

MAINE STATE LEGISLATURE

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L.D. 1655

Date: 4/17/18 Majority

(Filing No. S- 476)

TAXATION

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**STATE OF MAINE
SENATE
128TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 612, L.D. 1655, Bill, "An Act To Update References to the United States Internal Revenue Code of 1986 Contained in the Maine Revised Statutes"

Amend the bill by striking out the title and substituting the following:

'An Act To Conform to the United States Internal Revenue Code of 1986 and Provide Tax Relief to Maine Families'

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

'PART A

Sec. A-1. 36 MRSA §111, sub-§1-A, as amended by PL 2017, c. 24, §1, is further amended to read:

1-A. Code. "Code" means the United States Internal Revenue Code of 1986 and amendments to that Code as of ~~December 31, 2016~~ March 23, 2018.

Sec. A-2. Application. This Part applies to tax years beginning on or after January 1, 2017 and to any prior tax years as specifically provided by the United States Internal Revenue Code of 1986 and amendments to that Code as of March 23, 2018.

PART B

Sec. B-1. 36 MRSA §5125, sub-§3, ¶A-1 is enacted to read:

A-1. Increased by the amount of property taxes not claimed under the Code, Section 164(a)(1) and (2) as a result of the limitation under the Code, Section 164(b)(6)(B);

Sec. B-2. 36 MRSA §5213-A, sub-§1, ¶A, as amended by PL 2015, c. 328, §4, is further amended to read:

A. "Base For tax years beginning before January 1, 2018, "base credit" means:

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- 1 (1) For an individual income tax return claiming one personal exemption, \$100
2 for tax years beginning in 2016 and \$125 for tax years beginning on or after
3 January 1, 2017;
- 4 (2) For an individual income tax return claiming 2 personal exemptions, \$140 for
5 tax years beginning in 2016 and \$175 for tax years beginning on or after January
6 1, 2017;
- 7 (3) For an individual income tax return claiming 3 personal exemptions, \$160 for
8 tax years beginning in 2016 and \$200 for tax years beginning on or after January
9 1, 2017; and
- 10 (4) For an individual income tax return claiming 4 or more personal exemptions,
11 \$180 for tax years beginning in 2016 and \$225 for tax years beginning on or after
12 January 1, 2017.

13 For the purposes of this paragraph, personal exemption does not include a personal
14 exemption for an individual who is incarcerated.

15 **Sec. B-3. 36 MRSA §5213-A, sub-§1, ¶A-1** is enacted to read:

16 A-1. For tax years beginning on or after January 1, 2018, "base credit" means:

- 17 (1) For single individuals, \$125;
- 18 (2) For individuals filing joint returns or as heads of households, \$175 plus an
19 additional amount equal to:
- 20 (a) For individuals filing joint returns, \$25 if they can claim the federal child
21 tax credit pursuant to the Code, Section 24 for no more than one qualifying
22 child or dependent or \$50 if they can claim the credit for more than one
23 qualifying child or dependent; or
- 24 (b) For individuals filing as heads of households, \$25 if they can claim the
25 federal child tax credit pursuant to the Code, Section 24 for 2 qualifying
26 children or dependents or \$50 if they can claim the credit for more than 2
27 qualifying children or dependents;

28 **Sec. B-4. 36 MRSA §5213-A, sub-§1, ¶B,** as enacted by PL 2015, c. 267, Pt.
29 DD, §19, is amended to read:

30 B. "Income" means federal adjusted gross income increased by the following
31 amounts:

- 32 (1) Trade or business losses; capital losses; any net loss resulting from
33 combining the income or loss from rental real estate and royalties, the income or
34 loss from partnerships and S corporations, the income or loss from estates and
35 trusts, the income or loss from real estate mortgage investment conduits and the
36 net farm rental income or loss; any loss associated with the sale of business
37 property; and farm losses included in federal adjusted gross income;
- 38 (2) Interest received to the extent not included in federal adjusted gross income;

- 1 (3) Payments received under the federal Social Security Act and railroad
- 2 retirement benefits to the extent not included in federal adjusted gross income;
- 3 and
- 4 (4) The following amounts deducted in arriving at federal adjusted gross income:
- 5 (a) Educator expenses pursuant to the Code, Section 62(a)(2)(D);
- 6 (b) Certain business expenses of performing artists pursuant to the Code,
- 7 Section 62(a)(2)(B);
- 8 (c) Certain business expenses of government officials pursuant to the Code,
- 9 Section 62(a)(2)(C);
- 10 (d) Certain business expenses of reservists pursuant to the Code, Section
- 11 62(a)(2)(E);
- 12 (e) Health savings account deductions pursuant to the Code, Section
- 13 62(a)(16) and Section 62(a)(19);
- 14 (f) Moving expenses pursuant to the Code, Section 62(a)(15);
- 15 (g) The deductible part of self-employment tax pursuant to the Code, Section
- 16 164(f);
- 17 (h) The deduction for self-employed SEP, SIMPLE and qualified plans
- 18 pursuant to the Code, Section 62(a)(6);
- 19 (i) The self-employed health insurance deduction pursuant to the Code,
- 20 Section 162(1);
- 21 (j) The penalty for early withdrawal of savings pursuant to the Code, Section
- 22 62(a)(9);
- 23 (k) Alimony paid pursuant to the Code, Section 62(a)(10);
- 24 (l) The IRA deduction pursuant to the Code, Section 62(a)(7);
- 25 (m) The student loan interest deduction pursuant to the Code, Section
- 26 62(a)(17); and
- 27 (n) The tuition and fees deduction pursuant to the Code, Section 62(a)(18);
- 28 and
- 29 ~~(o) The domestic production activities deduction pursuant to the Code,~~
- 30 ~~Section 199.~~

31 **Sec. B-5. 36 MRSA §5213-A, sub-§6**, as corrected by RR 2015, c. 1, §42, is
32 amended to read:

33 **6. Limitations.** The following individuals do not qualify for the credit under this
34 section:

- 35 A. Married taxpayers filing separate returns; ~~or~~

1 B. Individuals who do not qualify as resident individuals because they do not meet
2 the requirements of section 5102, subsection 5, paragraph A; or

3 C. Individuals who can be claimed as a dependent on another taxpayer's return.

4 **Sec. B-6. 36 MRSA §5219-KK, sub-§1, ¶A**, as amended by PL 2017, c. 211,
5 Pt. D, §6, is further amended to read:

6 A. "Benefit For tax years beginning before January 1, 2018, "benefit base" means
7 property taxes paid by a resident individual during the tax year on the resident
8 individual's homestead in this State or rent constituting property taxes paid by the
9 resident individual during the tax year on a homestead in the State not exceeding the
10 following amounts:

11 (1) For persons filing as single individuals, \$2,000;

12 (2) For persons filing joint returns or as heads of households that claim no more
13 than 2 personal exemptions, \$2,600; and

14 (3) For persons filing joint returns or as heads of households that claim 3 or more
15 personal exemptions, \$3,200.

16 **Sec. B-7. 36 MRSA §5219-KK, sub-§1, ¶A-1** is enacted to read:

17 A-1. For tax years beginning on or after January 1, 2018, "benefit base" means
18 property taxes paid by a resident individual during the tax year on the resident
19 individual's homestead in this State or rent constituting property taxes paid by the
20 resident individual during the tax year on a homestead in the State not exceeding the
21 following amounts:

22 (1) For persons filing as single individuals, \$2,050;

23 (2) For persons filing as heads of households that can claim the federal child tax
24 credit pursuant to the Code, Section 24 for no more than one qualifying child or
25 dependent or for persons filing joint returns, \$2,700; and

26 (3) For persons filing as heads of households that can claim the federal child tax
27 credit pursuant to the Code, Section 24 for more than one qualifying child or
28 dependent or for persons filing joint returns that can claim the federal child tax
29 credit pursuant to the Code, Section 24 for at least one qualifying child or
30 dependent, \$3,300.

31 **Sec. B-8. 36 MRSA §5219-KK, sub-§1, ¶D**, as enacted by PL 2013, c. 551, §3,
32 is amended to read:

33 D. "Income" means federal adjusted gross income increased by the following
34 amounts:

35 (1) Trade or business losses; capital losses; any net loss resulting from
36 combining the income or loss from rental real estate and royalties, the income or
37 loss from partnerships and S corporations, the income or loss from estates and
38 trusts, the income or loss from real estate mortgage investment conduits and the
39 net farm rental income or loss; any loss associated with the sale of business
40 property; and farm losses included in federal adjusted gross income;

- 1 (2) Interest received to the extent not included in federal adjusted gross income;
- 2 (3) Payments received under the federal Social Security Act and railroad
- 3 retirement benefits to the extent not included in federal adjusted gross income;
- 4 and
- 5 (4) The following amounts deducted in arriving at federal adjusted gross income:
- 6 (a) Educator expenses pursuant to the Code, Section 62(a)(2)(D);
- 7 (b) Certain business expenses of performing artists pursuant to the Code,
- 8 Section 62(a)(2)(B);
- 9 (c) Certain business expenses of government officials pursuant to the Code,
- 10 Section 62(a)(2)(C);
- 11 (d) Certain business expenses of reservists pursuant to the Code, Section
- 12 62(a)(2)(E);
- 13 (e) Health savings account deductions pursuant to the Code, Section
- 14 62(a)(16) and Section 62(a)(19);
- 15 (f) Moving expenses pursuant to the Code, Section 62(a)(15);
- 16 (g) The deductible part of self-employment tax pursuant to the Code, Section
- 17 164(f);
- 18 (h) The deduction for self-employed SEP, SIMPLE and qualified plans
- 19 pursuant to the Code, Section 62(a)(6);
- 20 (i) The self-employed health insurance deduction pursuant to the Code,
- 21 Section 162(1);
- 22 (j) The penalty for early withdrawal of savings pursuant to the Code, Section
- 23 62(a)(9);
- 24 (k) Alimony paid pursuant to the Code, Section 62(a)(10);
- 25 (l) The IRA deduction pursuant to the Code, Section 62(a)(7);
- 26 (m) The student loan interest deduction pursuant to the Code, Section
- 27 62(a)(17); and
- 28 (n) The tuition and fees deduction pursuant to the Code, Section 62(a)(18);
- 29 and
- 30 ~~(o) The domestic production activities deduction pursuant to the Code,~~
- 31 ~~Section 199.~~

32 **Sec. B-9. 36 MRSA §5219-KK, sub-§2**, as amended by PL 2017, c. 211, Pt. D,
33 §7, is further amended to read:

34 **2. Credit prior to 2018.** ~~A~~ For property tax years beginning before January 1,
35 2018, a resident individual is allowed a credit against the taxes imposed under this Part in
36 an amount equal to 50% of the amount by which the benefit base for the resident

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1 individual exceeds 6% of the resident individual's income. The credit may not exceed
2 \$600 for resident individuals under 65 years of age as of the last day of the taxable year
3 or \$900 for resident individuals 65 years of age and older as of the last day of the taxable
4 year. In the case of married individuals filing a joint return, only one spouse is required to
5 be 65 years of age or older to qualify for the \$900 credit limitation. Married taxpayers
6 filing separate returns do not qualify for the credit under this section.

7 **Sec. B-10. 36 MRSA §5219-KK, sub-§2-A** is enacted to read:

8 **2-A. Credit in 2018 and after.** For tax years beginning on or after January 1, 2018,
9 a resident individual is allowed a credit against taxes imposed under this Part calculated
10 as follows:

11 **A.** The credit is equal to the greater of:

12 (1) The amount by which the benefit base for the resident individual exceeds 4%
13 of the resident individual's income; and

14 (2) The amount of the benefit base, up to \$400, for a resident individual who is
15 65 years of age or older as of the last day of the taxable year and whose income
16 does not exceed \$20,000.

17 **B.** The credit calculated pursuant to paragraph A, subparagraph (1) may not exceed
18 \$750 for a resident individual under 65 years of age as of the last day of the taxable
19 year or \$1,000 for a resident individual 65 years of age or older as of the last day of
20 the taxable year.

21 **C.** In the case of married individuals filing a joint return, only one spouse is required
22 to be 65 years of age or older to qualify for the \$1,000 credit limitation. Pursuant to
23 paragraph A, subparagraph (1) or the \$400 credit limitation pursuant to paragraph A,
24 subparagraph (2).

25 **Sec. B-11. 36 MRSA §§5219-SS and 5219-TT** are enacted to read:

26 **§5219-SS. Dependent exemption tax credit**

27 **1. Resident taxpayer.** A resident individual is allowed a credit against the tax
28 otherwise due under this Part equal to \$300 for each qualifying child and dependent of
29 the taxpayer for whom the federal child tax credit pursuant to the Code, Section 24 was
30 claimed for the same taxable year.

31 **2. Nonresident taxpayer.** A nonresident individual is allowed a credit against the
32 tax otherwise due under this Part equal to \$300 for each qualifying child and dependent
33 of the taxpayer for whom the federal child tax credit pursuant to the Code, Section 24 was
34 claimed for the same taxable year, multiplied by the ratio of the individual's Maine
35 adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the
36 individual's entire federal adjusted gross income as modified by section 5122.

37 **3. Part-year resident taxpayer.** An individual who files a return as a part-year
38 resident in accordance with section 5224-A is allowed a credit against the tax otherwise
39 due under this Part equal to \$300 for each qualifying child and dependent of the taxpayer
40 for whom the federal child tax credit pursuant to the Code, Section 24 was claimed for
41 the same taxable year, multiplied by a fraction, the numerator of which is the individual's

1 Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph A,
 2 for that portion of the taxable year during which the individual was a resident plus the
 3 individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C,
 4 paragraph B, for that portion of the taxable year during which the individual was a
 5 nonresident and the denominator of which is the individual's entire federal adjusted gross
 6 income as modified by section 5122.

7 **4. Limitation.** The credit allowed by this section may not reduce the tax otherwise
 8 due under this Part to less than zero. If the taxpayer's federal child tax credit is zero for
 9 the taxable year, the credit under this section for the same taxable year is zero.

10 **§5219-TT. Tax filer exemption credit**

11 **1. Resident taxpayers.** Resident individuals are allowed a credit against the tax
 12 otherwise due under this Part in the amount of \$300 for each of the 2 individuals filing a
 13 married joint return and \$300 for an individual filing an individual income tax return
 14 other than a married joint return.

15 **2. Nonresident taxpayer.** A nonresident individual is allowed a credit against the
 16 tax otherwise due under this Part equal to the applicable amount for resident individuals
 17 under subsection 1 multiplied by the ratio of the individual's Maine adjusted gross
 18 income, as defined in section 5102, subsection 1-C, paragraph B, to the individual's entire
 19 federal adjusted gross income as modified by section 5122.

20 **3. Part-year resident taxpayer.** An individual who files a return as a part-year
 21 resident in accordance with section 5224-A is allowed a credit against the tax otherwise
 22 due under this Part equal to the applicable amount specified in subsection 1 multiplied by
 23 a fraction, the numerator of which is the individual's Maine adjusted gross income, as
 24 defined in section 5102, subsection 1-C, paragraph A, for that portion of the taxable year
 25 during which the individual was a resident plus the individual's Maine adjusted gross
 26 income, as defined in section 5102, subsection 1-C, paragraph B, for that portion of the
 27 taxable year during which the individual was a nonresident and the denominator of which
 28 is the individual's entire federal adjusted gross income as modified by section 5122.

29 **4. Limitation.** The credit allowed by this section may not reduce the tax otherwise
 30 due under this Part to less than zero. If the taxpayer's Maine adjusted gross income is at
 31 least \$480,000 in the case of a married joint return or \$240,000 in the case of an
 32 individual filing an individual income tax return other than a married joint return, the
 33 credit under this section is zero. If an individual can be claimed as a dependent on
 34 another taxpayer's return, the credit under this section is zero. Except in the case of a
 35 married joint return where only one spouse may be claimed as a dependent on another
 36 taxpayer's return, in which case the credit under this section is \$300.

37 **Sec. B-12. 36 MRSA §5403, sub-§5, ¶A,** as enacted by PL 2015, c. 267, Pt. DD,
 38 §33, is amended to read:

39 A. Beginning in ~~2017~~ 2018 and each year thereafter, by the base credit amount
 40 amounts in section 5213-A, subsection 1, paragraph A A-1, including the additional
 41 amounts in subparagraph (1) (2), divisions (a) and (b), except that for the purposes of
 42 this paragraph, notwithstanding section 5402, subsection 1-B, the "cost-of-living
 43 adjustment" is the Chained Consumer Price Index for the 12-month period ending

1 June 30th of the preceding calendar year divided by the Chained Consumer Price
2 Index for the 12-month period ending June 30, ~~2016~~ 2017. If the base credit amount,
3 adjusted by application of the cost-of-living adjustment, is not a multiple of \$5, any
4 increase must be rounded to the next lowest multiple of \$5;

5 **Sec. B-13. 36 MRSA §5403, sub-§5, ¶B**, as enacted by PL 2015, c. 267, Pt. DD,
6 §33, is repealed.

7 **Sec. B-14. 36 MRSA §5403, sub-§6**, as enacted by PL 2015, c. 267, Pt. DD, §33,
8 is amended to read:

9 **6. Property tax fairness credit.** Beginning in ~~2015~~ 2018 and each year thereafter,
10 the benefit base amounts in section 5219-KK, subsection 1, paragraph A ~~A-1~~, except that
11 for the purposes of this subsection, notwithstanding section 5402, subsection 1-B, the
12 "cost-of-living adjustment" is the Chained Consumer Price Index for the 12-month period
13 ending June 30th of the preceding calendar year divided by the Chained Consumer Price
14 Index for the 12-month period ending June 30, 2017.

15 **Sec. B-15. 36 MRSA §5403, 2nd ¶**, as enacted by PL 2015, c. 267, Pt. DD, §33,
16 is amended to read:

17 Except for subsection 5, ~~paragraphs paragraph A and B~~, if the dollar amount of each
18 item, adjusted by the application of the cost-of-living adjustment, is not a multiple of \$50,
19 any increase must be rounded to the next lowest multiple of \$50.

20 **Sec. B-16. Application.** Those sections of this Part that amend the Maine Revised
21 Statutes, Title 36, section 5213-A, subsection 1, paragraph B; section 5213-A, subsection
22 6; and section 5219-KK, subsection 1, paragraph D and that enact Title 36, sections
23 5219-SS and 5219-TT apply to tax years beginning on or after January 1, 2018.

24 **PART C**

25 **Sec. C-1. 36 MRSA §5122, sub-§1, ¶X**, as amended by PL 2007, c. 539, Pt.
26 CCC, §2, is further amended to read:

27 ~~X. An~~ For tax years beginning on or after January 1, 2005 but before January 1,
28 2018, an amount equal to the taxpayer's federal deduction relating to income
29 attributable to domestic production activities claimed in accordance with Section 102
30 of the federal American Jobs Creation Act of 2004, Public Law 108-357;

31 **Sec. C-2. 36 MRSA §5122, sub-§2, ¶PP** is enacted to read:

32 PP. For purposes of the Maine capital investment credit claimed pursuant to section
33 5219-NN:

34 (1) For property placed in service after September 27, 2017 and before January
35 1, 2018, an amount equal to 50% of the net increase in the depreciation deduction
36 allowable under the Code, Sections 167 and 168 that would have been applicable
37 to that property had the depreciation deduction under the Code, Section 168(k)
38 not been claimed with respect to such property placed in service during the
39 taxable year for which an addition was required under subsection 1, paragraph
40 KK, subparagraph (1) for the taxable year.

1 Upon the taxable disposition of property to which this subparagraph applies, the
2 amount of any gain or loss includable in federal adjusted gross income must be
3 adjusted for Maine income tax purposes by an amount equal to the difference
4 between 50% of the addition modification for such property under subsection 1,
5 paragraph KK, subparagraph (1) and the subtraction modifications allowed
6 pursuant to this subparagraph;

7 The total amount of subtraction claimed under this subparagraph for all tax years
8 may not exceed 50% of the addition modification under subsection 1, paragraph
9 KK, subparagraph (1) for the same property;

10 (2) For property placed in service in 2018, an amount equal to 60% of the net
11 increase in the depreciation deductions allowable under the Code, Sections 167
12 and 168 that would have been applicable to that property had the depreciation
13 deduction under the Code, Section 168(k) not been claimed with respect to such
14 property placed in service during the taxable year for which an addition was
15 required under subsection 1, paragraph KK, subparagraph (1) for the taxable
16 year.

17 Upon the taxable disposition of property to which this subparagraph applies, the
18 amount of any gain or loss includable in federal adjusted gross income must be
19 adjusted for Maine income tax purposes by an amount equal to the difference
20 between 60% of the addition modification for such property under subsection 1,
21 paragraph KK, subparagraph (1) and the subtraction modifications allowed
22 pursuant to this subparagraph.

23 The total amount of subtraction claimed under this subparagraph for all tax years
24 may not exceed 60% of the addition modification under subsection 1, paragraph
25 KK, subparagraph (1) for the same property; and

26 (3) For property placed in service in 2019, an amount equal to 70% of the net
27 increase in the depreciation deductions allowable under the Code, Sections 167
28 and 168 that would have been applicable to that property had the depreciation
29 deduction under the Code, Section 168(k) not been claimed with respect to such
30 property placed in service during the taxable year for which an addition was
31 required under subsection 1, paragraph KK, subparagraph (1) for the taxable
32 year.

33 Upon the taxable disposition of property to which this subparagraph applies, the
34 amount of any gain or loss includable in federal adjusted gross income must be
35 adjusted for Maine income tax purposes by an amount equal to the difference
36 between 70% of the addition modification for such property under subsection 1,
37 paragraph KK, subparagraph (1) and the subtraction modifications allowed
38 pursuant to this subparagraph.

39 The total amount of subtraction claimed under this subparagraph for all tax years
40 may not exceed 70% of the addition modification under subsection 1, paragraph
41 KK, subparagraph (1) for the same property.

1 **Sec. C-3. 36 MRSA §5164, sub-§1**, as amended by PL 2011, c. 548, §26 and
2 affected by §35, is further amended to read:

3 **1. Fiduciary adjustment defined.** The fiduciary adjustment is the net amount of the
4 modifications described in section 5122, including subsection 3 if the estate or trust is a
5 beneficiary of another estate or trust, that relates to items of income or deduction of an
6 estate or trust. ~~Income~~ The following items, to the extent that they were deducted in
7 calculating federal taxable income, must be added back to the fiduciary adjustment:
8 income taxes imposed by this State or any other taxing jurisdiction; the amount of the
9 qualified business income deduction determined under the Code, Section 199A; and
10 interest or expenses incurred in the production of income exempt from tax under this Part
11 that were deducted in arriving at federal taxable income must be added back to the
12 fiduciary adjustment. Interest or expenses incurred in the production of income taxable
13 under this Part but exempt from federal income tax must be subtracted from the fiduciary
14 adjustment.

15 **Sec. C-4. 36 MRSA §5200-A, sub-§1, ¶S**, as amended by PL 2007, c. 700, Pt.
16 B, §1, is further amended to read:

17 S. ~~A~~ For tax years beginning on or after January 1, 2005 but before January 1,
18 2018, an amount equal to the taxpayer's federal deduction relating to income
19 attributable to domestic production activities claimed in accordance with Section 102
20 of the federal American Jobs Creation Act of 2004, Public Law 108-357;

21 **Sec. C-5. 36 MRSA §5200-A, sub-§2, ¶BB** is enacted to read:

22 BB. For purposes of the Maine capital investment credit claimed pursuant to section
23 5219-NN:

24 (1) For property placed in service after September 27, 2017 and before January
25 1, 2018, an amount equal to 50% of the net increase in the depreciation
26 deductions allowable under the Code, Sections 167 and 168 that would have been
27 applicable to that property had the depreciation deduction under the Code,
28 Section 168(k) not been claimed with respect to such property placed in service
29 during the taxable year for which an addition was required under subsection 1,
30 paragraph CC, subparagraph (1) for the taxable year.

31 Upon the taxable disposition of property to which this subparagraph applies, the
32 amount of any gain or loss includable in federal taxable income must be adjusted
33 for Maine income tax purposes by an amount equal to the difference between
34 50% of the addition modification for such property under subsection 1, paragraph
35 CC, subparagraph (1) and the subtraction modifications allowed pursuant to this
36 subparagraph;

37 The total amount of subtraction claimed under this subparagraph for all tax years
38 may not exceed 50% of the addition modification under subsection 1, paragraph
39 CC, subparagraph (1) for the same property;

40 (2) For property placed in service in 2018, an amount equal to 60% of the net
41 increase in the depreciation deductions allowable under the Code, Sections 167
42 and 168 that would have been applicable to that property had the depreciation
43 deduction under the Code, Section 168(k) not been claimed with respect to such

1 property placed in service during the taxable year for which an addition was
2 required under subsection 1, paragraph CC, subparagraph (1) for the taxable year.

3 Upon the taxable disposition of property to which this subparagraph applies, the
4 amount of any gain or loss includable in federal taxable income must be adjusted
5 for Maine income tax purposes by an amount equal to the difference between
6 60% of the addition modification for such property under subsection 1, paragraph
7 CC, subparagraph (1) and the subtraction modifications allowed pursuant to this
8 subparagraph.

9 The total amount of subtraction claimed under this subparagraph for all tax years
10 may not exceed 60% of the addition modification under subsection 1, paragraph
11 CC, subparagraph (1) for the same property; and

12 (3) For property placed in service in 2019, an amount equal to 70% of the net
13 increase in the depreciation deductions allowable under the Code, Sections 167
14 and 168 that would have been applicable to that property had the depreciation
15 deduction under the Code, Section 168(k) not been claimed with respect to such
16 property placed in service during the taxable year for which an addition was
17 required under subsection 1, paragraph CC, subparagraph (1) for the taxable year.

18 Upon the taxable disposition of property to which this subparagraph applies, the
19 amount of any gain or loss includable in federal taxable income must be adjusted
20 for Maine income tax purposes by an amount equal to the difference between
21 70% of the addition modification for such property under subsection 1, paragraph
22 CC, subparagraph (1) and the subtraction modifications allowed pursuant to this
23 subparagraph.

24 The total amount of subtraction claimed under this subparagraph for all tax years
25 may not exceed 70% of the addition modification under subsection 1, paragraph
26 CC, subparagraph (1) for the same property.

27 **Sec. C-6. 36 MRSA §5203-C, sub-§1, ¶C-1 is enacted to read:**

28 C-1. "Code," notwithstanding section 111, subsection 1-A and except as otherwise
29 provided in this section, means the United States Internal Revenue Code of 1986 and
30 amendments to that Code as of December 31, 2016.

31 **Sec. C-7. 36 MRSA §5219-NN, as repealed and replaced by PL 2017, c. 211, Pt.**
32 **D, §8, is amended to read:**

33 **§5219-NN. Maine capital investment credit in 2015 to 2019**

34 **1. Credit allowed.** A taxpayer that claims a depreciation deduction under the Code,
35 Section 168(k) for property placed in service in the State during a taxable year that begins
36 on or after January 1, 2015 but before January 1, 2020 is allowed a credit as follows:

37 A. A taxable corporation is allowed a credit against the taxes imposed by this Part in
38 an amount equal to 9% of the ~~amount of the net increase in the depreciation~~
39 ~~deduction reported as an addition to income for the taxable year under section~~
40 ~~5200-A, subsection 1, paragraph CC, subparagraph (1) credit base~~ with respect to that
41 property, except for excluded property under subsection 2; or

1 B. An individual is allowed a credit against the taxes imposed by this Part in an
2 amount equal to:

3 (1) For taxable years beginning in 2015, 8% of the amount of the net increase in
4 the depreciation deduction reported as an addition to income for the taxable year
5 under section 5122, subsection 1, paragraph KK, subparagraph (1) with respect to
6 that property, except for excluded property under subsection 2; and

7 (2) For taxable years beginning on or after January 1, 2016 but before January 1,
8 2020, 7% of the amount of the ~~net increase in the depreciation deduction reported~~
9 ~~as an addition to income for the taxable year under section 5122, subsection 1,~~
10 ~~paragraph KK, subparagraph (1)~~ credit base with respect to that property, except
11 for excluded property under subsection 2.

12 **1-A. Credit base.** For the purposes of this section, "credit base" means:

13 A. For property placed in service before September 28, 2017, the net increase in the
14 depreciation deduction reported as an addition to income for the taxable year under
15 section 5122, subsection 1, paragraph KK, subparagraph (1) or section 5200-A,
16 subsection 1, paragraph CC, subparagraph (1);

17 B. For property placed in service after September 27, 2017 and before January 1,
18 2018, 50% of the net increase in the depreciation deduction reported as an addition to
19 income for the taxable year under section 5122, subsection 1, paragraph KK,
20 subparagraph (1) or section 5200-A, subsection 1, paragraph CC, subparagraph (1);

21 C. For property placed in service in 2018, 40% of the net increase in the depreciation
22 deduction reported as an addition to income for the taxable year under section 5122,
23 subsection 1, paragraph KK, subparagraph (1) or section 5200-A, subsection 1,
24 paragraph CC, subparagraph (1); and

25 D. For property placed in service in 2019, 30% of the net increase in the depreciation
26 deduction reported as an addition to income for the taxable year under section 5122,
27 subsection 1, paragraph KK, subparagraph (1) or section 5200-A, subsection 1,
28 paragraph CC, subparagraph (1).

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

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

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

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

37 D. Property owned by a cable television company as defined by Title 30-A, section
38 2001, subsection 2;

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

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

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

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

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

17 **Sec. C-8. Application.** That section of this Part that amends the Maine Revised
18 Statutes, Title 36, section 5164, subsection 1 applies to tax years beginning on or after
19 January 1, 2018. That section that enacts the Maine Revised Statutes, Title 36, section
20 5203-C, subsection 1, paragraph C-1 applies to tax years beginning on or after January 1,
21 2018.

22 **PART D**

23 **Sec. D-1. 36 MRSA §5200-A, sub-§1, ¶¶DD and EE** are enacted to read:

24 DD. An amount equal to the taxpayer's deduction claimed in accordance with the
25 Code, Section 965(c);

26 EE. An amount equal to the taxpayer's global intangible low-taxed income deduction
27 claimed in accordance with the Code, Section 250(a)(1)(B);

28 **Sec. D-2. 36 MRSA §5200-A, sub-§2, ¶G,** as amended by PL 1997, c. 746, §10
29 and affected by §24, is further amended to read:

30 G. Fifty percent of the apportionable dividend income, net of related expenses and
31 other related deductions deducted in computing federal taxable income, the taxpayer
32 received during the taxable year from an affiliated corporation that is not included
33 with the taxpayer in a Maine combined report, except that this modification must be
34 phased in over 5 years in accordance with the following schedule: Dividend income
35 does not include subpart F income, as defined in the Code, Section 952, income
36 included in accordance with the Code, Section 951A or income included in federal
37 taxable income in accordance with the Code, Section 965. Any amount subtracted
38 from federal taxable income under this paragraph must be excluded from the sales
39 factor of any apportionment formula employed to attribute income to this State;

Taxable year beginning in:	Subtractable dividend income:
1989	10%
1990	20%
1991	30%
1992	40%
1993 or thereafter	50%;

Sec. D-3. 36 MRSA §5200-A, sub-§2, ¶¶BB, CC and DD are enacted to read:

BB. An amount equal to 50% of the apportionable subpart F income, as defined in the Code, Section 952, net of related expenses and other related deductions deducted in computing federal taxable income, that the taxpayer included in federal gross income during the taxable year. Any amount subtracted from federal taxable income under this paragraph must be excluded from the sales factor of any apportionment formula employed to attribute income to this State.

CC. An amount equal to 80% of the apportionable deferred foreign income that the taxpayer included in federal gross income during the taxable year in accordance with the Code, Section 965(a) as adjusted by Section 965(b). Any amount subtracted from federal taxable income under this paragraph must be excluded from the sales factor of any apportionment formula employed to attribute income to this State.

DD. An amount equal to 50% of the apportionable global intangible low-taxed income that the taxpayer included in federal gross income during the taxable year in accordance with the Code, Section 951A, net of related expenses and other related deductions deducted in computing federal taxable income. The amount included in the sales factor of any apportionment formula employed to attribute apportionable income to this State the taxpayer included in federal gross income during the taxable year in accordance with the Code, Section 951A is 50% of the amount included in federal gross income.

Sec. D-4. Application. This Part applies to tax years beginning on or after January 1, 2017, except those sections of this Part that enact the Maine Revised Statutes, Title 36, section 5200-A, subsection 1, paragraph EE and subsection 2, paragraph DD apply to tax years beginning on or after January 1, 2018.

PART E

Sec. E-1. 36 MRSA §4102, sub-§5, as amended by PL 2015, c. 267, Pt. I, §1, is further amended to read:

5. Maine exclusion amount. For estates of decedents dying on or after January 1, 2013, but before January 1, 2016, "Maine exclusion amount" means \$2,000,000. For estates of decedents dying on or after January 1, 2016, but before January 1, 2018, "Maine exclusion amount" means the basic exclusion amount determined for the calendar year in accordance with the Code, Section 2010(c)(3). For estates of decedents dying on or after January 1, 2018, "Maine exclusion amount" means \$5,600,000.

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PART F

Sec. F-1. 36 MRS §5122, sub-§1, ¶LL is enacted to read:

LL. For tax years beginning on or after January 1, 2018, the amount excluded from federal adjusted gross income as a result of the Code, Section 529(c)(7).

Sec. F-2. 36 MRS §5122, sub-§2, ¶J, as amended by PL 2003, c. 390, §33, is further amended to read:

J. To the extent included in federal adjusted gross income, any amount constituting a qualified distribution from an account established pursuant to Title 20-A, chapter 417-E and used for paying higher education expenses for postsecondary education of the designated beneficiary of that account;

PART G

Sec. G-1. 36 MRS §2536 is enacted to read:

§2536. Employer credit for family and medical leave

For tax years beginning on or after January 1, 2018, a person is allowed a credit against the tax otherwise due under this chapter in an amount equal to the federal employer credit for paid family and medical leave allowed to that person under the Code, Section 45S as a result of wages paid to employees based in the State during the taxable year.

The credit allowed under this section may not reduce the tax otherwise due under this chapter to less than zero. The credit may not be carried forward or carried back to any other tax year.

Sec. G-2. 36 MRS §5219-UU is enacted to read:

§5219-UU. Employer credit for family and medical leave

For tax years beginning on or after January 1, 2018, a person is allowed a credit against the tax otherwise due under this Part in an amount equal to the federal employer credit for paid family and medical leave allowed to that person under the Code, Section 45S as a result of wages paid to employees based in the State during the taxable year.

The credit allowed under this section may not reduce the tax otherwise due under this Part to less than zero. The credit may not be carried forward or carried back to any other tax year.

PART H

Sec. H-1. 36 MRS §5219-S, sub-§§1 to 3, as amended by PL 2009, c. 213, Pt. BBBB, §16, are further amended to read:

1. Resident taxpayer. A resident individual is allowed a credit against the tax otherwise due under this Part in the amount of 5% of the federal earned income credit for the same taxable year, except that for tax years beginning in 2009 and 2010, the

1 applicable percentage is 4% and for tax years beginning on or after January 1, 2018, the
2 applicable percentage is 15%.

3 **2. Nonresident taxpayer.** A nonresident individual is allowed a credit against the
4 tax otherwise due under this Part in the amount of 5% of the federal earned income credit
5 for the same taxable year, except that for tax years beginning in 2009 and 2010, the
6 applicable percentage is 4% and for tax years beginning on or after January 1, 2018, the
7 applicable percentage is 15%, multiplied by the ratio of the individual's Maine adjusted
8 gross income, as defined in section 5102, subsection 1-C, paragraph B, to the individual's
9 entire federal adjusted gross income, as modified by section 5122.

10 **3. Part-year resident taxpayer.** An individual who files a return as a part-year
11 resident in accordance with section 5224-A is allowed a credit against the tax otherwise
12 due under this Part in the amount of 5% of the federal earned income credit for the same
13 taxable year, except that for tax years beginning in 2009 and 2010, the applicable
14 percentage is 4% and for tax years beginning on or after January 1, 2018, the applicable
15 percentage is 15%, multiplied by a ratio, the numerator of which is the individual's Maine
16 adjusted gross income as defined in section 5102, subsection 1-C, paragraph A for that
17 portion of the taxable year during which the individual was a resident plus the individual's
18 Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph B for
19 that portion of the taxable year during which the individual was a nonresident and the
20 denominator of which is the individual's entire federal adjusted gross income, as modified
21 by section 5122.

22 **PART I**

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

25 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**
26 **Revenue Services, Bureau of 0002**

27 Initiative: Provides funding for 3 Tax Examiner positions and related All Other and
28 computer programming costs.

29 GENERAL FUND	2017-18	2018-19
30 POSITIONS - LEGISLATIVE COUNT	0.000	3.000
31 Personal Services	\$0	\$117,618
32 All Other	\$0	\$597,287
33		
34 GENERAL FUND TOTAL	\$0	\$714,905
35		

36 **SUMMARY**

37 This amendment, which is the majority report of the committee, replaces the bill and
38 does the following.

R. of S.

1 Part A updates references to the United States Internal Revenue Code of 1986
2 contained in the Maine Revised Statutes, Title 36 to refer to the United States Internal
3 Revenue Code of 1986 as amended through March 23, 2018 for tax years beginning on or
4 after January 1, 2017 and for any prior tax years as specifically provided by the United
5 States Internal Revenue Code of 1986, as amended. Part A primarily affects the State's
6 income and estate tax laws.

7 Part B makes the following changes to the individual income tax.

8 1. It increases Maine itemized deductions by the amount of real and personal
9 property taxes not claimed for federal income tax purposes as a result of the
10 \$10,000 limitation, which is \$5,000 in the case of a married individual filing a
11 separate return, applicable to the aggregate of state, local and foreign income
12 taxes, or state and local general sales taxes in lieu of state and local income taxes,
13 and property taxes. Both the federal limitation and the increase in Maine
14 itemized deductions apply to tax years beginning on or after January 1, 2018.

15 2. It amends the sales tax fairness credit and the property tax fairness credit by
16 replacing references to the number of exemptions claimed on the taxpayer's return with
17 references to dependents claimed under the federal child tax credit and removing the
18 requirement to add the federal domestic production activities deduction to income for
19 purposes of the credits in response to federal tax changes made in the federal Tax Cuts
20 and Jobs Act of 2017. It also provides for the adjustment for inflation of the sales tax
21 fairness credit and the property tax fairness credit.

22 3. It increases the maximum credit under the property tax fairness credit from \$900
23 to \$1,000 for an individual who is 65 years of age or older and from \$600 to \$750 for
24 other individuals and provides a minimum credit of \$400 for persons who are 65 years of
25 age or older with income that does not exceed \$20,000.

26 4. It establishes a new credit equal to \$600 for married persons filing jointly and
27 \$300 for other filing statuses.

28 5. It establishes a new tax credit equal to \$300 for each qualifying child and
29 dependent of the taxpayer for whom the federal child tax credit pursuant to the Internal
30 Revenue Code, Section 24 is claimed for the same taxable year. The new credit is
31 available for tax years beginning on or after January 1, 2018.

32 Part C makes the following changes to the individual and corporate income taxes.

33 1. It repeals Maine's domestic production activities deduction income modification.
34 The related federal deduction is repealed for tax years beginning on or after January 1,
35 2018.

36 2. It does not conform to new federal treatment of bonus depreciation. It maintains
37 Maine's current law requiring the addback federal bonus depreciation and retains the
38 compensating Maine capital investment credit through 2019 as provided under current
39 Maine law.

40 3. It requires that any amount claimed as a special deduction provided by the Internal
41 Revenue Code, Section 199A must be added back to federal taxable income for purposes
42 of calculating income tax liability of estates and trusts under the Maine Revised Statutes,
43 Title 36, chapters 809 and 811. Individual taxpayers are not allowed the special

1 deduction provided by the Internal Revenue Code, Section 199A in calculating Maine
2 taxable income; this section provides similar treatment to estates and trusts.

3 4. It amends the corporate alternative minimum tax for tax years beginning after
4 December 31, 2017 to provide that the tax is based on the Internal Revenue Code and
5 amendments to the Code on December 31, 2016.

6 5. It maintains the addback of bonus depreciation as expanded under the federal Tax
7 Cuts and Jobs Act of 2017. It retains the application of the Maine capital investment
8 credit for bonus depreciation addbacks at the same level as under current law and does
9 not conform the credit to expansions of bonus depreciation under the federal Tax Cuts
10 and Jobs Act of 2017.

11 Part D makes the following corporate income tax changes regarding the federal
12 mandatory repatriation of deferred foreign income under the federal Tax Cuts and Jobs
13 Act of 2017, the taxation of dividends, subpart F income as defined in Section 952 of the
14 Internal Revenue Code, or "Code," and global intangible low-taxed income.

15 1. It creates an addition modification in the amount of the participation exemption
16 claimed in accordance with the Code, Section 965(c). This provision applies to tax years
17 beginning on or after January 1, 2017.

18 2. It creates an addition modification in the amount of the global intangible low-
19 taxed income deduction claimed in accordance with the Code, Section 250(a)(1)(B). This
20 provision applies to tax years beginning on or after January 1, 2018.

21 3. It makes technical clarifications, removing obsolete language from the existing
22 dividends-received subtraction, clarifying netting and sales factor treatment consistent
23 with administrative practice and excluding from dividend income subpart F income,
24 global intangible low-taxed income included in federal taxable income in accordance
25 with the Code, Section 951A and deferred foreign income included in federal taxable
26 income in accordance with the Code, Section 965. This provision applies to tax years
27 beginning on or after January 1, 2017.

28 4. It creates a subtraction modification for an amount equal to 50% of the
29 apportionable subpart F income included in federal gross income by the taxpayer. This
30 section codifies the longstanding administrative practice of applying the existing
31 dividends-received subtraction to subpart F income as well as dividends. This provision
32 applies to tax years beginning on or after January 1, 2017.

33 5. It creates a subtraction modification for an amount equal to 80% of the
34 apportionable deferred foreign income included in federal gross income, pursuant to the
35 Code, Section 965(a) and (b), by the taxpayer. This provision applies to tax years
36 beginning on or after January 1, 2017.

37 6. It creates a subtraction modification for an amount equal to 50% of the
38 apportionable global low-taxed intangible income included in federal gross income,
39 pursuant to the Code, Section 951A, by the taxpayer. This provision applies to tax years
40 beginning on or after January 1, 2018.

41 Part E retains the Maine exclusion amount under the estate tax at the amount in effect
42 for deaths prior to January 1, 2018 and does not conform to the increases in the federal
43 basic exclusion amount.

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Part F maintains the deductibility of distributions from the Internal Revenue Code, Section 529 college savings accounts by not conforming to federal expansions that allow the funds to be used for elementary and secondary public, private or religious schools.

Part G provides a credit under the income tax and the insurance premium tax equal to the federal credit for employer-paid family and medical leave. The federal credit expires December 31, 2019.

Part H increases the earned income tax credit from 5% to 15% of the federal earned income tax credit for tax years beginning on or after January 1, 2018.

Part I adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)



128th MAINE LEGISLATURE

LD 1655

LR 2770(02)

An Act To Update References to the United States Internal Revenue Code of 1986 Contained in the
Maine Revised Statutes

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-476)
Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
Net Cost (Savings)				
General Fund	\$3,929,800	\$48,274,305	\$42,772,795	\$41,923,950
Appropriations/Allocations				
General Fund	\$0	\$714,905	\$260,045	\$260,045
Revenue				
General Fund	(\$3,929,800)	(\$47,559,400)	(\$42,512,750)	(\$41,663,905)
Other Special Revenue Funds	(\$80,200)	(\$970,600)	(\$2,246,000)	(\$2,221,500)

Fiscal Detail and Notes

This bill provides tax conformity with certain portions of the Tax Cuts and Jobs Act (TCJA) and other tax changes passed by the federal government through March 23, 2018. It also makes various other changes to individual and corporate income tax laws. It would result in a loss of General Fund revenue of \$3,929,800 in fiscal year 2017-18 and \$47,559,400 in fiscal year 2018-19 and a loss of Local Government Fund revenue of \$80,200 in fiscal year 2017-18 and \$970,600 in fiscal year 2018-19. The bill includes a General Fund appropriation of \$714,905 in fiscal year 2018-19 to the Department of Administrative and Financial Services for 3 Tax Examiner positions and related All Other and computer programming costs.