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An Act To Improve the Educational Opportunity Tax Credit

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

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

4. Educational opportunity tax credit. "Educational opportunity tax credit" means the tax credit provided for in Title 36, section 5217-D, except that, for tax years beginning on or after January 1, 2020, "educational opportunity tax credit" means the tax credit provided for in Title 36, section 5217-E.

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

8. Qualified employee. "Qualified employee" has the same meaning as in Title 36, section 5217-D, subsection 1, paragraph E, except that, for tax years beginning on or after January 1, 2020, "qualified employee" has the same meaning as in Title 36, section 5217-E, subsection 1, paragraph G.

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

9. Qualified individual. "Qualified individual" has the same meaning as in Title 36, section 5217-D, subsection 1, paragraph G, except that, for tax years beginning on or after January 1, 2020, "qualified individual" has the same meaning as in Title 36, section 5217-E, subsection 1, paragraph H.

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

3. Specific tax expenditure review. By June 1, ~~2021~~2022, the committee shall review the income tax credit under ~~section~~sections 5217-D and 5217-E to determine whether the credit should be retained, repealed or modified. The committee shall consider information provided by the Office of Tax Policy within the bureau and the Department of Education pursuant to Title 20-A, section 12545.

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

§ 2535. Credit for educational opportunity

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

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

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

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

QQ. To the extent included in federal adjusted gross income, student loan payments made directly to a lender on behalf of the taxpayer by a student loan repayment program funded by a nonprofit foundation and administered by the Finance Authority of Maine for residents of the State employed by a business located in the State.

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

6. Application. Except for the credit allowed with respect to the carry-over of unused credit amounts pursuant to subsection 2, paragraph A, the credit allowed under this section does not apply to tax years beginning on or after January 1, 2020.

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

§ 5217-E. Credit for student loan repayment

For tax years beginning on or after January 1, 2020, a qualified individual or the employer of a qualified employee is allowed a credit for education loan payments as computed under this section against the taxes imposed under this Part.

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

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

B. "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.

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

D. "Eligible education loan" means a loan obtained by a qualified individual for attendance by that qualified individual at an accredited Maine community college, college or university or accredited non-Maine community college, college or university to obtain an associate, bachelor's or graduate degree after 2007. "Eligible education loan" includes a refinanced loan or consolidated loan 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 education loan payment that is otherwise eligible under this section. "Eligible education loan" does not include a loan obtained from a person related to the qualified individual or from any person by reason of a loan under any qualified employer plan or under a contract referred to in the Code, Section 72(p)(5). For purposes of this paragraph, a person is considered related to the qualified individual if that person meets the criteria listed in the Code, Section 267(b) or Section 707(b)(1). As used in this paragraph, "qualified employer plan" has the same meaning as in the Code, Section 72(p)(4)(A).

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

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

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

H. "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:

(1) Attended and obtained an associate, bachelor's or graduate degree from an accredited Maine community college, college or university or an accredited non-Maine community college, college or university after 2007;

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

(3) Meets one of the following conditions:

(a) The individual worked during the taxable year:

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

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

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

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

I. "Resident individual" means an individual:

(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.

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

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

2. Credit allowed. 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 Job Creation Through Educational Opportunity Program established under Title 20-A, chapter 428-C.

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

B. The credit under this section may not reduce the tax otherwise due under this Part to less than zero.

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

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

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

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

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

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

B. Twenty percent of the outstanding eligible education loan debt determined on the date of the first education loan payment made after December 31, 2019.

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. 10. Application. Those sections of this Act that amend the Maine Revised Statutes, Title 36, section 5122, subsection 2, paragraph FF and that enact Title 36, section 5122, subsection 2, paragraph QQ apply to tax years beginning on or after January 1, 2020.

Sec. 11. Appropriations and allocations. The following appropriations and allocations are made.

FINANCE AUTHORITY OF MAINE

Educational Opportunity Tax Credit Marketing Fund N158

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

GENERAL FUND	2019-20	2020-21
All Other	\$50,000	\$50,000
GENERAL FUND TOTAL	\$50,000	\$50,000

SUMMARY

This bill makes the current income tax credit for educational opportunity inapplicable to tax years beginning on or after January 1, 2020, and creates a new simplified tax credit for student loan repayment applicable to tax years beginning on or after January 1, 2020.

1. A qualified individual must be a full-year Maine resident who has obtained an associate, bachelor's or graduate degree from an accredited Maine or non-Maine community college, college or university after 2007 and who works at least part time in Maine or on a vessel at sea or is deployed for military service in the United States Armed Forces during the taxable year.

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

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

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

5. The credit for employers is the lesser of the amount paid by an employer on behalf of a qualified employee during the taxable year during the term of employment and 20% of the outstanding eligible education loan debt on the date the first education loan payment is made after December 31, 2019.

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

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

8. The annual credit may include loan amounts paid in excess of the amount due during a taxable year. The amendment also provides that credits in excess of those that may be used during a taxable year may be carried over for the next succeeding 5 years.