

**TESTIMONY OF
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DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

Before the Committee on Health Coverage, Insurance and Financial Services
Hearing Date: *May 20, 2021*

LD 1584 – “*An Act To Make Donated Medicines Available to Maine Patients at an Affordable Cost*”

Senator Sanborn, Representative Tepler, and members of the Committee on Health Coverage, Insurance and Financial Services – good morning, 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 Against LD 1584, “*An Act To Make Donated Medicines Available to Maine Patients at an Affordable Cost.*”

For tax years beginning January 1, 2022, the bill, in part, establishes an income tax credit for donations of certain medicine(s) to a participating nonprofit entity for purposes of the Medicine Donation and Redispensing Program. The credit is limited to tax due; however, unused portions of the credit may be carried forward up to 15 years.

Currently, for federal and Maine income tax purposes, taxpayers who itemize deductions or claim business expenses may deduct charitable contributions made to qualifying organizations, including contributions to state and local governments, thereby reducing taxable income. This bill may result in the donor receiving two tax benefits for the same donation.

Except for deductible medical expenses, Maine itemized deductions are capped, including charitable contributions. For 2021, the cap is \$30,400. LD 1251

submitted this session would, if enacted, exclude charitable contributions from the Maine itemized deductions cap.

MRS lacks the knowledge and expertise about the donation and re-dispensing of medicines that may be necessary to effectively achieve the purpose of the bill.

The Administration notes the following concerns with the bill:

- 1) Section 4 of the bill limits the credit to tax years beginning January 1, 2022. The bill should be amended to apply to tax years beginning on or after January 1, 2022, or, in the case of a one-year credit, to tax years beginning during 2022;
- 2) The bill should be amended to require the recipient to provide documentary evidence substantiating and identifying the donation; and
- 3) The reference to the Code, Section 170(e)(3)(A), in Section 4 of the bill may unintentionally limit that part of the credit to “C” Corporations because the Code reference only applies to “C” corporations.

Additionally, the Administration suggests the bill be amended to define “cost” and “verifiable cost” for purposes of the credit and:

- 1) Whether the cost is before or after the application of insurance coverage;
- 2) Whether the costs are net of itemized deductions and business expense deductions claimed with respect to the medicine donated; and
- 3) Whether the costs include ancillary, indirect costs, such as the cost of management.

It may also be worth considering a maximum credit cap per taxpayer.

The preliminary fiscal impact estimate is not available at this time. The preliminary administrative cost of the bill is estimated to be \$33,000 during FY 2022 - 23 for computer programming to add lines to the individual, fiduciary, and corporate income tax returns. Depending on the number of taxpayers claiming the credit, an additional Tax Examiner II position may be required to perform audit activities to authenticate credits claimed.

The Administration looks forward to working with the Committee on the bill.