

APPROVED
MARCH 10, 2016
BY GOVERNOR

CHAPTER
388
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND SIXTEEN

S.P. 633 - L.D. 1583

An Act To Provide for Tax Conformity and Funding Methods

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, state tax law needs to be updated to conform to federal law before the 90-day period expires to avoid delay in the processing of income tax returns for 2015; and

Whereas, legislative action is immediately necessary to ensure continued and efficient administration of the state income tax and certain other state taxes; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 36 MRSA §111, sub-§1-A, as amended by PL 2015, c. 1, §1 and affected by §15, 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, ~~2014~~ 2015.

Sec. A-2. 36 MRSA §5122, sub-§1, ¶Q, as enacted by PL 2003, c. 20, Pt. II, §2, is repealed.

Sec. A-3. 36 MRSA §5122, sub-§1, ¶II, as corrected by RR 2015, c. 1, §41, is amended to read:

II. For taxable years beginning in 2014:

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

with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-MM for that taxable year; and

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

Sec. A-4. 36 MRSA §5122, sub-§1, ¶JJ, as enacted by PL 2015, c. 267, Pt. DD, §8, is amended to read:

JJ. For tax years beginning on or after January 1, 2016, an amount equal to the taxpayer base multiplied by the following fraction:

(1) For single individuals and married persons filing separate returns, the numerator is the taxpayer's Maine adjusted gross income less \$70,000, except that the numerator may not be less than zero, and the denominator is \$75,000. In no case may the fraction contained in this subparagraph produce a result that is more than one. The \$70,000 amount used to calculate the numerator in this subparagraph must be adjusted for inflation in accordance with section 5403, subsection 3;

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

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

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

Sec. A-5. 36 MRSA §5122, sub-§1, ¶KK is enacted to read:

KK. For taxable years beginning on or after January 1, 2015:

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

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

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

MM. For taxable years beginning on or after January 1, 2014, 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 beginning in 2013 for which an addition was required under subsection 1, paragraph HH, subparagraph (2) for the taxable year beginning in 2013.

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 HH, subparagraph (2) and the subtraction modifications allowed pursuant to this paragraph.

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

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

NN. For taxable years beginning on or after January 1, 2015, 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 beginning in 2014 for which an addition was required under subsection 1, paragraph II, subparagraph (2) for the taxable year beginning in 2014.

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 II, subparagraph (2) and the subtraction modifications allowed pursuant to this paragraph.

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

Sec. A-8. 36 MRSA §5122, sub-§2, ¶OO is enacted to read:

OO. For taxable years beginning on or after January 1, 2016, 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.

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

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

AA. For taxable years beginning in 2013:

- (1) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-JJ for that taxable year; and
- (2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-JJ; ~~and~~

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

BB. For taxable years beginning in 2014:

- (1) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-MM for that taxable year; and
- (2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-MM; ~~and~~

Sec. A-11. 36 MRSA §5200-A, sub-§1, ¶CC is enacted to read:

CC. For taxable years beginning on or after January 1, 2015:

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

with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-NN for that taxable year; and

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

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

Y. For taxable years beginning on or after January 1, 2014, 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 beginning in 2013 for which an addition was required under subsection 1, paragraph AA, subparagraph (2) for the taxable year beginning in 2013.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal taxable 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 AA, subparagraph (2) and the subtraction modifications allowed pursuant to this paragraph.

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

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

Z. For taxable years beginning on or after January 1, 2015, 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 beginning in 2014 for which an addition was required under subsection 1, paragraph BB, subparagraph (2) for the taxable year beginning in 2014.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal taxable 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 BB, subparagraph (2) and the subtraction modifications allowed pursuant to this paragraph.

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

Sec. A-14. 36 MRSA §5200-A, sub-§2, ¶AA is enacted to read:

AA. For taxable years beginning on or after January 1, 2016, 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 CC, 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 taxable 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 CC, subparagraph (2) and the subtraction modifications allowed pursuant to this paragraph.

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

Sec. A-15. 36 MRSA §5219-NN is enacted to read:

§5219-NN. Maine capital investment credit for 2015 and after

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

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

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

(1) For taxable years beginning in 2015, 8% of the amount 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; and

(2) For taxable years beginning on or after January 1, 2016, 7% of the amount 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.

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

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

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

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

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

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

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

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

3. Limitations; carry-forward. The credit allowed under subsection 1 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.

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

Sec. A-16. Application. That section of this Part that amends the Maine Revised Statutes, Title 36, section 111, subsection 1-A applies to tax years beginning on or after January 1, 2015 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 December 31, 2015. That section of this Part that repeals the Maine Revised Statutes, Title 36, section 5122, subsection 1, paragraph Q applies to tax years beginning on or after January 1, 2016.

PART B

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

PART C

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

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF
Veterans Tax Reimbursement 0407**

Initiative: Adjusts funding based on projected needs.

GENERAL FUND	2015-16	2016-17
All Other	(\$15,000)	\$0
GENERAL FUND TOTAL	<u>(\$15,000)</u>	<u>\$0</u>

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS

	2015-16	2016-17
GENERAL FUND	(\$15,000)	\$0
DEPARTMENT TOTAL - ALL FUNDS	<u>(\$15,000)</u>	<u>\$0</u>

TREASURER OF STATE, OFFICE OF Debt Service - Treasury 0021

Initiative: Reduces funding for debt service costs.

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

TREASURER OF STATE, OFFICE OF DEPARTMENT TOTALS

	2015-16	2016-17
GENERAL FUND	(\$6,113,120)	\$0
DEPARTMENT TOTAL - ALL FUNDS	<u>(\$6,113,120)</u>	<u>\$0</u>

SECTION TOTALS

	2015-16	2016-17
GENERAL FUND	(\$6,128,120)	\$0
SECTION TOTAL - ALL FUNDS	<u>(\$6,128,120)</u>	<u>\$0</u>

PART D

Sec. D-1. Transfers from available fiscal year 2015-16 Other Special Revenue Funds balances within the Department of Environmental Protection to General Fund. Notwithstanding any other provision of law, at the close of fiscal

year 2015-16, the State Controller shall transfer \$194,312 from available balances in Other Special Revenue Funds accounts within the Department of Environmental Protection to the General Fund unappropriated surplus. On or before June 30, 2016, the Commissioner of Environmental Protection shall determine from which accounts the funds must be transferred so that the sum equals \$194,312 and notify the State Controller and the Joint Standing Committee on Appropriations and Financial Affairs of the amounts to be transferred from each account.

PART E

Sec. E-1. Personal Services savings; transfer to General Fund revenue.

Notwithstanding the Maine Revised Statutes, Title 5, section 1582, subsection 4 or any other provision of law, the State Controller shall transfer the first \$6,750,000 of unexpended Personal Services appropriations that would otherwise lapse to the General Fund Salary Plan program in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund at the close of fiscal year 2015-16.

Sec. E-2. General Fund Salary Plan; transfer to General Fund revenue.

Notwithstanding any other provision of law, the State Controller shall transfer up to \$6,750,000 from the General Fund Salary Plan program in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund at the close of fiscal year 2015-16 in the event that the total savings in section 1 of this Part are not achieved.

PART F

Sec. F-1. Personal Services savings; transfer to General Fund revenue.

Notwithstanding the Maine Revised Statutes, Title 5, section 1582, subsection 4 or any other provision of law, the State Controller shall transfer the first \$6,750,000 of unexpended Personal Services appropriations that would otherwise lapse to the General Fund Salary Plan program in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund at the close of fiscal year 2016-17.

Sec. F-2. General Fund Salary Plan; transfer to General Fund revenue.

Notwithstanding any other provision of law, the State Controller shall transfer up to \$6,750,000 from the General Fund Salary Plan program in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund at the close of fiscal year 2016-17 in the event that the total savings in section 1 of this Part are not achieved.

PART G

Sec. G-1. Transfer to General Fund unappropriated surplus; K-12 Essential Programs and Services, Other Special Revenue Funds account.

Notwithstanding any other provision of law, the State Controller shall transfer \$767,507 from the K-12 Essential Programs and Services, Other Special Revenue Funds account in the Department of Education to the General Fund unappropriated surplus no later than June 30, 2016.

Sec. G-2. Transfer to General Fund unappropriated surplus; K-12 Essential Programs and Services, Other Special Revenue Funds account. Notwithstanding any other provision of law, the State Controller shall transfer \$711,355 from the K-12 Essential Programs and Services, Other Special Revenue Funds account in the Department of Education to the General Fund unappropriated surplus no later than June 30, 2017.

PART H

Sec. H-1. PL 2015, c. 267, Part T is repealed.

Sec. H-2. Appropriations and allocations. The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF
Fund for Efficient Delivery of Local and Regional Services - Administration Z047**

Initiative: Reduces funding by \$750,000 in each year of the 2016-2017 biennium.

OTHER SPECIAL REVENUE FUNDS	2015-16	2016-17
All Other	(\$750,000)	(\$750,000)
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>(\$750,000)</u>	<u>(\$750,000)</u>

PART I

Sec. I-1. PL 2015, c. 267, Part PP is repealed.

Sec. I-2. Appropriations and allocations. The following appropriations and allocations are made.

**EDUCATION, DEPARTMENT OF
Fund for the Efficient Delivery of Educational Services Z005**

Initiative: Eliminates one-time funding for consolidation of school administrative units.

OTHER SPECIAL REVENUE FUNDS	2015-16	2016-17
All Other	(\$750,000)	(\$750,000)
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>(\$750,000)</u>	<u>(\$750,000)</u>

PART J

Sec. J-1. Transfer; Dirigo Health Fund; General Fund. Notwithstanding any other provision of law, the State Controller shall transfer \$300,000 by June 30, 2016 from the Dirigo Health Fund to the General Fund unappropriated surplus.

PART K

Sec. K-1. Transfer from Audit Recovery, Other Special Revenue Funds.

The State Controller shall transfer \$151,331 from the Other Special Revenue Funds audit recovery account established in the Maine Revised Statutes, Title 5, section 1622 to the unappropriated surplus of the General Fund no later June 30, 2016.

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