

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

Before the Joint Standing Committee on Housing and Economic Development  
Hearing Date: *May 12, 2025*

LD 1863 – “*An Act to Amend the Laws Governing the Maine Space Corporation*”

-----

Senator Curry, Representative Gere, and members of the Housing and Economic Development 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 LD 1863, “*An Act to Amend the Laws Governing the Maine Space Corporation.*”

This testimony is limited to the bill as it relates to taxation and Maine Revenue Services. The bill designates the Maine Space Corporation (“the Corporation”) to be a nonprofit corporation and “clarifies” that the Corporation – when exercising the powers conferred to it by the Maine Space Corporation statute – is deemed to act as “an instrumentality of the State” and is a quasi-independent state entity that performs an essential governmental function. Further, the bill designates the Corporation as a nonprofit corporation under Maine law, whose duties, activities, and operations “must align with” the requirements under the Internal Revenue Code (“the Code”), Section 501(c)(3). The bill also specifies that certain information provided to, or developed by, the Corporation, including any financial statement, or supporting data of a financial statement, or tax return “of any person,” is confidential.

While this testimony is neither for nor against LD 1863, the Administration is in support of clarifying the tax status of the Maine Space Corporation. The current law language regarding tax status is problematic and runs the risk of disagreement and dispute and is therefore detrimental to all concerned. This has been a concern of the Office of Tax Policy (OTP) since the creation of the Maine Space Corporation.

Although 5 MRSA §13201 provides that the Maine Space Corporation “is established as a body corporate and politic,” the current statute does not provide that the Corporation is “an instrumentality of the State.” Under current law, the Corporation is established as a body corporate and politic, with all the general powers of a corporation under 13-C M.R.S. § 302. The Maine Space Complex Fund “constitutes a continuing appropriation for the benefit” of the Corporation, and must be used, among other authorized expenditures, to “[p]ay all taxes owed by the corporation related to a corporation property or corporation project.” Certain bonds issued by the Corporation are, together with interest on and income from the bonds, exempt from all taxes, including the Maine income tax. “Real and personal property, including funds” of the Corporation are exempt from levy and sale.

With respect to the proposed changes in LD 1863, it is relevant to note that Maine conforms to the federal income tax treatment of the Code, Section 501(c)(3) nonprofit corporations. Further, section 115(1) of the Code provides that gross income does not include income derived from the exercise of any essential governmental function and accruing to a state or any political subdivision thereof.

Although LD 1863 appears to helpfully address whether the Corporation shall be considered an instrumentality of the State for tax status purposes, further clean-up clarification is recommended – both in the bill and the underlying statute

– to make clear the apparent intended changes proposed by LD 1863. For example, the Committee may wish to consider the bill intention and language with respect to the bill’s provision designating the Corporation as both an instrumentality of the State and a nonprofit corporation whose operations “must align with” the Code, Section 501(c)(3).

Separately, but of significance, the Administration notes that the bill’s provisions on confidentiality as related to the tax or financial statement “of any person” should be clarified.

The preliminary estimated fiscal impact is not available at this time.

The preliminary estimated administrative costs are nominal and can be absorbed within current budgetary allotments.

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