

Job Creation Through Educational Opportunity

This Act creates a program to reimburse education costs for residents who obtain an associate degree or a bachelor's degree in the state, and live, work and pay taxes in the state thereafter.

Submitted as:

Maine

[Chapter 428-C of 2007](#)

Status: Enacted into law in 2007.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act to Encourage Job Creation
2 Through Educational Opportunity.”

3
4 Section 2. [*Definitions.*] As used in this Act:

5 1. “Accredited junior college, college or university” means:

6 A. any campus of the [state community college system];

7 B. any campus of the [state university];

8 C. any educational institution that is located in this state and has authorization to
9 confer an associate degree or a bachelor's degree, in accordance with [insert citation];

10 D. any educational institution that is located in this state and is exempted from
11 [insert citation]; and

12 E. any educational institution that is located in this state and is operating under a
13 Certificate of Temporary Approval from the [state board] under [insert citation], to the extent that
14 a student is ultimately able either to obtain an associate or a bachelor's degree at that institution or
15 to transfer to and obtain a degree from an institution described in paragraphs A to E.

16 2. “Benchmark Loan Payment” means the figure described in section 3 (2)(C) of this Act.

17 3. “Educational institution” has the same meaning as in [insert citation].

18 4. “Educational opportunity tax credit” means the tax credit provided for in Section 4 of
19 this Act.

20 5. “Resident” means an individual who qualifies as a state resident under [insert citation].

21 6. “Opportunity contract” means the contract described in section 3 (3) of this Act.

22 7. “Principal cap” means the cap described in section 3 (2) of this Act.

23
24 Section 3. [*Job Creation Through Educational Opportunity Program Established.*]

25 1. The Job Creation Through Educational Opportunity Program, referred to in this Act as
26 “the program,” is created to reimburse education-related costs for residents of this state who obtain
27 an associate degree or a bachelor's degree in this state, and live, work and pay taxes in this state
28 thereafter. The program is designed to achieve the following goals:

29 A. promote economic opportunity for people in this state by ensuring access to the
30 training and higher education that higher-paying jobs require;

31 B. bring more and higher-paying jobs to this state by increasing the skill level of
32 this state's workforce;

33 C. offer educational opportunity and retraining to people impacted by job loss,
34 workplace injury, disability or other hardship;

35 D. keep young people in this state through incentives for educational opportunity
36 and creation of more high-paying jobs; and

37 E. accomplish all of the goals in this subsection with as little bureaucracy as
38 possible.

39 2. A principal cap limits the loan principal that can serve as the basis for claiming the
40 Educational Opportunity Tax Credit. The cap is based on in-state tuition and mandatory fees for
41 either the state community college system or the state university system, depending on whether the
42 opportunity contract is for pursuit of an associate degree or of a bachelor's degree, respectively.

43 A. For an individual earning a degree from the [state community college system] or
44 from the [state university], the relevant financial aid office shall certify, once the individual has
45 earned the degree, whether or not the total principal of loans the individual received as part of that
46 individual's financial aid package exceeds the cost of in-state tuition and mandatory fees incurred
47 in pursuit of the degree. That cost constitutes the principal cap for such an individual.

48 B. For an individual earning a degree from any other accredited [state] junior
49 college, college or university, the relevant financial aid office shall certify, once the individual has
50 earned the degree, whether or not the total principal of loans the individual received as part of that
51 individual's financial aid package exceeds the published in-state tuition and mandatory fees for
52 full-time enrollment in the [state community college system] or in the [state university system],
53 depending on whether the degree is an associate degree or a bachelor's degree, respectively,
54 during the relevant years. The published in-state tuition and mandatory fees constitute the
55 principal cap for such an individual. If the individual has not attended full time throughout the
56 pursuit of that individual's degree, an appropriate principal cap must be determined in a manner
57 consistent with the principles set out in this subsection.

58 C. For an individual whose student loans exceed the principal cap, a benchmark
59 loan payment must be calculated as follows. The financial aid office shall calculate what the
60 monthly payment would be on a loan for the amount of the principal cap, to be paid over [10]
61 years, at the interest rate offered for federal Stafford loans under 20 United States Code, Section
62 1077a, during the individual's last year of enrollment. The benchmark loan payment must be
63 specified on the individual's [Opportunity Contract].

64 3. The [state board] shall draft an [Opportunity Contract] for use in enrolling people in the
65 program. The terms of the [Opportunity Contract] must require an individual who wishes to
66 participate in the program to:

67 A. certify that that individual is a resident of this state;

68 B. agree to attend and to obtain a specified degree, either an associate degree or a
69 bachelor's degree, from an accredited [state] junior college, college or university. The individual
70 need not obtain the degree from the institution in which that individual originally enrolled, so long
71 as all course work toward the degree is performed at accredited [state] junior colleges, colleges or
72 universities;

73 C. agree to live in this state while pursuing the degree. The individual shall also
74 agree to live in this state after obtaining the degree during any period when that individual seeks to
75 take advantage of the Educational Opportunity Tax Credit;

76 D. agree to maintain records relating to loan payments claimed under the
77 Educational Opportunity Tax Credit as defined under [insert citation] for [5] years after those
78 payments are claimed; and

79 E. with respect to educational loans, agree to the following:

80 (1) the individual may claim the Educational Opportunity Tax Credit only
81 with respect to loans that are part of that individual's financial aid package and that have a term of
82 at least [8] years;

83 (2) if the individual in any way accelerates repayment, the individual
84 forfeits any right to claim an Educational Opportunity Tax Credit for that taxable year or any
85 future taxable year; and

86 (3) the individual may refinance said loans only if they remain separate
87 from other debt and if the effect of the refinancing is to decrease both the annual repayment and
88 the total remaining indebtedness.

89 F. In exchange for the consideration outlined in paragraphs B to E, the state shall
90 agree to permit the individual to take advantage of the Educational Opportunity Tax Credit.

91 G. The [Opportunity Contract] must leave space for the accredited state junior
92 college, college or university to certify that the individual has obtained the relevant degree, and to
93 certify whether or not the loan principal that the individual incurs in pursuing the relevant degree
94 exceeds the principal cap.

95 4. The Program must be administered as follows.

96 A. Any resident of this state who gains admission to an accredited state junior
97 college, college or university and who receives financial aid in the form of loans must have the
98 opportunity to participate in the program. The financial aid office of the relevant institution shall
99 offer to such people the chance to sign an [Opportunity Contract] with the state. The financial aid
100 office shall retain the [Opportunity Contract] until the individual obtains the degree.

101 B. When the individual obtains the degree, the individual shall specify on the
102 [Opportunity Contract] the source, principal amount, interest rate and term of any loans that are
103 part of the individual's financial aid package. The [Opportunity Contract] must contain
104 certification that the individual has obtained the relevant degree and must specify whether the
105 individual's loans exceed the principal cap and, if appropriate, what the benchmark loan payment
106 is. The individual shall then file the [Opportunity Contract] with the [Secretary of State]. Every
107 accredited [state] public junior college, college and university located in this state shall develop
108 procedures to facilitate this process, in consultation with the [Secretary of State].

109 C. When the individual files the [Opportunity Contract] with the [Secretary of
110 State] pursuant to paragraph B, that individual becomes eligible to claim the Educational
111 Opportunity Tax Credit, subject to the requirements of this Act. The individual may thereafter take
112 advantage of any forbearance or deferment provisions in the relevant loan agreements without
113 forfeiting the right to claim the Educational Opportunity Tax Credit when the individual resumes
114 repayment.

115 5. The program must commence [the first semester after] the effective date of this Act.
116 State residents who when the program commences are enrolled in an associate or a bachelor's
117 degree program at an accredited junior college, college or university, may participate, subject to
118 the same essential terms as other program participants. When such an individual obtains the
119 relevant degree, it must be specified in the individual's [Opportunity Contract] what percentage of
120 the course work completed in pursuit of the degree was performed while the individual was
121 participating in the program. The principal cap and benchmark loan payment must be calculated in
122 the ordinary way as provided in this Act, but the individual must then apply the percentage in this
123 subsection to actual payments or to the benchmark loan payment, whichever applies, in
124 determining the amount the individual can claim under the Educational Opportunity Tax Credit for
125 a given year.

126 6. It is the intent of the [Legislature] that neither the existence of the program nor the
127 benefits provided under the Educational Opportunity Tax Credit serve as justification to decrease
128 other funds appropriated or allocated to accredited [state] junior colleges, colleges or universities,

129 including institutions in the [state community college system] and the [state university system], or
130 to other higher education programs.

131 7. The [state board] shall adopt routine technical rules as necessary to carry out the
132 purposes of this Act.

133
134 Section 4. [*Credit for Educational Opportunity.*]

135 1. Definitions. As used in this section of this Act:

136 A. “Benchmark loan payment” has the same meaning as in section 2 of this Act.

137 B. “Employer” has the same meaning as the term “employing unit,” as defined in
138 [insert citation].

139 C. “Full Time” employment means employment with a normal workweek of [32]
140 hours or more.

141 D. “Part Time” employment means employment with a normal workweek of
142 [between 16 and 32] hours.

143 E. “Qualified Employee” means an employee who is eligible for the credit provided
144 in this section and who is employed at least part time.

145 F. “Opportunity Contract” means the contract described in section 3 of this Act.

146 G. “Opportunity Program Participant” means an individual who enters into an
147 Opportunity Contract with the state, obtains the specified degree and complies with the
148 requirements under section 3 of this Act.

149 H. “Resident Individual” has the same meaning as in [insert citation].

150 I. “Seasonal Employment” has the same meaning as in [insert citation] and in
151 regulations promulgated under [insert citation].

152 J. “Term of Employment” includes all months when the individual is actually
153 employed. It includes time periods when an individual is on leave or vacation. It extends to the full
154 year for people working for employers who customarily operate only during a regularly recurring
155 period of [9 months or more in a calendar year]. For people working for employers who
156 customarily operate only during regularly recurring periods of [less than 9 months in a calendar
157 year], including seasonal employment, the Term of Employment extends only to time periods
158 when the individual is actually working.

159 2. A taxpayer constituting an Opportunity Program Participant or an employer of a
160 qualified employee is allowed a credit against the tax imposed by this section of this Act for each
161 taxable year under the terms established in this section. The credit is created to implement the Job
162 Creation Through Educational Opportunity Program established under section 3 of this Act. The
163 credit may not reduce the tax otherwise due under this Section to less than zero. A taxpayer
164 entitled to the credit for any taxable year may carry over and apply to the tax liability for any [one
165 or more]of the next succeeding [10] years the portion, as reduced from year to year, of any unused
166 credits. More than [one] taxpayer may claim a credit based on loan payments actually made to a
167 relevant lender or lenders to benefit a single opportunity program participant, but no [2] taxpayers
168 may claim the credit based on the same payment.

169 3. The following provisions govern the calculation of the credit in this section.

170 A. If the relevant Opportunity Program Participant’s [Opportunity Contract] limits
171 the amount of the credit to a benchmark loan payment, and the relevant Opportunity Program
172 Participant’s actual monthly payment due is higher than that amount, then the credit claimed may
173 not exceed the product of the benchmark loan payment and the number of months in which the
174 taxpayer made loan payments.

175 B. If the relevant Opportunity Program Participant’s [Opportunity Contract]
176 certifies that the principal for the relevant loans is at or below the level of the principal cap, or if
177 the relevant opportunity program participant’s actual monthly payment is below the benchmark

178 loan payment, the taxpayer may claim a credit based only on regularly scheduled loan payments
179 actually made.

180 C. If the credit is claimed on behalf of an individual who was already enrolled in an
181 associate or a bachelor's degree program at an accredited junior college, college or university, as
182 defined in section 1 of this Act, on the commencement of the Job Creation Through Educational
183 Opportunity Program under section 3 of this Act, the percentage figure listed in the [Opportunity
184 Contract] must be applied to the amount determined under paragraph A or B.

185 4. An Opportunity Program Participant may claim the credit only if the participant is a
186 resident individual. The participant may claim the credit based only on regular payments made
187 during months in which the individual was working for an employer located in this state. A
188 married couple filing jointly under [insert citation], may claim the credit only to the extent that the
189 spouse on whose behalf the credit is claimed meets these requirements.

190 5. A taxpayer constituting an employer may claim the credit under this section under the
191 following circumstances. The employer may undertake to make partial or full loan payments
192 directly to the relevant lender or lenders on behalf of a qualified employee, having taken
193 reasonable steps to ascertain that the employee is in fact a qualified employee, and may claim a
194 credit based on amounts that came due and were paid by the employer during the term of
195 employment. To receive the credit, the employer must retain for [5] years any proof of eligibility
196 that the employee or independent contractor provides.

197 6. The employer may claim a credit for the amount that the qualified employee could have
198 claimed during any months when the qualified employee was employed, had the qualified
199 employee made the partial or full loan payments instead, under conditions where the qualified
200 employee had sufficient income to claim the full credit for the taxable year. If the qualified
201 employee is employed only on a part-time basis, the employer may claim a credit only up to half
202 of the total that the qualified employee could have claimed had the qualified employee made all
203 payments and earned sufficient income to claim the full credit for the taxable year, but the amount
204 the employer claims must still be based on amounts actually paid.

205 7. An employer claiming this credit on behalf of a qualified employee for a taxable year
206 may not simultaneously claim a credit under [insert citation] on the behalf of the same employee.
207

208 Section 5. [*Severability.*] [Insert severability clause.]

209
210 Section 6. [*Repealer.*] [Insert repealer clause.]

211
212 Section 7. [*Effective Date.*] [Insert effective date.]