

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

Before the Joint Standing Committee on Education and Cultural Affairs
Hearing Date: *May 8, 2023*

LD 1838 – *“An Act to Create the Empowerment Scholarship Account Program”*
LD 1860 – *“An Act to Create the Educational Opportunity Account Program”*

Senator Rafferty, Representative Brennan, and members of the Education and Cultural Affairs Committee – good afternoon, my name is Michael Allen, Associate Commissioner for Tax Policy in the Department of Administrative and Financial Services. I am providing testimony at the request of the Administration Neither For Nor Against LD 1838, “An Act to Create the Empowerment Scholarship Account Program,” and LD 1860, “An Act to Create the Educational Opportunity Account Program.”

This analysis is limited to the bill as it affects taxation and Maine Revenue Services. The bills propose to exclude deposits made by the Maine Department of Education in certain education accounts from the Maine taxable income of a parent or legal guardian of a participating student or a participating student.

Generally, educational grants, scholarships, and other similar funding received by a student, or the parent or legal guardian of a student are not subject to federal or state income tax to the extent the benefits are used to pay qualified educational expenses. Based on Internal Revenue Service Publication 970: Tax Benefits for Education, qualified education expenses include tuition and fees required to enroll and attend an eligible educational institution and course related expenses (fees, books, supplies and equipment) that are required of all students.

Expenses that generally do not qualify as qualified education expenses include room and board, travel, research, clerical help, and equipment and other expenses not required for enrollment or attendance.

If the bill is intended to prescribe State tax treatment that differs (or potentially differs) from federal tax treatment, the Administration would like to note the following technical concerns that apply to both bills, otherwise, the tax provisions should be removed from the bills.

- The bill should be amended to include an application date.
- The bill should be amended to specifically address the tax consequences of account withdrawals, including any earnings on the account.
- The bill should be amended to include an income subtraction modification under 36 M.R.S. § 5122(2) to the extent the income is included in federal adjusted gross income.
- The bill should be clarified to address the tax consequences or recapture of refunds or rebates for goods and services purchased that cannot be credited directly to the educational account.

The estimated revenue impact of the bill is not available at this time.

Assuming the bill applies to tax years beginning on or after January 1, 2024, and the bill is amended to enact an income subtraction modification in 36 M.R.S. § 5122(2), one-time computer programming costs of \$11,000 are required to add an additional line on Form 1040ME, Schedule 1S, to update check stub messages and notices, to make federal tape changes, and to perform systems testing.

The Administration looks forward to working with the Committee on the bill; representatives from MRS can be here for the Work Session to provide additional information and respond in detail to the Committee's questions.