

MAINE STATE LEGISLATURE

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L.D. 1671

Date: 6/17/19

(Filing No. H-623)

TAXATION

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1198, L.D. 1671, Bill, "An Act To Amend the Laws Governing the Maine Capital Investment Credit To Ensure Fairness for Maine Businesses"

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

'An Act To Amend the Laws Governing the Maine Capital Investment Credit To Ensure Fairness for Maine Businesses and To Reduce Taxes on Lower-income Working Families'

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

'PART A

Sec. A-1. 36 MRSA §5122, sub-§2, ¶OO, as enacted by PL 2015, c. 388, Pt. A, §8, is amended to read:

OO. For taxable years beginning on or after January 1, 2016 and before January 1, 2020, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year for which an addition was required under subsection 1, paragraph KK, subparagraph (2) for the taxable year.

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

COMMITTEE AMENDMENT

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 KK,
3 subparagraph (2) for the same property.

4 **Sec. A-2. 36 MRSA §5122, sub-§2, ¶QQ** is enacted to read:

5 QQ. For taxable years beginning on or after January 1, 2020, 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 on or after January 1,
10 2020 for which an addition was required under subsection 1, paragraph KK for the
11 taxable year.

12 Upon the taxable disposition of property to which this paragraph applies, the amount
13 of any gain or loss includable in federal adjusted gross income must be adjusted for
14 Maine income tax purposes by an amount equal to the difference between the
15 addition modification for such property under subsection 1, paragraph KK and the
16 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 KK for the same
19 property.

20 **Sec. A-3. 36 MRSA §5200-A, sub-§2, ¶AA**, as enacted by PL 2015, c. 388, Pt.
21 A, §14, is amended to read:

22 AA. For taxable years beginning on or after January 1, 2016 and before January 1,
23 2020, an amount equal to the net increase in the depreciation deduction allowable
24 under the Code, Sections 167 and 168 that would have been applicable to that
25 property had the depreciation deduction under the Code, Section 168(k) not been
26 claimed with respect to such property placed in service during the taxable year for
27 which an addition was required under subsection 1, paragraph CC, subparagraph (2)
28 for the taxable year.

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

37 **Sec. A-4. 36 MRSA §5200-A, sub-§2, ¶FF** is enacted to read:

38 FF. For taxable years beginning on or after January 1, 2020, 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 on or after January 1,

1 2020 for which an addition was required under subsection 1, paragraph CC for the
2 taxable year.

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

8 The total amount of subtraction claimed under this paragraph for all tax years may
9 not exceed the addition modification under subsection 1, paragraph CC for the same
10 property.

11 **Sec. A-5. 36 MRSA §5219-NN, sub-§1**, as repealed and replaced by PL 2017, c.
12 211, Pt. D, §8, is amended to read:

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

16 A. A taxable corporation is allowed a credit against the taxes imposed by this Part in
17 an amount equal to 9% of the amount of the net increase in the depreciation
18 deduction reported as an addition to income for the taxable year under section
19 5200-A, subsection 1, paragraph CC, subparagraph (1) with respect to that property,
20 except for excluded property under subsection 2; or

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

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

27 (2) For taxable years beginning on or after January 1, 2016, 7% of the amount of
28 the net increase in the depreciation deduction reported as an addition to income
29 for the taxable year under section 5122, subsection 1, paragraph KK,
30 subparagraph (1) with respect to that property, except for excluded property
31 under subsection 2.

32 **Sec. A-6. 36 MRSA §5219-NN, sub-§1-A** is enacted to read:

33 **1-A. Credit allowed; on or after January 1, 2020.** A taxpayer that claims a
34 depreciation deduction under the Code, Section 168(k) for property placed in service in
35 the State during a taxable year that begins on or after January 1, 2020 is allowed a credit
36 as follows:

37 A. For a taxable corporation, a credit against the taxes imposed by this Part in an
38 amount equal to 1.2% of the amount of the net increase in the depreciation deduction
39 reported as an addition to income for the taxable year under section 5200-A,
40 subsection 1, paragraph CC, subparagraph (1) with respect to that property, except for
41 excluded property under subsection 2; and

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B. For an individual, a credit against the taxes imposed by this Part in an amount equal to 1.2% of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5122, subsection 1, paragraph KK, subparagraph (1) with respect to that property, except for excluded property under subsection 2.

Sec. A-7. 36 MRSA §5219-NN, sub-§3, as repealed and replaced by PL 2017, c. 211, Pt. D, §8, is amended to read:

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

PART B

Sec. B-1. 26 MRSA §42-C is enacted to read:

§42-C. Notification regarding earned income tax credit eligibility

1. Bureau to provide poster or notice. The bureau shall produce and furnish to employers posters or notices in printed form that state that an employee may be eligible for federal and state earned income tax credits and that the employee may apply for the tax credits on the employee's income tax returns.

2. Employer to post notice. An employer shall post and keep posted in a place accessible to the employer's employees a copy of the printed poster or notice furnished by the bureau pursuant to subsection 1. An employer who violates this subsection is subject to the same penalties as set forth in section 42-B, subsection 3.

Sec. B-2. 36 MRSA §5219-S, as amended by PL 2015, c. 328, §8, is further amended to read:

§5219-S. Earned income credit

1. Resident taxpayer. A resident individual who is an eligible individual is allowed a credit against the tax otherwise due under this Part in the amount of ~~5%~~ 25% of the federal earned income credit for the same taxable year for a resident eligible individual who does not have a qualifying child and 12% of the federal earned income credit for the same taxable year, ~~except that for tax years beginning in 2009 and 2010, the applicable percentage is 4%~~ for all other resident eligible individuals.

2. Nonresident taxpayer. A nonresident individual who is an eligible individual is allowed a credit against the tax otherwise due under this Part in the amount of ~~5%~~ 25% of the federal earned income credit for the same taxable year for a nonresident eligible individual who does not have a qualifying child and 12% of the federal earned income credit for the same taxable year, ~~except that for tax years beginning in 2009 and 2010, the applicable percentage is 4%~~ for all other nonresident eligible individuals, multiplied by the ratio of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the individual's entire federal adjusted gross income, as modified by section 5122.

1 ROPS

2 **3. Part-year resident taxpayer.** An eligible individual who files a return as a part-
3 year resident in accordance with section 5224-A is allowed a credit against the tax
4 otherwise due under this Part in the amount of 5% 25% of the federal earned income
5 credit for the same taxable year for an eligible part-year individual who does not have a
6 qualifying child and 12% of the federal earned income credit for the same taxable year,
7 except that for tax years beginning in 2009 and 2010, the applicable percentage is 4% for
8 all other eligible part-year individuals, multiplied by a ratio, the numerator of which is the
9 individual's Maine adjusted gross income as defined in section 5102, subsection 1-C,
10 paragraph A for that portion of the taxable year during which the individual was a
11 resident plus the individual's Maine adjusted gross income as defined in section 5102,
12 subsection 1-C, paragraph B for that portion of the taxable year during which the
13 individual was a nonresident and the denominator of which is the individual's entire
federal adjusted gross income, as modified by section 5122.

14 **4. Limitation.** The credit allowed by this section may not reduce the Maine income
15 tax to less than zero, except that for tax years beginning on or after January 1, 2016, the
16 credit allowed under subsections 1 and 3 is refundable.

17 **5. Eligible individual under 25 years of age and without a qualifying child.** The
18 credit for an eligible individual who is entitled to a credit under subsections 1 to 3, has
19 not attained 25 years of age and does not have a qualifying child for the taxable year must
20 be calculated in the same manner as it would be calculated if that individual were eligible
21 for a federal earned income credit.

22 **6. Eligible individual defined.** For tax years beginning on or after January 1, 2020,
23 for the purposes of this section, unless the context otherwise indicates, "eligible
24 individual" has the same meaning as under Section 32(c)(1) of the Code except that
25 "eligible individual" also includes an individual who does not have a qualifying child for
26 the taxable year, who is at least 18 years of age and has not attained 25 years of age
27 before the close of the taxable year and who also meets the qualifications under Section
28 32(c)(1)(A)(ii)(I) and (III) of the Code.

29 **Sec. B-3. Application.** This Part applies to tax years beginning on or after
30 January 1, 2020.

31 **Sec. B-4. Appropriations and allocations.** The following appropriations and
32 allocations are made.

33 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**
34 **Revenue Services, Bureau of 0002**

35 Initiative: Provides funding for one Senior Tax Examiner position and related costs to
36 review, process and audit income tax returns to verify eligibility for the earned income
37 tax credit.

38	GENERAL FUND	2019-20	2020-21
39	POSITIONS - LEGISLATIVE COUNT	1.000	1.000
40	Personal Services	\$76,351	\$102,817
41	All Other	\$32,858	\$4,778

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GENERAL FUND TOTAL

\$109,209 \$107,595

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the concept draft with the following changes to the income tax laws for tax years beginning on or after January 1, 2020.

Part A makes changes to the Maine capital investment credit and related subtraction modification provisions to provide greater fairness in the treatment of Maine businesses compared to out-of-state businesses.

Part B expands the earned income tax credit to individuals who are 18 to 24 years of age and have no qualifying children, increases the credit from 5% to 25% of the federal earned income tax credit for individuals with no qualifying children and 12% of the federal earned income tax credit for all other eligible individuals and requires employers to post a notice provided by the Department of Labor, Bureau of Labor Standards regarding the availability of the earned income credit.

The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)

ROFS



129th MAINE LEGISLATURE

LD 1671

LR 642(02)

An Act To Amend the Laws Governing the Maine Capital Investment Credit To Ensure Fairness for Maine Businesses

Fiscal Note for Bill as Amended by Committee Amendment *A. (H-623)*

Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
Net Cost (Savings)				
General Fund	(\$1,942,791)	(\$3,944,155)	(\$563,821)	\$3,296,356
Appropriations/Allocations				
General Fund	\$109,209	\$107,595	\$110,679	\$113,856
Revenue				
General Fund	\$2,052,000	\$4,051,750	\$674,500	(\$3,182,500)
Other Special Revenue Funds	\$108,000	\$213,250	\$35,500	(\$167,500)

Fiscal Detail and Notes

The bill makes changes to the Maine Capital Investment Credit, increases the earned income tax credit rate and expands eligibility for the earned income tax credit and would result in an increase in General Fund revenue of \$2,052,000 in fiscal year 2019-20 and \$4,051,750 in fiscal year 2020-21. It would also increase Local Government Fund revenue by \$108,000 in fiscal year 2019-20 and \$213,250 in fiscal year 2020-21. The bill includes a General Fund appropriation of \$109,209 in fiscal year 2019-20 and \$107,595 in fiscal year 2020-21 for one Senior Tax Examiner position and related costs to review, process and audit income tax returns to verify eligibility for the earned income tax credit.

Additional costs to the Department of Labor to issue the required posters or notices can be absorbed within existing budgeted resources.