

MAINE STATE LEGISLATURE

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Legislative Document

No. 1296

H.P. 899

House of Representatives, March 31, 2009

An Act To Strengthen the Job Creation Through Educational Opportunity Program

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative WATSON of Bath.
Cosponsored by Senator RAYE of Washington and
Representatives: CHASE of Wells, KNIGHT of Livermore Falls, PILON of Saco, Speaker
PINGREE of North Haven, RUSSELL of Portland, SIROIS of Turner, Senators: ALFOND of
Cumberland, PERRY of Penobscot.

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

2 **PART A**

3 **Sec. A-1. 20-A MRSA §12541, sub-§1**, as enacted by PL 2007, c. 469, Pt. A, §1,
4 is amended to read:

5 **1. Accredited Maine junior college, college or university.** "Accredited Maine
6 junior college, college or university" means:

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

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

9 C. The Maine Maritime Academy;

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

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

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

20 An institution under this subsection must have regional accreditation.

21 **Sec. A-2. 20-A MRSA §12541, sub-§4-A** is enacted to read:

22 **4-A. Financial aid package.** "Financial aid package" includes any loans that are
23 certified by an accredited Maine junior college, college or university's financial aid office,
24 subject to any changes made by the financial aid office. These loans may include private
25 loans or less than the full amount of loans under federal programs, depending on the
26 practices of the institution.

27 **Sec. A-3. 20-A MRSA §12541, sub-§5**, as enacted by PL 2007, c. 469, Pt. A, §1,
28 is amended to read:

29 **5. Maine resident.** "Maine resident" means an individual who qualifies for Maine
30 residence under Title 21-A, section 112. For purposes of this section, an individual is
31 deemed a Maine resident if, at the time the individual commences the relevant degree
32 program, the individual is registered to vote in the State or occupies a dwelling in the
33 State and continues to occupy a dwelling in the State during the school year, except
34 periods when it is reasonably necessary for the individual to live elsewhere as part of the
35 relevant institution's academic programs.

36 **Sec. A-4. 20-A MRSA §12541, sub-§6**, as enacted by PL 2007, c. 469, Pt. A, §1,
37 is repealed.

1 **Sec. A-5. 20-A MRSA §12541, sub-§8** is enacted to read:

2 **8. Registration.** "Registration" means the process described in section 12542,
3 subsection 4-A, paragraph A.

4 **Sec. A-6. 20-A MRSA §12542, sub-§2**, as enacted by PL 2007, c. 469, Pt. A, §1,
5 is amended to read:

6 **2. Principal cap.** The principal cap limits the loan principal that can serve as the
7 basis for claiming the educational opportunity tax credit. The cap is based on in-state
8 tuition and mandatory fees for either the Maine Community College System or the
9 University of Maine System, depending on whether the ~~opportunity contract~~ registration
10 is for pursuit of an associate degree or of a bachelor's degree, respectively. The average
11 in-state tuition and mandatory fees must be published and disseminated to the department
12 and to all accredited Maine junior colleges, colleges and universities by September 1st
13 each year by the Chancellor of the University of Maine System and the President of the
14 Maine Community College System, and the tuition and mandatory fees must be based on
15 averages of program costs within the 2 systems respectively.

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

22 B. For an individual earning a degree from ~~any other~~ an accredited Maine junior
23 college, college or university, the relevant ~~financial aid office~~ institution shall certify,
24 once the individual has earned the degree, whether or not the total principal of loans
25 the individual received as part of that individual's financial aid package exceeds the
26 published in-state tuition and mandatory fees for full-time enrollment in the Maine
27 Community College System or in the University of Maine System for the year of
28 graduation, depending on whether the degree is an associate degree or a bachelor's
29 degree, respectively, during the relevant multiplied by 2 years in the case of an
30 associate degree and by 4 years in the case of a bachelor's degree. ~~The published in-~~
31 ~~state tuition and mandatory fees constitute~~ figure constitutes the principal cap for
32 such an individual. ~~If the individual has not attended full time throughout the pursuit~~
33 ~~of that individual's degree, an appropriate principal cap must be determined in a~~
34 ~~manner consistent with the principles set out in this subsection.~~

35 C. ~~For an individual whose student loans exceed the principal cap, a~~ The department
36 shall determine benchmark loan payment ~~must be calculated as follows. The financial~~
37 ~~aid office shall calculate~~ payments for associate and bachelor's degree earners for
38 each year of graduation by calculating what the monthly payment would be on a loan
39 for the amount of the principal cap, to be paid over 10 years, at the nominal interest
40 rate offered for federal Stafford loans under 20 United States Code, Section 1077a,
41 during the ~~individual's last year of enrollment~~ year of graduation. The department
42 shall ensure that the benchmark loan payment must be specified on the individual's

1 opportunity contract is reflected in the registration data for any graduate participating
2 in the program.

3 **Sec. A-7. 20-A MRSA §12542, sub-§3**, as enacted by PL 2007, c. 469, Pt. A, §1,
4 is amended to read:

5 **3. Eligibility for the program.** ~~The state board shall draft an opportunity contract~~
6 ~~for use in enrolling individuals in the program. The terms of the opportunity contract~~
7 ~~must require an individual who wishes to participate~~ following are conditions for
8 participation in the program to:

9 A. ~~Certify that that~~ The individual is must be a Maine resident;

10 B. ~~Agree to~~ The individual must attend and to obtain a specified degree, either an
11 associate degree or a bachelor's degree, from an accredited Maine junior college,
12 college or university. The individual need not obtain the degree from the institution in
13 which that individual originally enrolled, so as long as all course work toward the
14 degree is performed at accredited Maine junior colleges, colleges or universities; An
15 individual who transfers to an accredited Maine junior college, college or university,
16 after performing up to the equivalent of one full-time year of course work toward a
17 degree at an institution outside of the State, is eligible for a portion of the benefits
18 that would have been available under the program had the individual performed all
19 course work at an accredited Maine junior college, college or university. Such an
20 individual is eligible for 1/2 of the educational opportunity tax credit in the case of an
21 associate degree and 3/4 of the educational opportunity tax credit in the case of a
22 bachelor's degree. Program eligibility for such an individual must be determined as if
23 the commencement of course work at the relevant accredited Maine junior college,
24 college or university was the commencement of course work for the degree program
25 as a whole.

26 C. ~~Agree to~~ The individual must live in this State while pursuing the degree,
27 excepting periods when it is reasonably necessary for the individual to live elsewhere
28 as part of the relevant institution's academic programs. ~~The individual shall~~ must also
29 agree to live in this State after obtaining the degree during any period when that
30 individual seeks to take advantage of the educational opportunity tax credit;

31 D. ~~Agree to~~ The individual must maintain records relating to loan payments claimed
32 under the educational opportunity tax credit for 5 years after those payments are
33 claimed; and,

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

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

38 (2) ~~If the individual in any way accelerates repayment, the individual forfeits any~~
39 ~~right to claim an~~ makes any prepayment, that prepayment is not eligible for
40 reimbursement through the educational opportunity tax credit for that taxable
41 year or any future taxable year; and

1 (3) The individual may refinance said loans only if they remain separate from
2 other debt and if the effect of the refinancing is to decrease both the annual
3 repayment and the total remaining indebtedness, whether noneducational debt or
4 educational debt incurred in a program other than the degree program for which
5 the educational opportunity tax credit is claimed.

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

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

12 **Sec. A-8. 20-A MRSA §12542, sub-§4,** as enacted by PL 2007, c. 469, Pt. A, §1,
13 is repealed.

14 **Sec. A-9. 20-A MRSA §12542, sub-§4-A** is enacted to read:

15 **4-A. Administration.** The program must be administered as follows.

16 A. The department shall, in consultation with the Department of Labor, establish an
17 electronic registration system for enrolling individuals in the program and shall
18 integrate that system with an educational attainment database in a manner that
19 permits integration with labor market data systems. Registration data must include,
20 at a minimum, the individual's name, the individual's social security number, the
21 degree obtained, the institution from which the degree was obtained, the total amount
22 of the individual's eligible loan principal, the applicable benchmark loan payment and
23 whether the individual exceeds the principal cap. Every accredited Maine junior
24 college, college or university shall develop procedures to facilitate this process in
25 cooperation with the department. The department shall provide accredited Maine
26 junior colleges, colleges and universities with information about the program and
27 about their duties with regard to the program.

28 B. Any Maine resident who enrolls in an accredited Maine junior college, college or
29 university and who receives financial aid in the form of loans must have the
30 opportunity to participate in the program. An accredited Maine junior college,
31 college or university shall, at a minimum, provide information about the program to
32 students in admission materials, financial aid award materials, entrance interviews,
33 exit interviews, materials listing financial aid resources and any posters provided by
34 the department.

35 C. Once an individual has registered, that individual becomes eligible to claim the
36 educational opportunity tax credit for loan payments made after the date of
37 registration, subject to the requirements of this chapter and of Title 36, section
38 5217-D. An individual may register at any time during pursuit of the relevant degree
39 or during the life of any loans for which the educational opportunity tax credit is
40 claimed. The individual may take advantage of any forbearance or deferment
41 provisions in the relevant loan agreements without forfeiting the right to claim the
42 educational opportunity tax credit when the individual resumes repayment.

1 **Sec. A-10. 20-A MRSA §12542, sub-§5**, as enacted by PL 2007, c. 469, Pt. A,
2 §1, is amended to read:

3 **5. Effective date; participation by individual already enrolled in degree**
4 **program.** The program must commence for the first semester that begins after the
5 effective date of this chapter. Maine residents who when the program commences are
6 enrolled in an associate or a bachelor's degree program at an accredited Maine junior
7 college, college or university may participate, subject to the same essential terms as other
8 program participants. When such an individual obtains the relevant degree, ~~it must be~~
9 ~~specified in the individual's opportunity contract~~ the relevant accredited Maine junior
10 college, college or university shall determine what percentage of the course work
11 completed in pursuit of the degree was performed ~~while the individual was participating~~
12 ~~in~~ after the effective date of the program, rounded to the nearest multiple of 12.5%. The
13 principal cap and benchmark loan payment must be calculated in the ordinary way as
14 provided in this chapter, but the individual must then apply the percentage in this
15 subsection to actual payments or to the benchmark loan payment, whichever applies, in
16 determining the amount the individual can claim under the educational opportunity tax
17 credit for a given year.

18 **Sec. A-11. 20-A MRSA §12542, sub-§7** is enacted to read:

19 **7. Promotion by state agencies.** The department, the Finance Authority of Maine,
20 the Maine State Housing Authority, the Department of Labor, the Department of Health
21 and Human Services, the Department of Economic and Community Development and
22 any other agencies engaging in education-related outreach shall integrate promotion of
23 the program into existing educational opportunity outreach efforts to the extent possible
24 within existing resources in a manner consistent with the scope of the program and its
25 centrality to the State's efforts to raise educational attainment.

26 **Sec. A-12. 20-A MRSA §12544**, as enacted by PL 2007, c. 469, Pt. A, §1, is
27 amended to read:

28 **§12544. Rules**

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

32 **Sec. A-13. Report on progress in implementation.** An accredited Maine
33 junior college, college or university, as defined in the Maine Revised Statutes, Title 20-A,
34 section 12541, subsection 1, shall report to the Department of Education in writing by
35 February 1, 2010 and again by February 1, 2011 on efforts to promote and enroll
36 individuals in the Job Creation Through Educational Opportunity Program and to train
37 admissions and financial aid staff about the program, and the department shall convey the
38 information gathered to the joint standing committee of the Legislature having
39 jurisdiction over education and cultural affairs.

PART B

1
2 **Sec. B-1. 36 MRSA §5217-D, sub-§1, ¶F**, as enacted by PL 2007, c. 469, Pt. B,
3 §1, is repealed.

4 **Sec. B-2. 36 MRSA §5217-D, sub-§1, ¶G**, as enacted by PL 2007, c. 469, Pt. B,
5 §1, is amended to read:

6 G. "Opportunity program participant" means an individual who ~~enters into an~~
7 ~~opportunity contract with the State~~ registers for the Job Creation Through
8 Educational Opportunity Program, obtains the specified degree and complies with the
9 requirements under Title 20-A, section 12542, ~~subsections 3 to 5.~~

10 **Sec. B-3. 36 MRSA §5217-D, sub-§1, ¶G-1** is enacted to read:

11 G-1. "Registration" has the same meaning as in Title 20-A, section 12541 and in
12 rules adopted to implement that section.

13 **Sec. B-4. 36 MRSA §5217-D, sub-§3**, as enacted by PL 2007, c. 469, Pt. B, §1,
14 is amended to read:

15 **3. Calculation of the credit.** The following provisions govern the calculation of the
16 credit in this section.

17 A. If the relevant opportunity program participant's ~~opportunity contract~~ registration
18 limits the amount of the credit to a benchmark loan payment, and the relevant
19 opportunity program participant's actual monthly payment due is higher than that
20 amount, then the credit claimed may not exceed the product of the benchmark loan
21 payment and the number of months in which the taxpayer made loan payments.

22 B. If the relevant opportunity program participant's ~~opportunity contract~~ registration
23 certifies that the principal for the relevant loans is at or below the level of the
24 principal cap, or if the relevant opportunity program participant's actual monthly
25 payment is below the benchmark loan payment, the taxpayer may claim a credit
26 based only on regularly scheduled loan payments actually made.

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

34 **Sec. B-5. 36 MRSA §5217-D, sub-§5**, as enacted by PL 2007, c. 469, Pt. B, §1,
35 is amended to read:

36 **5. Conditions for an employer claiming the credit.** A taxpayer constituting an
37 employer may claim the credit under this section under the following circumstances. The
38 employer may undertake to make partial or full loan payments directly to the relevant
39 lender or lenders on behalf of a qualified employee, having taken reasonable steps to

1 ascertain that the employee is in fact a qualified employee, and may claim a credit based
2 on amounts that came due and were paid by the employer during the term of employment.
3 Such payments are not deemed compensation or income to the employee for purposes of
4 this Title. To receive the credit, the employer must retain for 5 years any proof of
5 eligibility that the employee or independent contractor provides.

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

15 An employer claiming this credit on behalf of a qualified employee for a taxable year
16 may not simultaneously claim a credit under section 5219-V on the behalf of the same
17 employee or any state deduction, credit or other tax benefit with respect to the loan
18 payments in question.

19 SUMMARY

20 This bill amends the definition of "accredited Maine junior college, college or
21 university" to include that the institution must have regional accreditation. The bill
22 defines the terms "financial aid package" and "registration." It repeals the definition for
23 "opportunity contract." The bill requires the President of the Maine Community College
24 System and the Chancellor of the University of Maine System to publish and disseminate
25 to the Department of Education and all accredited Maine junior colleges, colleges and
26 universities the average in-state tuition and mandatory fees. The bill requires the
27 Department of Education to determine benchmark loan payments. The bill changes the
28 eligibility criteria of participation in the Job Creation Through Educational Opportunity
29 Program. The bill also sets out how the program is to be administered by establishing an
30 electronic registration system. The bill directs all institutions to file a report with the
31 Department of Education by February 1, 2010 and February 1, 2011 on how the program
32 is working. The bill also requires certain agencies to promote the program in existing
33 educational opportunity outreach efforts. The bill amends the law that deals with the tax
34 credit for educational opportunities to reflect the changes that were made to the program.