

**TESTIMONY OF
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DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

Before the Joint Standing Committee on Taxation
Hearing Date: *February 13, 2023*

LD 2022 – “*An Act Updating References to the United States Internal Revenue Code of 1986 Contained in the Maine Revised Statutes*”

Senator Grohoski, Representative Perry, and members of the Taxation Committee – good afternoon, my name is Michael Allen, Associate Commissioner for Tax Policy in the Department of Administrative and Financial Services. I am testifying at the request of the Administration in Support of LD 2022, “*An Act Updating References to the United States Internal Revenue Code of 1986 Contained in the Maine Revised Statutes.*”

LD 2022, commonly known as the conformity bill, is submitted annually by the Department of Administrative and Financial Services to update the reference to the United States Internal Revenue Code in Title 36 of the Maine Revised Statutes. Maine’s conformity to the Internal Revenue Code primarily affects the State’s income tax laws, which are substantially based on the Code.

The Maine Legislature must annually review amendments to the Code made by Congress and enacted into law since the last conformity date to determine whether Maine will conform to some or all the federal changes that impact Maine’s tax laws. Maine’s conformity to the Code allows Maine income taxpayers to use their federal income tax return as a starting point for their Maine income tax return.

In addition to those amendments that must be reviewed annually, and where conformity requires an affirmative act of the Legislature, the Legislature has also enacted a limited number of provisions where the State automatically conforms to amendments without the need for additional legislation. This so called “rolling conformity” is the exception and limited by the Maine Constitution’s prohibition that the Legislature not “surrender the power of taxation.”

The current conformity date of December 31, 2022 was adopted by PL 2023, c. 412, “An Act Making Unified Appropriations and Allocations from the General Fund and Other Funds for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2023, June 30, 2024 and June 30, 2025.”

Based on review of federal tax legislation enacted since December 31, 2022 through February 8, 2024, the Federal Government has not enacted significant tax legislation with which to conform. However, on January 31st the House or Representatives passed bipartisan retroactive tax legislation called the Tax Relief for American Families and Workers Act of 2024; at this time, the bills future remains uncertain.

Among other things, the Tax Relief for American Families and Workers Act of 2024 would temporarily and retroactively make changes to the deduction of research and development expenses, interest, and depreciation. It would also modify the federal child tax credit, the employee retention tax credit, and the low-income housing tax credit. If the bill becomes law, MRS will provide more detailed analysis on its provisions and likely significant conformity impact, along with any conformity proposal from the Administration.

The Administration would like to ask that this Committee please retain possession on this bill, LD 2022, while we continue to monitor potential federal legislation. If no such legislation is enacted, the conformity date in Maine law should be changed to December 31, 2023 to prevent unnecessary complications in Maine's income tax, both for taxpayers and the State.

The Administration looks forward to working with the Committee on the bill; representatives from MRS will be here for the Work Session to provide additional information and respond in detail to the Committee's questions.