

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1583

S.P. 633

In Senate, February 4, 2016

An Act To Provide for Tax Conformity and Funding Methods

(EMERGENCY)

Submitted by the Joint Standing Committee on Appropriations and Financial Affairs
pursuant to Joint Order 2016, S.P. 630.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

1 subparagraph must be adjusted for inflation in accordance with section 5403,
2 subsection 3;

3 (2) For individuals filing as heads of households, the numerator is the taxpayer's
4 Maine adjusted gross income less \$105,000, except that the numerator may not
5 be less than zero, and the denominator is \$112,500. In no case may the fraction
6 contained in this subparagraph produce a result that is more than one. The
7 \$105,000 amount used to calculate the numerator in this subparagraph must be
8 adjusted for inflation in accordance with section 5403, subsection 3; or

9 (3) For individuals filing married joint returns or surviving spouses, the
10 numerator is the taxpayer's Maine adjusted gross income less \$140,000, except
11 that the numerator may not be less than zero, and the denominator is \$150,000.
12 In no case may the fraction contained in this subparagraph produce a result that is
13 more than one. The \$140,000 amount used to calculate the numerator in this
14 subparagraph must be adjusted for inflation in accordance with section 5403,
15 subsection 3.

16 For purposes of this paragraph, "taxpayer base" means either the taxpayer's
17 applicable standard deduction amount for the taxable year determined under section
18 5124-B or, if itemized deductions are claimed, the taxpayer's itemized deductions
19 claimed for the taxable year determined under section 5125-;

20 **Sec. A-4. 36 MRSA §5122, sub-§1, ¶¶KK to MM** are enacted to read:

21 KK. For taxable years beginning in 2015:

22 (1) An amount equal to the net increase in depreciation attributable to the
23 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)
24 with respect to property placed in service in the State during the taxable year for
25 which a credit is claimed under section 5219-NN for that taxable year; and

26 (2) An amount equal to the net increase in depreciation attributable to the
27 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)
28 with respect to property for which a credit is not claimed under section 5219-NN;

29 LL. An amount equal to the sum of the following:

30 (1) For taxable years beginning on or after January 1, 2016 but before January 1,
31 2020, an amount equal to the net increase in depreciation attributable to the
32 depreciation deduction claimed by the taxpayer for the taxable year under the
33 Code, Section 168(k); and

34 (2) For taxable years beginning on or after January 1, 2016, an amount equal to
35 the net increase in aggregate cost under Section 179 of the Code arising from
36 amendments to the Code enacted in the federal Consolidated Appropriations Act,
37 2016, Public Law 114-113 applicable to the taxable year; and

38 MM. For taxable years beginning on or after January 1, 2016, the amount of the
39 deduction claimed pursuant to the Code, Section 62(a)(2)(D) for eligible educator
40 expenses.

1 **Sec. A-5. 36 MRSA §5122, sub-§2, ¶MM**, as amended by PL 2015, c. 1, §6, is
2 further amended to read:

3 MM. For taxable years beginning on or after January 1, 2014, an amount equal to the
4 net increase in the depreciation deduction allowable under the Code, Sections 167
5 and 168 that would have been applicable to that property had the depreciation
6 deduction under the Code, Section 168(k) not been claimed with respect to such
7 property placed in service during the taxable year beginning in 2013 for which an
8 addition was required under subsection 1, paragraph HH, subparagraph (2) for the
9 taxable year beginning in 2013.

10 Upon the taxable disposition of property to which this paragraph applies, the amount
11 of any gain or loss includable in federal adjusted gross income must be adjusted for
12 Maine income tax purposes by an amount equal to the difference between the
13 addition modification for such property under subsection 1, paragraph HH,
14 subparagraph (2) and the subtraction modifications allowed pursuant to this
15 paragraph.

16 The total amount of subtraction claimed under this paragraph for all tax years may
17 not exceed the addition modification under subsection 1, paragraph HH,
18 subparagraph (2) for the same property; and

19 **Sec. A-6. 36 MRSA §5122, sub-§2, ¶NN**, as enacted by PL 2015, c. 1, §7, is
20 amended to read:

21 NN. For taxable years beginning on or after January 1, 2015, an amount equal to the
22 net increase in the depreciation deduction allowable under the Code, Sections 167
23 and 168 that would have been applicable to that property had the depreciation
24 deduction under the Code, Section 168(k) not been claimed with respect to such
25 property placed in service during the taxable year beginning in 2014 for which an
26 addition was required under subsection 1, paragraph II, subparagraph (2) for the
27 taxable year beginning in 2014.

28 Upon the taxable disposition of property to which this paragraph applies, the amount
29 of any gain or loss includable in federal adjusted gross income must be adjusted for
30 Maine income tax purposes by an amount equal to the difference between the
31 addition modification for such property under subsection 1, paragraph II,
32 subparagraph (2) and the subtraction modifications allowed pursuant to this
33 paragraph.

34 The total amount of subtraction claimed under this paragraph for all tax years may
35 not exceed the addition modification under subsection 1, paragraph II, subparagraph
36 (2) for the same property;

37 **Sec. A-7. 36 MRSA §5122, sub-§2, ¶¶OO and PP** are enacted to read:

38 OO. For taxable years beginning on or after January 1, 2016, an amount equal to the
39 net increase in the depreciation deduction allowable under the Code, Sections 167
40 and 168 that would have been applicable to that property had the depreciation
41 deduction under the Code, Section 168(k) not been claimed with respect to such
42 property placed in service during the taxable year beginning in 2015 for which an

1 addition was required under subsection 1, paragraph KK, subparagraph (2) for the
2 taxable year beginning in 2015.

3 Upon the taxable disposition of property to which this paragraph applies, the amount
4 of any gain or loss includable in federal adjusted gross income must be adjusted for
5 Maine income tax purposes by an amount equal to the difference between the
6 addition modification for such property under subsection 1, paragraph KK,
7 subparagraph (2) and the subtraction modifications allowed pursuant to this
8 paragraph.

9 The total amount of subtraction claimed under this paragraph for all tax years may
10 not exceed the addition modification under subsection 1, paragraph KK,
11 subparagraph (2) for the same property; and

12 PP. For taxable years beginning on or after January 1, 2017, an amount equal to the
13 net increase in:

14 (1) The depreciation deduction allowable under the Code, Sections 167 and 168
15 that would have been applicable to that property had the depreciation deduction
16 under the Code, Section 168(k) not been claimed with respect to such property
17 placed in service during the applicable taxable year for which an addition was
18 required under subsection 1, paragraph LL, subparagraph (1) for the applicable
19 taxable year; and

20 (2) The depreciation deduction allowable under the Code, Sections 167 and 168
21 that would have been applicable to that property had the increased cost under the
22 Code, Section 179 not been claimed with respect to such property placed in
23 service during the applicable taxable year for which an addition was required
24 under subsection 1, paragraph LL, subparagraph (2) for the applicable taxable
25 year.

26 Upon the taxable disposition of property to which this paragraph applies, the amount
27 of any gain or loss includable in federal adjusted gross income must be adjusted for
28 Maine income tax purposes by an amount equal to the difference between the
29 addition modification for such property under subsection 1, paragraph LL and the
30 subtraction modifications allowed pursuant to this paragraph.

31 The total amount of subtraction claimed under this paragraph for all tax years may
32 not exceed the addition modification under subsection 1, paragraph LL for the same
33 property.

34 **Sec. A-8. 36 MRSA §5125, sub-§3, ¶D**, as amended by PL 2015, c. 267, Pt. DD,
35 §16 and amended by c. 340, §1 and affected by §5, is repealed and the following enacted
36 in its place:

37 D. Reduced by any amount attributable to interest or expenses incurred in the
38 production of income exempt from tax under this Part;

39 **Sec. A-9. 36 MRSA §5125, sub-§3, ¶E**, as repealed by PL 2015, c. 267, Pt. DD,
40 §17 and amended by c. 340, §2 and affected by §5, is repealed.

1 **Sec. A-10. 36 MRSA §5125, sub-§3, ¶G**, as enacted by PL 2015, c. 340, §3 and
2 affected by §5, is amended to read:

3 G. Reduced by the amount of federal itemized deductions included in the base for
4 calculating the credit under section 5218-A; and

5 **Sec. A-11. 36 MRSA §5125, sub-§3, ¶H** is enacted to read:

6 H. For tax years beginning on or after January 1, 2016, reduced by any amount
7 attributable to mortgage insurance premiums treated as qualified residence interest
8 under the Code, Section 163.

9 **Sec. A-12. 36 MRSA §5200-A, sub-§1, ¶AA**, as amended by PL 2015, c. 1, §9,
10 is further amended to read:

11 AA. For taxable years beginning in 2013:

12 (1) An amount equal to the net increase in depreciation attributable to the
13 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)
14 with respect to property placed in service in the State during the taxable year for
15 which a credit is claimed under section 5219-JJ for that taxable year; and

16 (2) An amount equal to the net increase in depreciation attributable to the
17 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)
18 with respect to property for which a credit is not claimed under section 5219-JJ;
19 **and**

20 **Sec. A-13. 36 MRSA §5200-A, sub-§1, ¶BB**, as enacted by PL 2015, c. 1, §10,
21 is amended to read:

22 BB. For taxable years beginning in 2014:

23 (1) An amount equal to the net increase in depreciation attributable to the
24 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)
25 with respect to property placed in service in the State during the taxable year for
26 which a credit is claimed under section 5219-MM for that taxable year; and

27 (2) An amount equal to the net increase in depreciation attributable to the
28 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)
29 with respect to property for which a credit is not claimed under section
30 5219-MM;

31 **Sec. A-14. 36 MRSA §5200-A, sub-§1, ¶¶CC and DD** are enacted to read:

32 CC. For taxable years beginning in 2015:

33 (1) An amount equal to the net increase in depreciation attributable to the
34 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)
35 with respect to property placed in service in the State during the taxable year for
36 which a credit is claimed under section 5219-NN for that taxable year; and

37 (2) An amount equal to the net increase in depreciation attributable to the
38 depreciation deduction claimed by the taxpayer under the Code, Section 168(k)

1 with respect to property for which a credit is not claimed under section 5219-NN;
2 and

3 DD. An amount equal to the sum of the following:

4 (1) For taxable years beginning on or after January 1, 2016 but before January 1,
5 2020, an amount equal to the net increase in depreciation attributable to the
6 depreciation deduction claimed by the taxpayer for the taxable year under the
7 Code, Section 168(k); and

8 (2) For taxable years beginning on or after January 1, 2016, an amount equal to
9 the net increase in aggregate cost under Section 179 of the Code arising from
10 amendments to the Code enacted in the federal Consolidated Appropriations Act,
11 2016, Public Law 114-113 applicable to the taxable year.

12 **Sec. A-15. 36 MRSA §5200-A, sub-§2, ¶Y,** as amended by PL 2015, c. 1, §12,
13 is further amended to read:

14 Y. For taxable years beginning on or after January 1, 2014, an amount equal to the
15 net increase in the depreciation deduction allowable under the Code, Sections 167
16 and 168 that would have been applicable to that property had the depreciation
17 deduction under the Code, Section 168(k) not been claimed with respect to such
18 property placed in service during the taxable year beginning in 2013 for which an
19 addition was required under subsection 1, paragraph AA, subparagraph (2) for the
20 taxable year beginning in 2013.

21 Upon the taxable disposition of property to which this paragraph applies, the amount
22 of any gain or loss includable in federal taxable income must be adjusted for Maine
23 income tax purposes by an amount equal to the difference between the addition
24 modification for such property under subsection 1, paragraph AA, subparagraph (2)
25 and the subtraction modifications allowed pursuant to this paragraph.

26 The total amount of subtraction claimed under this paragraph for all tax years may
27 not exceed the addition modification under subsection 1, paragraph AA,
28 subparagraph (2) for the same property; ~~and~~

29 **Sec. A-16. 36 MRSA §5200-A, sub-§2, ¶Z,** as enacted by PL 2015, c. 1, §13, is
30 amended to read:

31 Z. For taxable years beginning on or after January 1, 2015, an amount equal to the
32 net increase in the depreciation deduction allowable under the Code, Sections 167
33 and 168 that would have been applicable to that property had the depreciation
34 deduction under the Code, Section 168(k) not been claimed with respect to such
35 property placed in service during the taxable year beginning in 2014 for which an
36 addition was required under subsection 1, paragraph BB, subparagraph (2) for the
37 taxable year beginning in 2014.

38 Upon the taxable disposition of property to which this paragraph applies, the amount
39 of any gain or loss includable in federal taxable income must be adjusted for Maine
40 income tax purposes by an amount equal to the difference between the addition
41 modification for such property under subsection 1, paragraph BB, subparagraph (2)
42 and the subtraction modifications allowed pursuant to this paragraph.

1 The total amount of subtraction claimed under this paragraph for all tax years may
2 not exceed the addition modification under subsection 1, paragraph BB, subparagraph
3 (2) for the same property-;

4 **Sec. A-17. 36 MRSA §5200-A, sub-§2, ¶¶AA and BB** are enacted to read:

5 AA. For taxable years beginning on or after January 1, 2016, an amount equal to the
6 net increase in the depreciation deduction allowable under the Code, Sections 167
7 and 168 that would have been applicable to that property had the depreciation
8 deduction under the Code, Section 168(k) not been claimed with respect to such
9 property placed in service during the taxable year beginning in 2015 for which an
10 addition was required under subsection 1, paragraph CC, subparagraph (2) for the
11 taxable year beginning in 2015.

12 Upon the taxable disposition of property to which this paragraph applies, the amount
13 of any gain or loss includable in federal taxable income must be adjusted for Maine
14 income tax purposes by an amount equal to the difference between the addition
15 modification for such property under subsection 1, paragraph CC, subparagraph (2)
16 and the subtraction modifications allowed pursuant to this paragraph.

17 The total amount of subtraction claimed under this paragraph for all tax years may
18 not exceed the addition modification under subsection 1, paragraph CC, subparagraph
19 (2) for the same property; and

20 BB. For taxable years beginning on or after January 1, 2017, an amount equal to the
21 net increase in:

22 (1) The depreciation deduction allowable under the Code, Sections 167 and 168
23 that would have been applicable to that property had the depreciation deduction
24 under the Code, Section 168(k) not been claimed with respect to such property
25 placed in service during the applicable taxable year for which an addition was
26 required under subsection 1, paragraph DD, subparagraph (1) for the applicable
27 taxable year; and

28 (2) The depreciation deduction allowable under the Code, Sections 167 and 168
29 that would have been applicable to that property had the increased cost under the
30 Code, Section 179 not been claimed with respect to such property placed in
31 service during the applicable tax year for which an addition was required under
32 subsection 1, paragraph DD, subparagraph (2) for the applicable tax year.

33 Upon the taxable disposition of property to which this paragraph applies, the amount
34 of any gain or loss includable in federal taxable income must be adjusted for Maine
35 income tax purposes by an amount equal to the difference between the addition
36 modification for such property under subsection 1, paragraph DD and the subtraction
37 modifications allowed pursuant to this paragraph.

38 The total amount of subtraction claimed under this paragraph for all tax years may
39 not exceed the addition modification under subsection 1, paragraph DD for the same
40 property.

41 **Sec. A-18. 36 MRSA §5219-S, sub-§5** is enacted to read:

1 **5. Tax years after 2017.** For purposes of calculating the credit under this section for
2 tax years beginning on or after January 1, 2018, the federal earned income credit for
3 individuals with 3 or more qualifying children must be determined using 40% as the
4 credit percentage under the Code, Section 32(b)(1), the federal earned income credit
5 phase-out amount for individuals filing joint returns must be determined in accordance
6 with the Code, Section 32(b)(2)(A) and the Code, Section 32(b)(2)(B) must be
7 disregarded.

8 **Sec. A-19. 36 MRSA §5219-NN** is enacted to read:

9 **§5219-NN. Maine capital investment credit for 2015**

10 **1. Credit allowed.** A taxpayer that claims a depreciation deduction under the Code,
11 Section 168(k) for property placed in service in the State during a taxable year beginning
12 in 2015 is allowed a credit as follows:

13 A. A taxable corporation is allowed a credit against the taxes imposed by this Part in
14 an amount equal to 9% of the amount of the net increase in the depreciation
15 deduction reported as an addition to income for the taxable year under section
16 5200-A, subsection 1, paragraph CC, subparagraph (1) with respect to that property,
17 except for excluded property under subsection 2; or

18 B. An individual is allowed a credit against the taxes imposed by this Part in an
19 amount equal to 8% of the amount of the net increase in the depreciation deduction
20 reported as an addition to income for the taxable year under section 5122, subsection
21 1, paragraph KK, subparagraph (1) with respect to that property, except for excluded
22 property under subsection 2.

23 **2. Certain property excluded.** The following property is not eligible for the credit
24 under this section:

25 A. Property owned by a public utility as defined by Title 35-A, section 102,
26 subsection 13;

27 B. Property owned by a person that provides radio paging services as defined by
28 Title 35-A, section 102, subsection 15;

29 C. Property owned by a person that provides mobile telecommunications services as
30 defined by Title 35-A, section 102, subsection 9-A;

31 D. Property owned by a cable television company as defined by Title 30-A, section
32 2001, subsection 2;

33 E. Property owned by a person that provides satellite-based direct television
34 broadcast services;

35 F. Property owned by a person that provides multichannel, multipoint television
36 distribution services; and

37 G. Property that is not in service in the State for the entire 12-month period
38 following the date it is placed in service in the State.

1 **3. Limitations; carry-forward.** The credit allowed under subsection 1 may not
2 reduce the tax otherwise due under this Part to less than zero. Any unused portion of the
3 credit may be carried forward to the following year or years for a period not to exceed 20
4 years.

5 **4. Recapture.** The credit allowed under this section must be fully recaptured to the
6 extent claimed by the taxpayer if the property forming the basis of the credit is not used
7 in the State for the entire 12-month period following the date it is placed in service in the
8 State. The credit must be recaptured by filing an amended return in accordance with
9 section 5227-A for the tax year in which that property was used to calculate the credit
10 under this section. The amended return must reflect the credit disallowed and the income
11 modifications required by section 5122, subsection 1, paragraph KK and section 5200-A,
12 subsection 1, paragraph CC with respect to that property.

13 **Sec. A-20. Application.** That section of this Part that amends the Maine Revised
14 Statutes, Title 36, section 111, subsection 1-A applies to tax years beginning on or after
15 January 1, 2015 and to any prior tax years as specifically provided by the United States
16 Internal Revenue Code of 1986 and amendments to that Code as of December 31, 2015.

17 **PART B**

18 **Sec. B-1. Transfer from tax relief fund.** The State Controller shall transfer
19 \$9,535,933 from the Tax Relief Fund for Maine Residents established in the Maine
20 Revised Statutes, Title 5, section 1518-A to the unappropriated surplus of the General
21 Fund no later June 30, 2016.

22 **PART C**

23 **Sec. C-1. Appropriations and allocations.** The following appropriations and
24 allocations are made.

25 **TREASURER OF STATE, OFFICE OF**

26 **Debt Service - Treasury 0021**

27 Initiative: Reduces funding for debt service costs.

28	GENERAL FUND	2015-16	2016-17
29	All Other	(\$6,113,120)	\$0
30			
31	GENERAL FUND TOTAL	<u>(\$6,113,120)</u>	<u>\$0</u>

32 **PART D**

33 **Sec. D-1. Personal Services savings; transfer to General Fund**
34 **unappropriated surplus.** Notwithstanding the Maine Revised Statutes, Title 5,
35 section 1582, subsection 4 or any other provision of law, the State Controller shall
36 transfer the first \$153,447 of unexpended Personal Services appropriations that would
37 otherwise lapse to the General Fund Salary Plan program in the Department of

1 Administrative and Financial Services to the unappropriated surplus of the General Fund
2 at the close of fiscal year 2015-16.

3 **Sec. D-2. General Fund Salary Plan; transfer to General Fund**
4 **unappropriated surplus.** Notwithstanding any other provision of law, the State
5 Controller may transfer up to \$153,447 from the General Fund Salary Plan program in the
6 Department of Administrative and Financial Services to the unappropriated surplus of the
7 General Fund at the close of fiscal year 2015-16 in the event that the total savings in
8 section 1 of this Part are not achieved.

9 **PART E**

10 **Sec. E-1. Personal Services savings; transfer to General Fund revenue.**
11 Notwithstanding the Maine Revised Statutes, Title 5, section 1582, subsection 4 or any
12 other provision of law, the State Controller shall transfer the first \$1,034,880 of
13 unexpended Personal Services appropriations that would otherwise lapse to the General
14 Fund Salary Plan program in the Department of Administrative and Financial Services to
15 the unappropriated surplus of the General Fund at the close of fiscal year 2016-17.

16 **Sec. E-2. General Fund Salary Plan; transfer to General Fund revenue.**
17 Notwithstanding any other provision of law, the State Controller may transfer up to
18 \$1,034,880 from the General Fund Salary Plan program in the Department of
19 Administrative and Financial Services to the unappropriated surplus of the General Fund
20 at the close of fiscal year 2016-17 in the event that the total savings in section 1 of this
21 Part are not achieved.

22 **Emergency clause.** In view of the emergency cited in the preamble, this
23 legislation takes effect when approved.

24 **SUMMARY**

25 This bill is presented pursuant to Joint Order 2016, S.P. 630, which authorizes the
26 Joint Standing Committee on Appropriations and Financial Affairs to report out a bill
27 regarding tax conformity including funding. It provides conformity with the United
28 States Internal Revenue Code of 1986 but only for tax years beginning in 2015.

29 Part A of this bill:

30 1. Decouples the Maine individual and corporate income taxes from the federal
31 bonus depreciation deductions for taxable years beginning on or after January 1, 2015. In
32 addition, it provides a Maine capital investment credit for taxable years beginning in 2015
33 with respect to depreciable property placed in service in Maine. The credit is equal to 9%
34 of the amount of the net increase in depreciation attributable to the depreciation deduction
35 claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in
36 service in the State during the taxable year for taxable corporations; for individuals the
37 credit is 8% of such amount for tax years beginning in 2015;



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LD

LR 2662(01)

An Act To Provide for Tax Conformity and Funding Methods

Fiscal Note for Original Bill
Committee: Appropriations and Financial Affairs
Fiscal Note Required: Yes

Fiscal Note

	FY 2015-16	FY 2016-17	Projections FY 2017-18	Projections FY 2018-19
Net Cost (Savings)				
General Fund	\$0	\$0	(\$2,333,380)	(\$1,712,060)
Appropriations/Allocations				
General Fund	(\$6,113,120)	\$0	\$0	\$0
Revenue				
General Fund	(\$15,802,500)	(\$1,034,880)	\$2,333,380	\$1,712,060
Other Special Revenue Funds	(\$322,500)	(\$21,120)	\$47,620	\$34,940
Transfers				
General Fund	\$9,689,380	\$1,034,880	\$0	\$0

Fiscal Detail and Notes

This legislation has no net General Fund cost in fiscal year 2015-16 and fiscal year 2016-17. It proposes to conform to certain federal tax laws for tax year 2015 only and would result in a loss of General Fund revenue of \$15,802,500 in fiscal year 2015-16 and \$1,034,880 in fiscal year 2016-17. It would also result in a reduction in transfers to the Local Government Fund of \$322,500 in fiscal year 2015-16 and \$21,120 in fiscal year 2016-17.

Part B of the bill transfers \$9,535,933 from the Tax Relief Fund for Maine Residents to the unappropriated surplus of the General Fund in fiscal year 2015-16.

Part C deappropriates \$6,113,120 from the Office of the Treasurer of State in fiscal year 2015-16 to reflect savings in debt service.

Parts D and E lapses \$153,447 in fiscal year 2015-16 and \$1,034,880 in fiscal year 2016-17 from Personal Services appropriations that would otherwise lapse to the Salary Plan account in the Department of Administrative and Financial Services.