

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWELVE

H.P. 632 - L.D. 835

**An Act To Strengthen Maine's Economy through Improvements to 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-§1-A is enacted to read:

1-A. 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.

Sec. 2. 20-A MRSA §12542, sub-§3, ¶B, as amended by PL 2009, c. 553, Pt. A, §10, is further amended to read:

B. An individual must attend and obtain an associate degree or a bachelor's degree from an accredited Maine community 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 community colleges, colleges or universities. Beginning January 1, 2013, an individual who transfers to an accredited Maine community college, college or university after completing the equivalent of up to 30 credit hours of course work toward a degree at an accredited non-Maine community college, college or university is eligible for a portion of the benefits that would have been available under the program had the individual performed all course work at an accredited Maine community college, college or university. Such an individual is eligible for 1/2 of the educational opportunity tax credit in the case of obtaining an associate degree and 3/4 of the educational opportunity tax credit in the case of obtaining a bachelor's degree. Program eligibility for such an individual must be determined as if the commencement of course work at the relevant accredited Maine community college, college or university was the commencement of course work for the degree program as a whole;

Sec. 3. 20-A MRSA §12542, sub-§3, ¶C, as amended by PL 2009, c. 553, Pt. A, §10, is further amended to read:

C. An individual must live in this State while pursuing the degree, excepting periods when it is reasonably necessary for the individual to live elsewhere as part of the relevant institution's academic programs or while pursuing course work at an accredited non-Maine community college, college or university as provided in paragraph B. The individual must also agree to live in this State after obtaining the degree during any period when that individual seeks to take advantage of the educational opportunity tax credit; and

Sec. 4. 20-A MRSA §12542, sub-§3-A, ¶A, as enacted by PL 2009, c. 553, Pt. A, §11, is amended to read:

A. The individual may 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~~ are entered into before July 1, 2023.

Sec. 5. 20-A MRSA §12545 is enacted to read:

§12545. Report

By February 1, 2021, each accredited Maine community college, college and university, as defined in section 12541, subsection 1, shall report to the department on efforts to promote and enroll individuals in the program and to train admissions and financial aid staff about the program. By March 1, 2021, 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, 2021, the Department of Administrative and Financial Services, Bureau of Revenue Services shall report on implementation of the educational opportunity tax credit, 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.

Sec. 6. 36 MRSA §199-C, sub-§3 is enacted to read:

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

Sec. 7. 36 MRSA §5217-D, sub-§1, ¶A-1 is enacted to read:

A-1. "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.

Sec. 8. 36 MRSA §5217-D, sub-§1, ¶E, as enacted by PL 2007, c. 469, Pt. B, §1, is amended to read:

E. "Qualified employee" means an employee who is eligible for the credit provided in this section and who is employed at least part time and who is eligible for the credit provided in this section or who would be eligible for the credit in this section by meeting all the criteria established under Title 20-A, section 12542 except that the employee's associate or bachelor's degree was awarded by an accredited non-Maine community college, college or university.

Sec. 9. 36 MRSA §5217-D, sub-§1, ¶H, as enacted by PL 2007, c. 469, Pt. B, §1, is repealed and the following enacted in its place:

H. "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.

Sec. 10. 36 MRSA §5217-D, sub-§2, as enacted by PL 2007, c. 469, Pt. B, §1, is repealed and the following enacted in its place:

2. Credit allowed. A taxpayer constituting 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.

A. 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.

B. More than one taxpayer may claim a credit based on loan payments actually made to a relevant lender or lenders to benefit a single opportunity program participant, but no 2 taxpayers may claim the credit based on the same payment.

C. Except as provided in paragraph D, the credit may not reduce the tax otherwise due under this Part to less than zero. The credit allowed to an employer of a qualified employee may not reduce the tax otherwise due under this Part to less than zero.

D. Notwithstanding paragraph C, the credit allowed to an opportunity program participant is refundable if the opportunity program participant obtains an associate degree or bachelor's degree in science, technology, engineering or mathematics.

Sec. 11. 36 MRSA §5217-D, sub-§4, as enacted by PL 2007, c. 469, Pt. B, §1, is amended to read:

4. Conditions for an opportunity program participant claiming the 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 or 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 subsection, "deployed for military service" has the same meaning as in Title 26, section 814, subsection 1, paragraph A. 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.

Sec. 12. 36 MRS §5217-D, sub-§5, as amended by PL 2009, c. 434, §78, is further amended to read:

5. Conditions for an employer claiming the credit. A taxpayer constituting an employer may claim the credit under this section under the following circumstances. The employer may undertake to make partial or full loan payments directly to the relevant lender or lenders on behalf of a qualified employee, having taken reasonable steps to ascertain that the employee 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. To receive the credit, the employer must 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 where the qualified employee had sufficient income to claim the full credit for the taxable year. If the qualified employee is employed 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 is not disqualified under this section if the qualified employee is not eligible to claim the credit solely because the employee's associate degree or bachelor's degree was awarded by an accredited non-Maine community college, college or university.

Sec. 13. Application. The portions of this Act that amend the Maine Revised Statutes, Title 36, section 5217-D apply to tax years beginning on or after January 1, 2013.

In House of Representatives, 2012

Read twice and passed to be enacted.

..... Speaker

In Senate, 2012

Read twice and passed to be enacted.

..... President

Approved 2012

..... Governor