

# 130th MAINE LEGISLATURE

# **FIRST SPECIAL SESSION-2021**

**Legislative Document** 

No. 1667

H.P. 1238

House of Representatives, May 5, 2021

An Act To Create a Tax Credit for Maine Workers Who Have Earned Certificates from Accredited Institutions

Received by the Clerk of the House on May 3, 2021. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

ROBERT B. HUNT

Presented by Representative SHEEHAN of Biddeford.

Cosponsored by Representatives: FAY of Raymond, Speaker FECTEAU of Biddeford, TERRY of Gorham.

Sec. 1. 20-A MRSA c. 441 is enacted to read:
CHAPTER 441
EDUCATIONAL CERTIFICATE TAX CREDIT PROGRAM
§12941. Definitions
As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.
1. Accredited Maine community college, college or university. "Accredited Maine community college, college or university" means an institution that is accredited by a regional accrediting association or by one of the specialized accrediting agencies recognized by the United States Secretary of Education and is:
A. Any campus of the Maine Community College System;
B. Any campus of the University of Maine System;
C. The Maine Maritime Academy;
D. Any educational institution that is located in this State and has authorization to confer an associate degree or a bachelor's degree, in accordance with sections 10704 and 10704-A;
E. Any educational institution that is located in this State and is exempted from chapter 409 under section 10708, subsections 1 and 2; and
F. Any educational institution that is located in this State and is operating under a certificate of temporary approval from the state board under section 10703, to the extent that a student is ultimately able either to obtain an associate or a bachelor's degree at that institution or to transfer to and obtain a degree from an institution described in paragraphs A to E.
2. Accredited non-Maine community college, college or university. "Accredited non-Maine community college, college or university" means an institution located outside the State that is accredited by a regional accrediting association or by one of the specialized accrediting agencies recognized by the United States Secretary of Education.
3. Certificate. "Certificate" means a postsecondary credential other than a degree denoting the successful completion of a course of study required for an occupation or to enter or to advance in an occupation.
<b>4. Educational certificate tax credit.</b> "Educational certificate tax credit" means the tax credit provided for in Title 36, section 5217-E.
5. Educational institution. "Educational institution" has the same meaning as in section 10701, subsection 3.
6. Financial aid package. "Financial aid package" means financial aid obtained by a student for attendance at an accredited Maine community college, college or university. For an employer claiming a tax credit under this chapter, "financial aid package" includes

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

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- financial aid obtained by a qualified employee for attendance at an accredited non-Maine community college, college or university. "Financial aid package" includes private loans or less than the full amount of loans under federal programs, depending on the practices of the accredited Maine community college, college or university or non-Maine community college, college or university.
- 7. Maine resident. "Maine resident" means an individual who qualifies for Maine residence under Title 21-A, section 112. An individual is a Maine resident if, at the time the individual commences the relevant certificate program, the individual is registered to vote in the State or occupies a dwelling in the State and continues to occupy a dwelling in the State during the school year, except periods when it is reasonably necessary for the individual to live elsewhere as part of an accredited Maine community college, college or university's academic programs.
- 8. Qualified employee. "Qualified employee" has the same meaning as in Title 36, section 5217-E, subsection 1, paragraph J.
- 9. Qualified individual. "Qualified individual" has the same meaning as in Title 36, section 5217-E, subsection 1, paragraph K.

## §12942. Program created

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- 1. Program created; goals. The Educational Certificate Tax Credit Program, referred to in this chapter as "the program," is created to provide a tax credit to Maine residents who obtain a certificate and live, work and pay taxes in this State thereafter. The program is designed to achieve the following goals:
  - A. Promote economic opportunity for people in this State by ensuring access to the training and higher education that higher-paying jobs require:
- 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.** Administration. The program must be administered as described in this subsection.
- 32 A. The department, in consultation with the State Tax Assessor, shall make information 33 about the program available on the department's publicly accessible website. The 34 department shall refer any questions regarding the program to the relevant accredited 35 Maine community college, college or university's financial aid office. The assessor shall provide to an accredited Maine community college, college or university 36 37 information that is necessary to document a student's eligibility for the educational 38 certificate tax credit.
- 39 B. A Maine resident who enrolls in an accredited Maine community college, college 40 or university who receives financial aid in the form of loans may participate in the 41 program. An accredited Maine community college, college or university shall, at a 42
- minimum, provide information about the program in financial aid award materials,

entrance interviews, exit interviews, materials listing financial aid resources and, as appropriate, any promotional materials provided by state agencies, to the extent such contacts with students are already part of the accredited Maine community college, college or university's procedures.

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C. An accredited Maine community college, college or university shall document for the student information required for purposes of the educational certificate tax credit, including, once the student has earned the certificate, the total principal of loans the student received as part of that student's financial aid package related to certificate course work completed at the accredited Maine community college, college or university. The accredited Maine community college, college or university shall provide an original or certified copy to the student and shall retain a copy of the documentation in its files for at least 10 years after the student graduates.

- 3. Effective date; participation by individual already enrolled in certificate program. The program must commence for the first semester that begins after the effective date of this chapter. A Maine resident who when the program commences is enrolled in a certificate program at an accredited Maine community college, college or university may participate, subject to the same essential terms as other program participants.
- 4. Promotion by state agencies. The department, the Finance Authority of Maine, the Department of Economic and Community Development and any other agency engaging in education-related outreach shall integrate promotion of the program with other educational outreach efforts to the extent possible in a manner consistent with the scope of the program and its centrality to the State's efforts to raise the levels of educational attainment of Maine residents.
  - A. The department shall notify superintendents about the program annually and encourage the superintendents to publicize the availability of the program among students, parents and school staff.
  - B. The Department of Labor shall require that publicly funded workforce development programs, including state and local workforce boards and the Competitive Skills Scholarship Program established in Title 26, section 2033, include within their plans and programs efforts to promote and increase awareness of the program.
- 5. Promotion by institutions. Public higher education institutions identified in section 12591, subsection 1, paragraphs A to C shall make reasonable efforts to inform students about the program.
- 6. Publicity. To assist institutions of higher education to promote the program, the Finance Authority of Maine shall contract with a private nonprofit corporation in the amount of at least \$20,000 annually to market the program throughout the State, targeting high schools, postsecondary educational institutions and organizations of parents, teachers and other relevant audiences. Marketing efforts must include printed materials, online information and in-person promotional efforts.

#### §12943. 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 certificate tax credit serve as justification to decrease other funds appropriated or allocated to accredited Maine community colleges,

1 2	and the University of Maine System, or to other higher education programs.
3	Sec. 2. 36 MRSA §5217-E is enacted to read:
4	§5217-E. Credit for educational certificate
5 6	1. <b>Definitions.</b> As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
7 8	A. "Accredited Maine community college, college or university" has the same meaning as in Title 20 A, section 12941, subsection 1
9 10	B. "Accredited non-Maine community college, college or university" has the same meaning as in Title 20-A, section 12941, subsection 2.
11 12 13 14 15 16	C. "Benchmark loan payment" means the monthly loan payment for the amount of the principal cap paid over 10 years at the interest rate for federally subsidized Stafford loans under 20 United States Code, Section 1077a applicable during the year of the individual's enrollment in a certificate program at an accredited Maine community college, college or university or an accredited non-Maine community college, college or university under paragraph K, subparagraph (1).
17 18	D. "Certificate" has the same meaning as in Title 20-A, section 12941, subsection 3.  E. "Employer" has the same meaning as the term "employing unit," as defined in Title
19 20 21	26, section 1043, subsection 10.  F. "Financial aid package" has the same meaning as in Title 20-A, section 12941, subsection 6.
22 23	G. "Full time" with regard to employment means employment with a normal workweek of 32 hours or more.
24 25	H. "Part time" with regard to employment means employment with a normal workweek of between 16 and 32 hours.
26 27 28 29	I. "Principal cap" means the average in-state tuition and mandatory fees for attendance at an accredited Maine community college, college or university for the academic year ending during the calendar year prior to the year of completion of the certificate program.
30 31 32 33	J. "Qualified employee" means an employee who is employed at least part time and who is a qualified individual or who would be a qualified individual except that the employee's certificate was awarded by an accredited non-Maine community college, college or university.
34 35 36	K. "Qualified individual" means an individual, including the spouse filing a joint return with the individual under section 5221, who is eligible for the credit provided in this section. An individual is eligible for the credit if the individual:
37 38 39	(1) Attended and obtained a certificate from an accredited Maine community college, college or university or non-Maine community college, college or university after December 1, 2021;
40	(2) During the taxable year, was a resident individual; and
41	(3) Worked during the taxable year:

- (a) At least part time in this State for an employer or as a self-employed individual or was, during the taxable year, deployed for military service in the United States Armed Forces, including the National Guard and the Reserves of the United States Armed Forces; or
  - (b) At least part time in a position on a vessel at sea.

As used in this subparagraph, "deployed for military service" means active military duty with the state military forces, as defined in Title 37-B, section 102, or the United States Armed Forces, including the National Guard and the Reserves of the United States Armed Forces, whether pursuant to orders of the Governor or the President of the United States.

### L. "Resident individual" means someone:

- (1) Who is domiciled in this State; or
- (2) Who is not domiciled in this State, but maintains a permanent place of abode in this State and spends in the aggregate more than 183 days of the taxable year in this State, unless the individual is a member of the Armed Forces of the United States.
- M. "Seasonal employment" has the same meaning as in Title 26, section 1251.
- N. "Term of employment" includes all months when the individual is actually employed. "Term of employment" includes time periods when an individual is on leave or vacation and 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 months during which the individual is actually working.
- 2. Credit allowed. For tax years beginning on or after January 1, 2022, a qualified individual or an employer of a qualified employee is allowed a credit against the tax imposed by this Part in accordance with the provisions of this section. The credit is created to implement the Educational Certificate Tax Credit Program established under Title 20-A, chapter 441.
  - A. A taxpayer entitled to the credit under this section 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.
  - B. A taxpayer may claim a credit based on a loan payment actually made to a relevant lender or lenders under this section only with respect to a loan that is part of the qualified individual's financial aid package and only with respect to the loan payment amount paid by the taxpayer during that part of the taxable year that the qualified individual worked in this State. Payment of a loan amount in excess of the amount due during the taxable year does not qualify for the credit. A refinanced loan or consolidated loan that is part of the qualified individual's financial aid package is eligible for the credit under this section if the refinanced loan or consolidated loan remains separate from other debt, except for debt incurred in an educational program, but only in proportion to the portion of the loan payments that are otherwise eligible under this section. Forbearance or deferment of a loan payment does not affect

eligibility for the credit under this section. An individual who worked in this State for any part of a month during the Maine residency period of the taxable year is considered to have worked in this State for the entire month. An individual who worked outside this State for an entire month during the Maine residency period is considered to have worked in this State during that month, except that this exception may not exceed 3 months during the Maine residency period of the taxable year.

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- C. Except as provided in subsection 3, the credit under this section may not reduce the tax otherwise due under this Part to less than zero.
- 3. Calculation of the credit; qualified individuals. Subject to subsection 2 and except as provided in this subsection, the credit with respect to a qualified individual is equal to the lesser of:
  - A. The benchmark loan payment multiplied by the number of months during the taxable year in which the taxpayer made loan payments; and
  - B. The monthly loan payment amount multiplied by the number of months during the taxable year in which the taxpayer made loan payments.

The credit under this subsection is refundable to the extent the credit is based on loans included in the financial aid package acquired to obtain a certificate.

4. Calculation of the credit; employers. Subject to subsection 2, a taxpayer constituting an employer making loan payments directly to a lender during the taxable year on loans included in a qualified employee's financial aid package may claim a credit equal to the actual monthly loan payment made by the employer on the loans multiplied by the number of months during the taxable year the employer made loan payments on behalf of the qualified employee during the term of employment. The credit under this subsection may not be claimed with respect to months of the taxable year during which the employee was not a qualified employee.

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

Sec. 3. Report. By February 1, 2023, each accredited Maine community college, college or university, as defined in the Maine Revised Statutes, Title 20-A, section 12941, subsection 1, shall report to the Department of Education on efforts to promote the Educational Certificate Tax Credit Program under Title 20-A, section 12942, and to train admissions and financial aid staff about the program. By March 1, 2023, the department shall report findings and recommendations regarding the program to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and the joint standing committee of the Legislature having jurisdiction over taxation matters. By March 1, 2023, the Department of Administrative and Financial Services, Bureau of Revenue Services, Office of Tax Policy shall report on implementation of the educational certificate tax credit under Title 36, section 5217-E, including statistics on credits claimed, to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and the joint standing committee of the Legislature having jurisdiction over taxation matters. The Office of Tax Policy, in conjunction with the State Economist and the Department of Labor, shall include in its report an analysis of the costs of the credits claimed and the impact of the program on the State's labor force. After receipt and review

of the information required under this section, the joint standing committee of the Legislature having jurisdiction over education and cultural affairs or the joint standing committee of the Legislature having jurisdiction over taxation matters may report out to the Legislature a bill regarding the program.

5 SUMMARY

 This bill creates the Educational Certificate Tax Credit Program, modeled on the Job Creation Through Educational Opportunity Program, for workers who receive a certificate from an accredited postsecondary educational institution denoting completion of a course of study required for an occupation or to enter or advance in an occupation.