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Legislative Document

No. 798

S.P. 70

In Senate, March 5, 2021

An Act To Improve the Educational Opportunity Tax Credit

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator POULIOT of Kennebec.

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

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

4 **4. Educational opportunity tax credit.** "Educational opportunity tax credit" means
5 the tax credit provided for in Title 36, section 5217-D, except that, for tax years beginning
6 on or after January 1, 2022, "educational opportunity tax credit" means the tax credit
7 provided for in Title 36, section 5217-E.

8 **Sec. 2. 20-A MRSA §12541, sub-§8**, as enacted by PL 2013, c. 525, §5, is amended
9 to read:

10 **8. Qualified employee.** "Qualified employee" has the same meaning as in Title 36,
11 section 5217-D, subsection 1, paragraph E, except that, for tax years beginning on or after
12 January 1, 2022, "qualified employee" has the same meaning as in Title 36, section 5217-E,
13 subsection 1, paragraph G.

14 **Sec. 3. 20-A MRSA §12541, sub-§9**, as enacted by PL 2013, c. 525, §6, is amended
15 to read:

16 **9. Qualified individual.** "Qualified individual" has the same meaning as in Title 36,
17 section 5217-D, subsection 1, paragraph G, except that, for tax years beginning on or after
18 January 1, 2022, "qualified individual" has the same meaning as in Title 36, section 5217-E,
19 subsection 1, paragraph H.

20 **Sec. 4. 36 MRSA §199-C, sub-§3**, as amended by PL 2015, c. 328, §2, is further
21 amended to read:

22 **3. Specific tax expenditure review.** By June 1, ~~2021~~ 2024, the committee shall
23 review the income tax credit under ~~section~~ sections 5217-D and 5217-E to determine
24 whether the credit should be retained, repealed or modified. The committee shall consider
25 information provided by the Office of Tax Policy within the bureau and the Department of
26 Education pursuant to Title 20-A, section 12545.

27 **Sec. 5. 36 MRSA §2535**, as enacted by PL 2017, c. 211, Pt. C, §1, is amended to
28 read:

29 **§2535. Credit for educational opportunity**

30 A taxpayer is allowed a credit against the tax otherwise due under this chapter as
31 determined under section 5217-D or 5217-E.

32 **Sec. 6. 36 MRSA §5122, sub-§2, ¶FF**, as amended by PL 2013, c. 525, §14, is
33 further amended to read:

34 FF. To the extent included in federal adjusted gross income, student loan payments
35 made by the taxpayer's employer directly to a lender on behalf of a qualified employee
36 in accordance with section 5217-D or 5217-E, whether or not the employer claims, or
37 could claim, the credit provided by section 5217-D, subsection 5 or section 5217-E,
38 subsection 4;

39 **Sec. 7. 36 MRSA §5122, sub-§2, ¶UU** is enacted to read:

40 UU. To the extent included in federal adjusted gross income, student loan payments
41 made directly to a lender on behalf of the taxpayer by a student loan repayment program

1 funded by a nonprofit foundation and administered by the Finance Authority of Maine
2 for residents of the State employed by a business located in the State.

3 **Sec. 8. 36 MRSA §5217-D, sub-§6** is enacted to read:

4 **6. Application.** Except for the credit allowed with respect to the carry-over of unused
5 credit amounts pursuant to subsection 2, paragraph A, the credit allowed under this section
6 does not apply to tax years beginning on or after January 1, 2022.

7 **Sec. 9. 36 MRSA §5217-E** is enacted to read:

8 **§5217-E. Credit for student loan repayment**

9 For tax years beginning on or after January 1, 2022, a qualified individual or the
10 employer of a qualified employee is allowed a credit for education loan payments as
11 computed under this section against the taxes imposed under this Part.

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

14 A. "Accredited Maine community college, college or university" has the same
15 meaning as in Title 20-A, section 12541, subsection 1.

16 B. "Accredited non-Maine community college, college or university" means an
17 institution located outside the State that is accredited by a regional accrediting
18 association or by one of the specialized accrediting agencies recognized by the United
19 States Secretary of Education.

20 C. "Education loan payment" means a loan payment paid during the taxable year for
21 eligible education loans.

22 D. "Eligible education loan" means a loan obtained by a qualified individual for
23 attendance by that qualified individual at an accredited Maine community college,
24 college or university or accredited non-Maine community college, college or university
25 to obtain an associate, bachelor's or graduate degree. "Eligible education loan"
26 includes a refinanced loan or consolidated loan if the refinanced loan or consolidated
27 loan remains separate from other debt, except for debt incurred in an educational
28 program, but only in proportion to the portion of the education loan payment that is
29 otherwise eligible under this section. "Eligible education loan" does not include a loan
30 obtained from a person related to the qualified individual or from any person by reason
31 of a loan under any qualified employer plan or under a contract referred to in the Code,
32 Section 72(p)(5). For purposes of this paragraph, a person is considered related to the
33 qualified individual if that person meets the criteria listed in the Code, Section 267(b)
34 or Section 707(b)(1). As used in this paragraph, "qualified employer plan" has the
35 same meaning as in the Code, Section 72(p)(4)(A).

36 E. "Employer" has the same meaning as "employing unit" as defined in Title 26,
37 section 1043, subsection 10.

38 F. "Part time," as that term refers to employment, means employment that on average
39 during the taxable year consists of a workweek of at least 16 hours but less than 32
40 hours.

41 G. "Qualified employee" means an employee who is employed at least part time and
42 who is a qualified individual.

1 H. "Qualified individual" means an individual, including the spouse filing a joint return
2 with the individual under section 5221, who is eligible for the credit provided in this
3 section. An individual is eligible for the credit if the individual:

4 (1) Attended and obtained an associate, bachelor's or graduate degree from an
5 accredited Maine community college, college or university or an accredited non-
6 Maine community college, college or university;

7 (2) Was a resident individual for the entire taxable year; and

8 (3) Meets one of the following conditions:

9 (a) The individual worked during the taxable year:

10 (i) At least part time in this State for an employer or as a self-employed
11 individual; or

12 (ii) At least part time in a position on a vessel at sea;

13 (b) The individual was deployed for military service in the United States
14 Armed Forces, including the National Guard and the Reserves of the United
15 States Armed Forces. As used in this division, "deployed for military service"
16 has the same meaning as in Title 26, section 814, subsection 1, paragraph A;
17 or

18 (c) The individual was a spouse of an individual who meets the requirements
19 of either division (a) or division (b).

20 I. "Resident individual" means an individual:

21 (1) Who is domiciled in this State; or

22 (2) Who is not domiciled in this State, but maintains a permanent place of abode
23 in this State and spends in the aggregate more than 183 days of the taxable year in
24 this State, unless the individual is a member of the Armed Forces of the United
25 States.

26 J. "Seasonal employment" has the same meaning as in Title 26, section 1251 and in
27 rules adopted pursuant to that section.

28 K. "Term of employment" includes all months when the individual is actually
29 employed and includes time periods when the individual is on leave or vacation. A
30 term of employment extends to the full year for an individual working for an employer
31 that customarily operates only during a regularly recurring period of 9 months or more
32 during the taxable year. For an individual working for an employer that customarily
33 operates only during a regularly recurring period of less than 9 months during the
34 taxable year, including seasonal employment, a term of employment extends only to
35 months during which the individual is actually working.

36 **2. Credit allowed.** A qualified individual or an employer of a qualified employee is
37 allowed a credit against the tax imposed by this Part in accordance with the provisions of
38 this section. The credit is created to implement the Job Creation Through Educational
39 Opportunity Program established under Title 20-A, chapter 428-C.

40 A. A taxpayer may claim a credit based on education loan payments actually made to
41 a relevant lender or lenders under this section only with respect to education loan
42 payment amounts paid by the taxpayer during that part of the taxable year that the
43 qualified individual worked in this State. Forbearance or deferment of education loan
44 payments does not affect eligibility for the credit under this section. An individual who

1 worked in this State for any part of a month of the taxable year is considered to have
2 worked in this State for the entire month.

3 B. The credit under this section may not reduce the tax otherwise due under this Part
4 to less than zero, except that for an individual eligible to receive a refundable credit
5 under section 5217-D for a tax year beginning prior to 2022, the credit under this
6 section is refundable for tax years beginning before January 1, 2024.

7 C. A taxpayer entitled to a credit for any taxable year may carry over and apply to tax
8 liability for any one or more of the next succeeding 5 years the portion, as reduced from
9 year to year, of any unused credits.

10 **3. Calculation of the credit; qualified individuals.** Subject to subsection 2, the credit
11 with respect to a qualified individual is equal to the lesser of:

12 A. The amount paid on eligible education loans during the taxable year; and

13 B. Fifteen percent of the outstanding eligible education loan debt determined on the
14 date the first education loan payment is made after the degree is earned.

15 **4. Calculation of the credit; employers.** Subject to subsection 2, the credit with
16 respect to a taxpayer that is an employer making education loan payments directly to a
17 lender during the taxable year on behalf of a qualified employee is equal to the lesser of:

18 A. The amount paid by the employer on behalf of the qualified employee on eligible
19 education loans during the taxable year during the term of employment; and

20 B. Twenty percent of the outstanding eligible education loan debt determined on the
21 date of the first education loan payment made after December 31, 2021.

22 If the qualified employee is employed on a part-time basis during the taxable year, the
23 credit with respect to that employee is limited to 50% of the credit otherwise determined
24 under this subsection.

25 **Sec. 10. Application.** Those sections of this Act that amend the Maine Revised
26 Statutes, Title 36, section 5122, subsection 2, paragraph FF and that enact Title 36, section
27 5122, subsection 2, paragraph UU apply to tax years beginning on or after January 1, 2022.

28 **Sec. 11. Appropriations and allocations.** The following appropriations and
29 allocations are made.

30 **FINANCE AUTHORITY OF MAINE**

31 **Educational Opportunity Tax Credit Marketing Fund Z174**

32 Initiative: Provides funds to market the Job Creation Through Educational Opportunity
33 Program throughout the State.

34 GENERAL FUND	2021-22	2022-23
35 All Other	\$75,000	\$75,000
36		
37 GENERAL FUND TOTAL	<u>\$75,000</u>	<u>\$75,000</u>

38

1 **SUMMARY**

2 This bill makes the current income tax credit for educational opportunity inapplicable
3 to tax years beginning on or after January 1, 2022, and creates a new simplified tax credit
4 for student loan repayment applicable to tax years beginning on or after January 1, 2022.
5 It provides that taxpayers who were eligible for a refundable credit under the credit for
6 educational opportunity may continue to receive a refundable credit for tax years beginning
7 before January 1, 2024.

8 1. A qualified individual must be a full-year Maine resident who has obtained an
9 associate, bachelor's or graduate degree from an accredited Maine or non-Maine
10 community college, college or university and who works at least part time in Maine or on
11 a vessel at sea or is deployed for military service in the United States Armed Forces during
12 the taxable year.

13 2. Loans obtained from related persons, such as family members, and certain
14 businesses, trusts and exempt organizations, do not qualify for the credit.

15 3. The credit may not reduce the tax due to less than zero.

16 4. The credit for qualified individuals is the lesser of the amount paid on eligible
17 education loans during the taxable year and 15% of the outstanding eligible education loan
18 debt on the date the first education loan payment is made after a degree is earned.

19 5. The credit for employers is the lesser of the amount paid by an employer on behalf
20 of a qualified employee during the taxable year during the term of employment and 20%
21 of the outstanding eligible education loan debt on the date the first education loan payment
22 is made after December 31, 2021.

23 6. The credit is available to the spouse of an individual eligible for a credit even if the
24 spouse is not employed.

25 7. Income tax deductions are provided for student loan payments made directly to a
26 lender by an employer on behalf of a qualified employee and payments made directly to a
27 lender on behalf of a taxpayer by a student loan repayment program funded by a nonprofit
28 foundation and administered by the Finance Authority of Maine for residents of the State
29 employed by a business located in the State.

30 8. The annual credit may include loan amounts paid in excess of the amount due during
31 a taxable year. Credits in excess of those that may be used during a taxable year may be
32 carried over for the next succeeding 5 years.

33 The bill also provides funds to market the Job Creation Through Educational
34 Opportunity Program.