

**TESTIMONY OF
MICHAEL J. ALLEN, ASSOCIATE COMMISSIONER FOR TAX POLICY
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

Before the Joint Standing Committee on Agriculture, Conservation and Forestry
Hearing Date: *Wednesday, March 13, 2024, at 1:30 P.M*

L.D. 2256 – *“An Act to Provide Emergency One-time Relief from the Wild
Blueberry Tax for Growers in Maine”*

Senator Ingwersen, Representative Pluecker, and members of the Agriculture, Conservation and Forestry 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 L.D. 2256, *“An Act to Provide Emergency One-time Relief from the Wild Blueberry Tax for Growers in Maine.”*

Current law imposes a tax at the rate of 1.5¢ per pound on wild blueberries processed in Maine or shipped unprocessed outside of Maine. The processor or shipper files the annual Blueberry Tax return and remits the tax; however, the processor or shipper charges and collects half of the tax from the seller of the blueberries that are in turn either processed or exported. All receipts of blueberry taxes are transferred to the Wild Blueberry Commission of Maine to be used for all activities of the Commission, including implementation of programs and activities to promote wild blueberries; supplementing research conducted by the University of Maine System related to improving methods of growing, harvesting, and marketing wild blueberries; and administration and other activities related to the economic viability of the Maine wild blueberry industry.

Maine Revenue Services is required to annually report to the Wild Blueberry Commission the amount of tax collected via the annual Blueberry Tax return; over

the past three years, those collections have ranged from \$1.6M to \$1.1M. L.D. 2256 would bar processors and shippers from collecting the half of the blueberry tax due from sellers on blueberries harvested inside the state for the 2024 calendar year, which would result in an estimated loss to the Wild Blueberry Commission of Maine of a little less than one half of the tax, as the vast majority of blueberries processed and shipped in Maine are blueberries grown in Maine.

Processors and shippers would still be responsible for collecting the seller's half of the tax on blueberries that are harvested *outside* the state. This would result in 0.75¢ per pound of tax due on blueberries harvested in Maine, but 1.5¢ per pound of tax due on blueberries harvested out-of-state. This would result in differential tax treatment – treating in-state products more favorably than out-of-state products, and thus raising constitutional concerns under the U.S. Constitution Commerce Clause.

For context, another provision in Title 36 was repealed by the 122nd Legislature in enacting the DAFS/MRS technical changes bill that Session, L.D. 1751, when similar constitutional concerns were noted. The provision there at issue, and repealed, had limited a sales tax exemption for truck bodies and trailers to those *manufactured in Maine*.

With respect to the present bill, LD 2256, administering the one-year temporary suspension of the one-half share of the tax on Maine-grown blueberries would require programming changes. MRS does not have an estimate to provide at the time of this testimony's submission.

Representatives from MRS are available for the work session if the Committee would like more details or has any further questions.