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An Act To Create Jobs by Expanding Educational Opportunity for Maine Residents

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

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

CHAPTER 428-C

Job creation through educational opportunity program

§ 12541. Definitions

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

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

A. A campus of the Maine Community College System;

B. A campus of the University of Maine System;

C. The Maine Maritime Academy;

D. An educational institution in the State that has authorization to confer an associate degree or a bachelor's degree, in accordance with sections 10704 and 10704-A;

E. An educational institution in the State that is exempted from chapter 409 under section 10708, subsection 1 or 2; or

F. An educational institution in the State that is operating under a certificate of temporary approval from the state board under section 10703.

2. Benchmark loan payment. "Benchmark loan payment" means the amount described in section 12542, subsection 2, paragraph C.

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

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

5. Opportunity contract. "Opportunity contract" means the contract developed by the state board pursuant to section 12542, subsection 3.

6. Principal cap. "Principal cap" means the cap described in section 12542, subsection 2.

7. Resident. "Resident" means a person who qualifies for residence in this State under Title 21-A, section 112.

§ 12542. Job Creation Through Educational Opportunity Program

1. Establishment; goals. The Job Creation Through Educational Opportunity Program, referred to in this chapter as "the program," is established to reimburse residents for education-related costs if they agree to live, work and pay taxes in this State after being graduated from college. The program is designed to achieve the following goals:

- A. Promote economic opportunity and a highly skilled workforce in the State by increasing enrollment in Maine's institutions of higher education;
- B. Bring more and higher-paying jobs to this State by increasing the skill level of this State's workforce;
- C. Offer educational opportunity and retraining to individuals affected by job loss, workplace injury, disability or other hardship;
- D. Keep young people in this State through incentives for educational opportunity and creation of more high-paying jobs; and
- E. Accomplish all of the goals in this subsection with as little bureaucracy as possible.

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

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

B. After an individual has earned a degree from an accredited Maine junior college, college or university other than the Maine Community College System or the University of Maine System, the financial aid office shall certify whether or not the total principal of loans the individual received as part of that individual's financial aid package exceeds the published in-state tuition and mandatory fees for full-time enrollment in the Maine Community College System or in the University of Maine System, depending on whether the degree is an associate degree or a bachelor's degree, during the relevant years. The published in-state tuition and mandatory fees constitute the principal cap for

that individual. If the individual has not attended full time throughout the pursuit of that individual's degree, an appropriate principal cap must be determined in a manner consistent with the tax credit limitations in this subsection.

C. For an individual whose student loans exceed the principal cap established in paragraph A or B, a benchmark loan payment must be calculated pursuant to this paragraph. The financial aid office shall calculate what the monthly payment would be on a loan for the amount of the principal cap, to be paid over 10 years, at the interest rate offered for federal Stafford loans under 20 United States Code, Section 1077a, during the individual's last year of enrollment. The financial aid office shall specify the benchmark loan payment on the individual's opportunity contract.

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

A. Certify that the individual is a resident;

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

C. Agree to live in this State while pursuing the degree and, after obtaining the degree, during any period when that individual seeks to claim the educational opportunity tax credit;

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

E. With respect to educational loans, agree that:

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

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

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

The contract must provide that, in exchange for the consideration outlined in paragraphs B to E, the State agrees to permit the individual to take advantage of the educational opportunity tax credit.

The opportunity contract must contain space for the financial aid office of the accredited Maine junior college, college or university to certify that the individual has obtained the relevant degree and to certify whether or not the loan principal that the individual incurred in pursuing the relevant degree exceeds the principal cap.

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

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

B. After the individual obtains the degree, the individual shall specify on the opportunity contract the source, principal amount, interest rate and term of any loans that are part of the individual's financial aid package. The financial aid office shall certify on the opportunity contract that the individual has obtained the relevant degree, whether the individual's loans exceed the principal cap and, if appropriate, what the benchmark loan payment is. The individual shall then file the opportunity contract with the Secretary of State. Every accredited Maine junior college, college and university shall develop procedures to facilitate this process, in consultation with the Secretary of State.

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

5. Effective date; participation by individual already enrolled in degree program.

The program must commence for the first semester that begins after the effective date of this chapter. Residents who when the program commences are enrolled in an associate or a bachelor's degree program at an accredited Maine junior college, college or university before the effective date of this chapter may participate, subject to the same essential terms as apply to other program participants. When such an individual obtains the relevant degree, it must be specified in the individual's opportunity contract what percentage of the course work completed in pursuit of the degree was performed while the individual was participating in the program. The principal cap and benchmark loan payment must be calculated as otherwise provided in this chapter, but the individual must then apply the percentage calculated pursuant to this subsection to actual payments or to the benchmark loan payment, whichever applies, in determining the amount the individual may claim under the educational opportunity tax credit for a given year.

§ 12543. Effect on funding of higher education

It is the intent of the Legislature that neither the existence of the program nor the benefits provided under the educational opportunity tax credit serve as justification to decrease other funds appropriated or allocated to accredited Maine junior colleges, colleges or universities or to other higher education programs.

§ 12544. Rules

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

Sec. 2. 36 MRSA §5217-D is enacted to read:

§ 5217-D. Credit for educational opportunity

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

- A. "Benchmark loan payment" has the same meaning as in Title 20-A, section 12541, subsection 2.
- B. "Employer" has the same meaning as the term "employing unit," as defined in Title 26, section 1043, subsection 10.
- C. "Full-time employment" means employment with a normal workweek of 32 hours or more.
- D. "Independent contractor" has the same meaning as in Title 39-A, section 102, subsection 13.
- E. "Opportunity contract" means the contract described in Title 20-A, section 12542, subsection 3.
- F. "Opportunity program participant" means an individual who enters into an opportunity contract with the State, obtains the specified degree and complies with the requirements under Title 20-A, section 12542, subsections 3 to 5.
- G. "Part-time employment" means employment with a normal workweek of between 16 and 32 hours.
- H. "Qualified employee" means an employee or independent contractor who is eligible for a tax credit under this section and who is employed at least part-time or performs services as an independent contractor at least 16 hours per week.
- I. "Resident individual" has the same meaning as in section 5102, subsection 5.
- J. "Seasonal employment" means employment in a seasonal industry, as defined in Title 26, section 1251 and in rules adopted under that section.
- K. "Term of employment" includes all months when the individual is actually employed. It includes time periods when an individual is on leave or vacation. It extends to the full year for individuals working for employers who customarily operate only during a regularly recurring period of 9 months or more in a calendar year. For individuals working for employers who customarily operate only during regularly recurring periods of less than 9 months in a calendar year, including seasonal employment, the term of employment extends only to time periods when the individual is actually working.

2. Credit allowed. A taxpayer that is an opportunity program participant or an employer of a qualified employee is allowed a credit against the tax imposed by this Part for each taxable year under the terms established in this section. The credit is created to implement the Job Creation Through Educational Opportunity Program established under Title 20-A, chapter 428-C.

The credit may not reduce the tax otherwise due under this Part to less than zero. A taxpayer entitled to the credit for any taxable year may carry over and apply to the tax liability for any one or more of the next succeeding 10 years the portion, as reduced from year to year, of any unused credits. More than one taxpayer may claim a credit based on loan payments actually made to a lender to benefit a single opportunity program participant, but 2 taxpayers may not claim the credit based on the same payment.

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

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

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

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

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

5. Conditions for employer claiming credit. A taxpayer that is an employer may claim the credit under this section under the following circumstances. The employer may make partial or full loan payments directly to the lender on behalf of a qualified employee, after taking reasonable steps to ascertain that the employee or independent contractor is in fact a qualified employee, and may claim a credit based on amounts that came due and were paid by the employer during the term of employment. An employer who claims the credit under this section shall retain for 5 years any proof of eligibility that the employee or independent contractor provides.

The employer may claim a credit for the amount that the qualified employee could have claimed during any months when the qualified employee was employed had the qualified employee made the partial or full loan payments instead, under conditions in which the qualified employee had sufficient income to claim the full credit for the taxable year. If the qualified employee is employed or performs services as an independent contractor only on a part-time basis, the employer may claim a credit only up to half of the total that the qualified employee could have claimed had the qualified employee made all payments and earned sufficient income to claim the full credit for the taxable year, but the amount the employer claims must still be based on amounts actually paid.

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

SUMMARY

This bill provides a tax credit to reimburse educational loan payments for a Maine resident who earns an associate degree or a bachelor's degree in Maine and lives, works and pays taxes in Maine after earning that degree. Under an agreement with the State, a Maine resident who obtains an associate degree or a bachelor's degree from an accredited Maine junior college, college or university may take advantage of the credit. A person who qualifies may claim the credit for payments made during each year the person lives and works in Maine. In addition, the qualified person's employer, or, if the qualified person is an independent contractor, the entity contracting with that qualified person, may make the loan payments and claim the credit. The credit is limited to what the person actually pays in loan payments or to the amount that would be necessary to pay for an education in the University of Maine System or Maine Community College System, whichever is less.