge" to mandatory WWCR, on the other hand, subjects all the combined group's income to apportionment, including income that is not required to be reported on the taxpayer's federal income tax return. Along with this worldwide income, WWCR also includes foreign sales in the apportionment calculation. These two factors offset: there is more income to apportion, but less of it will be apportioned to Maine. Depending on a taxpayer's specific circumstances, WWCR can result in an increase or a decrease in Maine income tax liability when compared with a "water's edge" methodology.

The Office of Tax Policy has recently reviewed, studied, and issued three reports on corporate taxation and related issues of international taxation relevant to this bill, which are as follows: the "Study of the Foreign Derived Intangible Income Deduction Addition Modification," issued on January 14, 2022, "Worldwide Combined Reporting of Certain Corporations for Income Tax Purposes," issued on February 15, 2023, and the "Report on Corporate Income Tax Data," issued on January 31, 2025. These reports provide a foundation for understanding the workings of the Maine Corporate Income Tax and its applicability to multinational business while analyzing the issues raised by this bill. They are available on the Office of Tax Policy section of the Maine Revenue Services website.

The Institute on Taxation and Economic Policy ("ITEP") has also studied this issue and on February 20, 2025, released a report on the topic titled, "A Revenue Analysis of Worldwide Combined Reporting in the States". In their report, ITEP estimated the potential revenue that states could receive through mandatory WWCR, taking into account the revenue already received through conformity to GILTI.

In reviewing Maine, ITEP stated that, "the intricacies of the Augusta Formula create ambiguity as to whether switching to mandatory WWCR would raise or lower tax revenue collections." This is a significant departure from a 2019 study ("A Simple Fix for a $17 Billion Loophole", U.S. PIRG Education Fund), which did not account for GILTI and estimated that mandatory worldwide reporting would raise $52 million in Maine. Of the 9 states with 50% or higher GILTI inclusions, excluding Maine, the 2025 ITEP study estimates that mandatory worldwide reporting would reduce revenues in 5 states and, in aggregate, reduce revenues by $269 million across these 9 states. Because of the similar GILTI treatment, these states serve as a useful comparison point for the potential impact on Maine.

The Office of Tax Policy estimates that Maine's GILTI inclusion increases corporate income tax liability by approximately $26 million annually, or $22 million net of the reduction in tax liability from "water's edge" income due to the GILTI inclusion appearing in the apportionment factor denominator.

Maine Revenue Services does not currently have the expertise or available resources to incorporate mandatory WWCR into its tax administration and building out this expertise is not warranted at this time because the State's taxation of GILTI is a more efficient and administrable process that currently addresses the issues this bill seeks to resolve.

Turning to the specific legislative language of LD 1939, I would like to note that the bill has many significant technical issues and is not administrable as written. To address these concerns, the bill would need to be amended in order to work in conjunction with the existing statutes in Title 36, Part 8, that administer the Maine corporate income tax. It is also important to note that while mandatory WWCR is a reporting method that is generally regarded as meeting the requirements of the U.S. Constitution, this proposal is complex and the specific details raise constitutional issues that require careful consideration.

The Office of Tax Policy has not completed a fiscal note analysis of the bill. However, our research indicates that mandatory WWCR would result in, at best, a modest increase in tax liability, with substantial uncertainty due to data limitations and concerns about implementation and compliance. The bill's projected administrative costs are under review, but are expected to be substantial.