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Legislative Document

No. 1452

S.P. 554

In Senate, June 30, 2015

An Act To Make Technical Changes to Recently Enacted Legislation

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator McCORMICK of Kennebec.

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

2 **Sec. 1. 20-A MRSA §12545**, as enacted by PL 2011, c. 665, §5, is amended to
3 read:

4 **§12545. Report**

5 By February 1, 2021, each accredited Maine community college, college and
6 university, as defined in section 12541, subsection 1, shall report to the department on
7 efforts to promote ~~and enroll individuals in~~ the program and to train admissions and
8 financial aid staff about the program. By March 1, 2021, the department shall report
9 findings and recommendations regarding the program to the joint standing committee of
10 the Legislature having jurisdiction over education and cultural affairs and the joint
11 standing committee of the Legislature having jurisdiction over taxation matters. By
12 March 1, 2021, the Department of Administrative and Financial Services, Bureau of
13 Revenue Services, Office of Tax Policy shall report on implementation of the educational
14 opportunity tax credit, including statistics on credits claimed, to the joint standing
15 committee of the Legislature having jurisdiction over education and cultural affairs and
16 the joint standing committee of the Legislature having jurisdiction over taxation matters.
17 The Office of Tax Policy, in conjunction with the State Economist and the Department of
18 Labor, shall include in its report an analysis of the costs of the credits claimed and the
19 impact of the program on the State's labor force. After receipt and review of the
20 information required under this section, the joint standing committee of the Legislature
21 having jurisdiction over education and cultural affairs or the joint standing committee of
22 the Legislature having jurisdiction over taxation matters may report out to the Legislature
23 a bill regarding the program.

24 **Sec. 2. 36 MRSA §199-C, sub-§3**, as enacted by PL 2011, c. 665, §6, is amended
25 to read:

26 **3. Specific tax expenditure review.** By June 1, 2021, the committee shall review
27 the income tax credit under section 5217-D to determine whether the credit should be
28 retained, repealed or modified. The committee shall consider information provided by the
29 Office of Tax Policy within the bureau and the Department of Education pursuant to Title
30 20-A, section 12545.

31 **Sec. 3. 36 MRSA §5122, sub-§2, ¶M-1**, as amended by PL 2015, c. 267, Pt. DD,
32 §9, is further amended to read:

33 M-1. For tax years beginning on or after January 1, 2014 but before January 1, 2016,
34 for each individual who is a primary recipient of retirement plan benefits under an
35 employee retirement plan or an individual retirement account, an amount that is the
36 lesser of the aggregate of retirement plan benefits under employee retirement plans or
37 individual retirement accounts included in the individual's federal adjusted gross
38 income and the pension deduction amount reduced by the total amount of the
39 individual's social security benefits and railroad retirement benefits paid by the
40 United States, but not less than \$0.

41 For purposes of this paragraph, the following terms have the following meanings.

- 1 (1) "Employee retirement plan" means a state or federal retirement plan or any
2 other retirement benefit plan established and maintained by an employer for the
3 benefit of its employees under the Code, Section 401(a), Section 403 or Section
4 457(b), except that distributions made pursuant to a Section 457(b) plan are not
5 eligible for the deduction provided by this paragraph if they are made prior to age
6 55 and are not part of a series of substantially equal periodic payments made for
7 the life of the primary recipient or the joint lives of the primary recipient and that
8 recipient's designated beneficiary. "Employee retirement plan" does not include
9 a military retirement plan or survivor benefits under such a plan.
- 10 (2) "Individual retirement account" means an individual retirement account
11 under Section 408 of the Code, a Roth IRA under Section 408A of the Code, a
12 simplified employee pension under Section 408(k) of the Code or a simple
13 retirement account for employees under Section 408(p) of the Code.
- 14 (3) "Military retirement plan" means retirement plan benefits received as a result
15 of service in the active or reserve components of the Army, Navy, Air Force,
16 Marines or Coast Guard.
- 17 (4) "Pension deduction amount" means \$10,000 for tax years beginning on or
18 after January 1, 2014.
- 19 (5) "Primary recipient" means the individual upon whose earnings or
20 contributions the retirement plan benefits are based or the surviving spouse of
21 that individual.
- 22 (6) "Retirement plan benefits" means employee retirement plan benefits, except
23 pick-up contributions for which a subtraction is allowed under paragraph E,
24 reported as pension or annuity income for federal income tax purposes and
25 individual retirement account benefits reported as individual retirement account
26 distributions for federal income tax purposes. "Retirement plan benefits" does
27 not include distributions that are subject to the tax imposed by the Code, Section
28 72(t);

29 **Sec. 4. 36 MRSA §5213-A, sub-§1, ¶A**, as enacted by PL 2015, c. 267, Pt. DD,
30 §19, is amended to read:

31 A. "Base credit" means:

- 32 (1) For an individual income tax return claiming one personal exemption, \$100
33 for tax years beginning in 2016 and \$125 for tax years beginning on or after
34 January 1, 2017;
- 35 (2) For an individual income tax return claiming 2 personal exemptions, \$140 for
36 tax years beginning in 2016 and \$175 for tax years beginning on or after January
37 1, 2017;
- 38 (3) For an individual income tax return claiming 3 personal exemptions, \$160 for
39 tax years beginning in 2016 and \$200 for tax years beginning on or after January
40 1, 2017; and

1 (4) For an individual income tax return claiming 4 or more personal exemptions,
2 \$180 for tax years beginning in 2016 and \$225 for tax years beginning on or after
3 January 1, 2017.

4 For the purposes of this paragraph, personal exemption does not include a personal
5 exemption for an individual who is incarcerated.

6 **Sec. 5. 36 MRSA §5217-D, sub-§1, ¶B-1**, as amended by PL 2015, c. 267, Pt.
7 QQQ, §2, is further amended to read:

8 B-1. "Financial aid package" means financial aid obtained by a student after
9 December 31, 2007 for attendance at an accredited Maine community college,
10 college or university after December 31, 2007. For purposes of a qualified individual
11 claiming a credit under this section for tax years beginning on or after January 1,
12 2013, the financial aid package may include financial aid obtained for up to 30 credit
13 hours of course work at an accredited non-Maine community college, college or
14 university earned prior to transfer to an accredited Maine community college, college
15 or university, if the 30 credit hours were earned after December 31, 2007 and the
16 transfer occurred after December 31, 2012. For purposes of a qualified individual
17 claiming a credit under this section for tax years beginning on or after January 1,
18 2016, who is eligible for a credit under paragraph G, subparagraph (1), division (b),
19 the financial aid package may include financial aid obtained by a student for
20 attendance at an accredited non-Maine community college, college or university after
21 December 31, 2007. For purposes of a qualified individual claiming a credit under
22 this section for tax years beginning on or after January 1, 2016, who is eligible for a
23 credit under paragraph G, subparagraph (1), division (c), the financial aid package
24 may include financial aid obtained by a student for attendance at an accredited Maine
25 college or university after December 31, 2007. For purposes of an employer claiming
26 a credit under this section for tax years beginning on or after January 1, 2013, the
27 financial aid package may include financial aid obtained by a qualified employee
28 after December 31, 2007 for attendance at an accredited non-Maine community
29 college, college or university after December 31, 2007. The financial aid package
30 may include private loans or less than the full amount of loans under federal
31 programs, depending on the practices of the accredited Maine or non-Maine
32 community college, college or university. Loans are includable in the financial aid
33 package only if entered into prior to July 1, 2023.

34 **Sec. 6. 36 MRSA §5217-D, sub-§1, ¶G**, as amended by PL 2015, c. 267, Pt.
35 QQQ, §3, is further amended to read:

36 G. "Qualified individual" means an individual, including the spouse filing a joint
37 return with the individual under section 5221, who is eligible for the credit provided
38 in this section. An individual is eligible for the credit if the individual:

39 (1) Attended and obtained:

40 (a) An associate or bachelor's degree from an accredited Maine community
41 college, college or university after December 31, 2007 but before January 1,
42 2016. The individual need not obtain the degree from the institution in which
43 that individual originally enrolled as long as all course work toward the

1 degree is performed at an accredited Maine community college, college or
2 university, except that an individual who transfers to an accredited Maine
3 community college, college or university after December 31, 2012 but before
4 January 1, 2016 from outside the State and earned no more than 30 credit
5 hours of course work toward the degree at an accredited non-Maine
6 community college, college or university after December 31, 2007 and prior
7 to the transfer is eligible for the credit if all other eligibility criteria are met.
8 Program eligibility for such an individual must be determined as if the
9 commencement of course work at the relevant accredited Maine community
10 college, college or university was the commencement of course work for the
11 degree program as a whole;

12 (b) An associate or bachelor's degree from an accredited Maine or non-
13 Maine community college, college or university after December 31, ~~2007~~
14 2015; or

15 (c) A graduate degree from an accredited Maine college or university after
16 December 31, ~~2007~~ 2015;

17 (4) During the taxable year, was a resident individual; and

18 (5) Worked during the taxable year:

19 (a) For tax years beginning prior to January 1, 2015, at least part time for an
20 employer located in this State or, for tax years beginning on or after January
21 1, 2013, was, during the taxable year, deployed for military service in the
22 United States Armed Forces, including the National Guard and the Reserves
23 of the United States Armed Forces; or

24 (b) For tax years beginning on or after January 1, 2015, at least part time in
25 this State for an employer or as a self-employed individual or was, during the
26 taxable year, deployed for military service in the United States Armed
27 Forces, including the National Guard and the Reserves of the United States
28 Armed Forces.

29 As used in this subparagraph, "deployed for military service" has the same
30 meaning as in Title 26, section 814, subsection 1, paragraph A.

31 **Sec. 7. 36 MRSA §5217-D, sub-§3**, as amended by PL 2013, c. 525, §15, is
32 further amended to read:

33 **3. Calculation of the credit; qualified individuals.** Subject to subsection 2 and
34 except as provided in this subsection, the credit with respect to a qualified individual is
35 equal to the amount determined under paragraph A or paragraph B, whichever is less,
36 multiplied by the proration factor:

37 A. The benchmark loan payment multiplied by the number of months during the
38 taxable year in which the taxpayer made loan payments; or

39 B. The monthly loan payment amount multiplied by the number of months during
40 the taxable year in which the taxpayer made loan payments.

1 The credit under this subsection for ~~an individual~~ a qualified individual under subsection
2 1, paragraph G, subparagraph (1), division (a) who transferred to an accredited Maine
3 community college, college or university from an accredited non-Maine community
4 college, college or university after December 31, 2012 but before January 1, 2016 and
5 who earned no more than 30 credit hours of course work toward the degree at an
6 accredited non-Maine community college, college or university is equal to 50% of the
7 amount otherwise determined under this section in the case of an associate degree and
8 equal to 75% of the amount otherwise determined under this section in the case of a
9 bachelor's degree.

10 Notwithstanding subsection 2, paragraph C, the credit under this subsection is refundable
11 to the extent the credit is based on loans included in the financial aid package acquired to
12 obtain a bachelor's degree or associate degree in science, technology, engineering or
13 mathematics. For tax years beginning on or after January 1, 2016, the credit under this
14 subsection is refundable to the extent the credit is based on loans included in the financial
15 aid package acquired to obtain an associate degree.

16 For purposes of this subsection, the proration factor is the amount derived by dividing the
17 total number of academic credit hours earned for a bachelor's or associate degree after
18 December 31, 2007 by the total number of academic credit hours earned for the
19 bachelor's or associate degree.

20 **Sec. 8. 36 MRSA §5219-S, sub-§4**, as amended by PL 2015, c. 267, Pt. DD, §31,
21 is further amended to read:

22 **4. Limitation.** The credit allowed by this section may not reduce the Maine income
23 tax to less than zero, except that for tax years beginning on or after January 1, 2016, the
24 credit allowed under subsections 1 and 3 is refundable.

25 **Sec. 9. Appropriations and allocations.** The following appropriations and
26 allocations are made.

27 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

28 **Homestead Property Tax Exemption Reimbursement 0886**

29 Initiative: Deappropriates funds no longer needed for the Homestead Property Tax
30 Exemption Reimbursement program as a result of changes made in the 2016-2017
31 biennial budget.

32

33	GENERAL FUND	2015-16	2016-17
34	All Other	\$0	(\$27,975,000)
35			
36	GENERAL FUND TOTAL	<hr/>	<hr/>
		\$0	(\$27,975,000)

37 **Revenue Services, Bureau of 0002**

38 Initiative: Provides funding for one Tax Examiner position effective January 1, 2017 and
39 related All Other costs to review and process additional claims for the educational
40 opportunity tax credit.

1			
2	GENERAL FUND	2015-16	2016-17
3	POSITIONS - LEGISLATIVE COUNT	0.000	1.000
4	Personal Services	\$0	\$36,005
5	All Other	\$0	\$3,895
6			
7	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$39,900</u>
8			
9	ADMINISTRATIVE AND FINANCIAL		
10	SERVICES, DEPARTMENT OF		
11	DEPARTMENT TOTALS	2015-16	2016-17
12			
13	GENERAL FUND	\$0	(\$27,935,100)
14			
15	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>(\$27,935,100)</u>
16	ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF		
17	Office of Tourism 0577		
18	Initiative: Deallocates funds no longer needed as a result of changes made in the 2016-		
19	2017 biennial budget.		
20			
21	OTHER SPECIAL REVENUE FUNDS	2015-16	2016-17
22	All Other	\$0	(\$1,710,535)
23			
24	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>(\$1,710,535)</u>
25			
26	ECONOMIC AND COMMUNITY		
27	DEVELOPMENT, DEPARTMENT OF		
28	DEPARTMENT TOTALS	2015-16	2016-17
29			
30	OTHER SPECIAL REVENUE FUNDS	\$0	(\$1,710,535)
31			
32	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>(\$1,710,535)</u>
33			
34	SECTION TOTALS	2015-16	2016-17
35			
36	GENERAL FUND	\$0	(\$27,935,100)
37	OTHER SPECIAL REVENUE FUNDS	\$0	(\$1,710,535)
38			
39	SECTION TOTAL - ALL FUNDS	<u>\$0</u>	<u>(\$29,645,635)</u>

1

SUMMARY

2 This bill adds language to income tax changes in Public Law 2015, chapter 267 to
3 include language that was inadvertently omitted in an earlier amendment. The bill
4 updates language to reflect changes to the income tax exemption for pensions, includes
5 the correct amounts for 2016 tax years for the base credit under the sales tax fairness
6 credit and provides that the refundability of the earned income tax credit applies only to
7 residents and part-year residents of the State.

8 This bill also amends the laws governing the Job Creation Through Educational
9 Opportunity Program as follows.

10 1. Current law requires that, by March 1, 2021, the Department of Administrative
11 and Financial Services, Bureau of Revenue Services report on implementation of the
12 educational opportunity tax credit. This amendment requires that this report include an
13 analysis of the costs of the credits claimed and the impact of the program on job creation
14 in the State.

15 2. It restores language that was removed by Public Law 2015, chapter 267 providing
16 that, for a qualified individual claiming a credit for tax years beginning on or after
17 January 1, 2013, the financial aid package may include financial aid obtained for up to 30
18 credit hours of course work at an accredited non-Maine community college, college or
19 university earned prior to transfer to an accredited Maine community college, college or
20 university, if the 30 credit hours were earned after December 31, 2007 and the transfer
21 occurred after December 31, 2012.

22 3. It provides that a qualified individual may claim a credit if the individual received
23 an associate or bachelor's degree from an accredited non-Maine community college,
24 college or university after December 31, 2015, rather than after December 31, 2007.

25 4. It provides that a qualified individual may claim a credit if the individual received
26 a graduate degree from an accredited Maine college or university after December 31,
27 2015, rather than after December 31, 2007.

28 5. It provides that the credit under the Job Creation Through Educational
29 Opportunity Program is refundable to the extent the credit is based on loans included in
30 the financial aid package acquired to obtain an associate degree.