

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 1856

I.B. 2

House of Representatives, April 12, 2007

An Act To Allow a Tax Credit for College Loan Repayments

Transmitted to the Clerk of the 123rd Maine Legislature by the Secretary of State on April 11, 2007 and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

2 **PART A**

3 **Sec. A-1. 20-A MRSA c. 428-C** is enacted to read:

4 **CHAPTER 428-C**

5 **JOB CREATION THROUGH EDUCATIONAL OPPORTUNITY**
6 **PROGRAM**

7 **§12541. Definitions**

8 As used in this chapter, unless the context otherwise indicates, the following terms
9 have the following meanings.

10 **1. Accredited Maine junior college, college or university.** "Accredited Maine
11 junior college, college or university" means:

12 A. Any campus of the Maine Community College System;

13 B. Any campus of the University of Maine System;

14 C. The Maine Maritime Academy;

15 D. Any educational institution that is located in this State and has authorization to
16 confer an associate degree or a bachelor's degree, in accordance with sections 10704
17 and 10704-A;

18 E. Any educational institution that is located in this State and is exempted from
19 chapter 409 under section 10708, subsections 1 and 2; and

20 F. Any educational institution that is located in this State and is operating under a
21 certificate of temporary approval from the state board under section 10703, to the
22 extent that a student is ultimately able either to obtain an associate or a bachelor's
23 degree at that institution or to transfer to and obtain a degree from an institution
24 described in paragraphs A to E.

25 **2. Benchmark loan payment.** "Benchmark loan payment" means the figure
26 described in section 12542, subsection 2, paragraph C.

27 **3. Educational institution.** "Educational institution" has the same meaning as in
28 section 10701, subsection 3.

29 **4. Educational opportunity tax credit.** "Educational opportunity tax credit" means
30 the tax credit provided for in Title 36, section 5217-D.

31 **5. Maine resident.** "Maine resident" means an individual who qualifies for Maine
32 residence under Title 21-A, section 112.

1 6. Opportunity contract. "Opportunity contract" means the contract described in
2 section 12542, subsection 3.

3 7. Principal cap. "Principal cap" means the cap described in section 12542,
4 subsection 2.

5 **§12542. Program established**

6 1. Program created; goals. The Job Creation Through Educational Opportunity
7 Program, referred to in this chapter as "the program," is created to reimburse education-
8 related costs for Maine residents who obtain an associate degree or a bachelor's degree in
9 this State, and live, work and pay taxes in this State thereafter. The program is designed
10 to achieve the following goals:

11 A. Promote economic opportunity for people in this State by ensuring access to the
12 training and higher education that higher-paying jobs require;

13 B. Bring more and higher-paying jobs to this State by increasing the skill level of
14 this State's workforce;

15 C. Offer educational opportunity and retraining to individuals impacted by job loss,
16 workplace injury, disability or other hardship;

17 D. Keep young people in this State through incentives for educational opportunity
18 and creation of more high-paying jobs; and

19 E. Accomplish all of the goals in this subsection with as little bureaucracy as
20 possible.

21 2. Principal cap. The principal cap limits the loan principal that can serve as the
22 basis for claiming the educational opportunity tax credit. The cap is based on in-state
23 tuition and mandatory fees for either the Maine Community College System or the
24 University of Maine System, depending on whether the opportunity contract is for pursuit
25 of an associate degree or of a bachelor's degree, respectively.

26 A. For an individual earning a degree from the Maine Community College System or
27 from the University of Maine System, the relevant financial aid office shall certify,
28 once the individual has earned the degree, whether or not the total principal of loans
29 the individual received as part of that individual's financial aid package exceeds the
30 cost of in-state tuition and mandatory fees incurred in pursuit of the degree. That cost
31 constitutes the principal cap for such an individual.

32 B. For an individual earning a degree from any other accredited Maine junior
33 college, college or university, the relevant financial aid office shall certify, once the
34 individual has earned the degree, whether or not the total principal of loans the
35 individual received as part of that individual's financial aid package exceeds the
36 published in-state tuition and mandatory fees for full-time enrollment in the Maine
37 Community College System or in the University of Maine System, depending on
38 whether the degree is an associate degree or a bachelor's degree, respectively, during
39 the relevant years. The published in-state tuition and mandatory fees constitute the
40 principal cap for such an individual. If the individual has not attended full time

1 throughout the pursuit of that individual's degree, an appropriate principal cap must
2 be determined in a manner consistent with the principles set out in this subsection.

3 C. For an individual whose student loans exceed the principal cap, a benchmark loan
4 payment must be calculated as follows. The financial aid office shall calculate what
5 the monthly payment would be on a loan for the amount of the principal cap, to be
6 paid over 10 years, at the interest rate offered for federal Stafford loans under 20
7 United States Code, Section 1077a, during the individual's last year of enrollment.
8 The benchmark loan payment must be specified on the individual's opportunity
9 contract.

10 **3. Opportunity contract.** The state board shall draft an opportunity contract for use
11 in enrolling individuals in the program. The terms of the opportunity contract must
12 require an individual who wishes to participate in the program to:

13 A. Certify that that individual is a Maine resident;

14 B. Agree to attend and to obtain a specified degree, either an associate degree or a
15 bachelor's degree, from an accredited Maine junior college, college or university. The
16 individual need not obtain the degree from the institution in which that individual
17 originally enrolled, so long as all course work toward the degree is performed at
18 accredited Maine junior colleges, colleges or universities;

19 C. Agree to live in this State while pursuing the degree. The individual shall also
20 agree to live in this State after obtaining the degree during any period when that
21 individual seeks to take advantage of the educational opportunity tax credit;

22 D. Agree to maintain records relating to loan payments claimed under the
23 educational opportunity tax credit for 5 years after those payments are claimed; and

24 E. With respect to educational loans, agree to the following:

25 (1) The individual may claim the educational opportunity tax credit only with
26 respect to loans that are part of that individual's financial aid package and that
27 have a term of at least 8 years;

28 (2) If the individual in any way accelerates repayment, the individual forfeits any
29 right to claim an educational opportunity tax credit for that taxable year or any
30 future taxable year; and

31 (3) The individual may refinance said loans only if they remain separate from
32 other debt and if the effect of the refinancing is to decrease both the annual
33 repayment and the total remaining indebtedness.

34 In exchange for the consideration outlined in paragraphs B to E, the State shall agree to
35 permit the individual to take advantage of the educational opportunity tax credit.

36 The opportunity contract must leave space for the accredited Maine junior college,
37 college or university to certify that the individual has obtained the relevant degree, and to
38 certify whether or not the loan principal that the individual incurs in pursuing the relevant
39 degree exceeds the principal cap.

40 **4. Administration.** The program must be administered as follows.

1 A. Any Maine resident who gains admission to an accredited Maine junior college,
2 college or university and who receives financial aid in the form of loans must have
3 the opportunity to participate in the program. The financial aid office of the relevant
4 institution shall offer to such individuals the chance to sign an opportunity contract
5 with the State. The financial aid office shall retain the opportunity contract until the
6 individual obtains the degree.

7 B. When the individual obtains the degree, the individual shall specify on the
8 opportunity contract the source, principal amount, interest rate and term of any loans
9 that are part of the individual's financial aid package. The opportunity contract must
10 contain certification that the individual has obtained the relevant degree and must
11 specify whether the individual's loans exceed the principal cap and, if appropriate,
12 what the benchmark loan payment is. The individual shall then file the opportunity
13 contract with the Secretary of State. Every accredited Maine junior college, college
14 and university shall develop procedures to facilitate this process, in consultation with
15 the Secretary of State.

16 C. When the individual files the opportunity contract with the Secretary of State
17 pursuant to paragraph B, that individual becomes eligible to claim the educational
18 opportunity tax credit, subject to the requirements of this chapter and of Title 36,
19 section 5217-D. The individual may thereafter take advantage of any forbearance or
20 deferment provisions in the relevant loan agreements without forfeiting the right to
21 claim the educational opportunity tax credit when the individual resumes repayment.

22 **5. Effective date; participation by individual already enrolled in degree**
23 **program.** The program must commence for the first semester that begins after the
24 effective date of this chapter. Maine residents who when the program commences are
25 enrolled in an associate or a bachelor's degree program at an accredited Maine junior
26 college, college or university may participate, subject to the same essential terms as other
27 program participants. When such an individual obtains the relevant degree, it must be
28 specified in the individual's opportunity contract what percentage of the course work
29 completed in pursuit of the degree was performed while the individual was participating
30 in the program. The principal cap and benchmark loan payment must be calculated in the
31 ordinary way as provided in this chapter, but the individual must then apply the
32 percentage in this subsection to actual payments or to the benchmark loan payment,
33 whichever applies, in determining the amount the individual can claim under the
34 educational opportunity tax credit for a given year.

35 **§12543. Effect on funding of higher education**

36 It is the intent of the Legislature that neither the existence of the program nor the
37 benefits provided under the educational opportunity tax credit serve as justification to
38 decrease other funds appropriated or allocated to accredited Maine junior colleges,
39 colleges or universities, including institutions in the Maine Community College System
40 and the University of Maine System, or to other higher education programs.

1 **§12544. Rules**

2 The state board shall, in accordance with section 3, adopt rules, which are routine
3 technical rules pursuant to Title 5, chapter 375, subchapter 2-A, as necessary to carry out
4 the purposes of this chapter.

5 **PART B**

6 **Sec. B-1. 36 MRSA §5217-D** is enacted to read:

7 **§5217-D. Credit for educational opportunity**

8 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
9 following terms have the following meanings.

10 A. "Benchmark loan payment" has the same meaning as in Title 20-A, section
11 12541, subsection 2.

12 B. "Employer" has the same meaning as the term "employing unit," as defined in
13 Title 26, section 1043, subsection 10.

14 C. "Full time" employment means employment with a normal workweek of 32 hours
15 or more.

16 D. "Part time" employment means employment with a normal workweek of between
17 16 and 32 hours.

18 E. "Qualified employee" means an employee who is eligible for the credit provided
19 in this section and who is employed at least part time.

20 F. "Opportunity contract" means the contract described in Title 20-A, section 12542,
21 subsection 3.

22 G. "Opportunity program participant" means an individual who enters into an
23 opportunity contract with the State, obtains the specified degree and complies with
24 the requirements under Title 20-A, section 12542, subsections 3 to 5.

25 H. "Resident individual" has the same meaning as in section 5102, subsection 5.

26 I. "Seasonal employment" has the same meaning as in Title 26, section 1251 and in
27 regulations promulgated thereunder.

28 J. "Term of employment" includes all months when the individual is actually
29 employed. It includes time periods when an individual is on leave or vacation. It
30 extends to the full year for individuals working for employers who customarily
31 operate only during a regularly recurring period of 9 months or more in a calendar
32 year. For individuals working for employers who customarily operate only during
33 regularly recurring periods of less than 9 months in a calendar year, including
34 seasonal employment, the term of employment extends only to time periods when the
35 individual is actually working.

36 **2. Credit allowed.** A taxpayer constituting an opportunity program participant or an
37 employer of a qualified employee is allowed a credit against the tax imposed by this Part
38 for each taxable year under the terms established in this section. The credit is created to

1 implement the Job Creation Through Educational Opportunity Program established under
2 Title 20-A, chapter 428-C.

3 The credit may not reduce the tax otherwise due under this Part to less than zero. A
4 taxpayer entitled to the credit for any taxable year may carry over and apply to the tax
5 liability for any one or more of the next succeeding 10 years the portion, as reduced from
6 year to year, of any unused credits. More than one taxpayer may claim a credit based on
7 loan payments actually made to a relevant lender or lenders to benefit a single
8 opportunity program participant, but no 2 taxpayers may claim the credit based on the
9 same payment.

10 **3. Calculation of the credit.** The following provisions govern the calculation of the
11 credit in this section.

12 A. If the relevant opportunity program participant's opportunity contract limits the
13 amount of the credit to a benchmark loan payment, and the relevant opportunity
14 program participant's actual monthly payment due is higher than that amount, then
15 the credit claimed may not exceed the product of the benchmark loan payment and
16 the number of months in which the taxpayer made loan payments.

17 B. If the relevant opportunity program participant's opportunity contract certifies that
18 the principal for the relevant loans is at or below the level of the principal cap, or if
19 the relevant opportunity program participant's actual monthly payment is below the
20 benchmark loan payment, the taxpayer may claim a credit based only on regularly
21 scheduled loan payments actually made.

22 C. If the credit is claimed on behalf of an individual who was already enrolled in an
23 associate or a bachelor's degree program at an accredited Maine junior college,
24 college or university, as defined in Title 20-A, section 12541, subsection 1, on the
25 commencement of the Job Creation Through Educational Opportunity Program under
26 Title 20-A, chapter 428-C, the percentage figure listed in the opportunity contract, as
27 specified under Title 20-A, section 12542, subsection 5, must be applied to the
28 amount determined under paragraph A or B.

29 **4. Conditions for an opportunity program participant claiming the credit.** An
30 opportunity program participant may claim the credit only if the participant is a resident
31 individual. The participant may claim the credit based only on regular payments made
32 during months in which the individual was working for an employer located in this State.
33 A married couple filing jointly under Title 36, section 5221 may claim the credit only to
34 the extent that the spouse on whose behalf the credit is claimed meets these requirements.

35 **5. Conditions for an employer claiming the credit.** A taxpayer constituting an
36 employer may claim the credit under this section under the following circumstances. The
37 employer may undertake to make partial or full loan payments directly to the relevant
38 lender or lenders on behalf of a qualified employee, having taken reasonable steps to
39 ascertain that the employee is in fact a qualified employee, and may claim a credit based
40 on amounts that came due and were paid by the employer during the term of employment.
41 To receive the credit, the employer must retain for 5 years any proof of eligibility that the
42 employee or independent contractor provides.

1 The employer may claim a credit for the amount that the qualified employee could have
2 claimed during any months when the qualified employee was employed, had the qualified
3 employee made the partial or full loan payments instead, under conditions where the
4 qualified employee had sufficient income to claim the full credit for the taxable year. If
5 the qualified employee is employed only on a part-time basis, the employer may claim a
6 credit only up to half of the total that the qualified employee could have claimed had the
7 qualified employee made all payments and earned sufficient income to claim the full
8 credit for the taxable year, but the amount the employer claims must still be based on
9 amounts actually paid.

10 An employer claiming this credit on behalf of a qualified employee for a taxable year
11 may not simultaneously claim a credit under section 5219-V on the behalf of the same
12 employee.

13

SUMMARY

14 This initiated bill provides a tax credit to reimburse educational loan payments for
15 any Maine resident who earns an associate degree or a bachelor's degree in Maine, and
16 lives, works and pays taxes in Maine after earning that degree. Under an agreement with
17 the State, a Maine resident who earns an associate degree or a bachelor's degree from an
18 accredited Maine junior college, college or university may take advantage of the credit.
19 The person may claim the credit for payments made during each year that person lives
20 and works in Maine. If the person lives and works in Maine, that person's employer may
21 make the loan payments and claim the credit. The credit is limited to what the person
22 actually pays in loan payments or to what would be necessary to pay for an education in
23 the University of Maine System or Maine Community College System, whichever is less.