TESTIMONY OF
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Before the Joint Standing Committee on Housing and Economic Development
Hearing Date: February 6, 2025

LD 195 – "An Act to Create the Small Business Capital Savings Account Program"

Senator Curry, Representative Gere, and members of the Housing and Economic Development Committee – good morning, my name is Michael Allen, Associate Commissioner for Tax Policy in the Department of Administrative and Financial Services. I am testifying Neither For Nor Against LD 195, *"An Act to Create the Small Business Capital Savings Account Program*."

This bill is similar to LD 1650 presented during the 130th Legislature and LD 1156 presented during the 129th Legislature, neither of which were enacted.

This testimony is limited to the bill as it affects taxes and Maine Revenue Services (MRS). The bill establishes the Small Business Capital Savings Account Program administered by the Department of Economic and Community Development (DECD) for businesses operating in commercial agricultural production, commercial fishing, and commercial wood harvesting. DECD may certify up to 10 eligible small businesses in each industry category that make contributions to a small business savings account, which is used for the purpose of making capital expenditures. The balance of a small business savings account may not exceed $250,000.

For tax years beginning on or after January 1, 2026 and before January 1, 2030, amounts contributed by a certified business to a small business savings account may be claimed as a deduction from Maine taxable income in the tax year during which the contribution was made, up to $250,000. Withdrawals from the savings account not used for capital expenditures must be added to Maine taxable income.

DECD must provide annual notification to MRS of businesses certified during the calendar year, eligible and ineligible withdrawals, and any other information necessary to determine the taxpayer's eligibility for the income tax deduction. DECD, in consultation with MRS, must adopt routine technical rules to implement the Program

The proposed tax program is overly complicated for a program that will have no more than 30 businesses qualify and will likely provide benefits that are duplicative of other existing deductions and credits that incentivize investment in Maine.

For example, this bill provides a double benefit for the certified businesses for certain capital assets purchased with funds deposited into a capital savings account. As proposed, a certified business could receive a Maine income tax deduction for capital expenditures and a Maine tax deduction through depreciation, bonus recapture, or a section 179 deduction related to those assets. Additionally, the proposed deduction may also overlap with other Maine tax benefits that are based on business expenditures, including expenses for capital assets, related to specific qualifying activity, such as the Research and Development Credit, Pine Tree Development Zone Credit, the Visual Media Production Credit, the Credit for Rehabilitation of Historic Properties, the Credit for Wellness Programs, and, <u>importantly, the newly enacted Dirigo Business Incentives program</u>.

In addition, the State tax benefits of this bill would often be overshadowed by the federal tax treatment of the underlying business transactions. As such, businesses structuring those transactions in a way that receives favorable federal tax treatment will have difficulty utilizing these accounts. This difficulty will be especially problematic for small businesses which have limited ability to cope with complicated government programs and disparate federal and State tax treatment.

The Administration also notes the bill contains several technical concerns that should be addressed if the Committee is interested in moving forward with this bill. The Administration also notes that this bill may require the review of the Taxation Committee pursuant to Title 22, Section 1002 "Review of proposed tax expenditures."

The preliminary estimated fiscal impact is a revenue loss of $145,000 per year. The Committee may want to consider whether a benefit of this size could be more efficiently delivered and more easily accessed if it was structured as a grant program.

The preliminary estimated administrative cost is $12,844 for fiscal year 2026-2027 for computer programming and related system testing costs required to add one income subtraction modification and one income addition modification line to the individual, fiduciary, and corporate income tax returns.

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.