

MAINE STATE LEGISLATURE

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Date: 3/10/10

L.D. 1296
(Filing No. H-703)

EDUCATION AND CULTURAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 899, L.D. 1296, Bill, "An Act To Strengthen the Job Creation Through Educational Opportunity Program"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'PART A

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

1. Accredited Maine community college, college or university. "Accredited Maine ~~junior~~ 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.

COMMITTEE AMENDMENT

1 **Sec. A-2. 20-A MRSA §12541, sub-§2**, as enacted by PL 2007, c. 469, Pt. A, §1,
2 is amended to read:

3 **2. Benchmark loan payment.** "Benchmark loan payment" means the figure
4 described in section 12542, subsection ~~2~~ 2-A, paragraph ~~C~~ D.

5 **Sec. A-3. 20-A MRSA §12541, sub-§2-A** is enacted to read:

6 **2-A. Educational cost-of-living adjustment.** "Educational cost-of-living
7 adjustment" means for any calendar year an amount equal to the average tuition and fees
8 at the University of Maine System for a bachelor's degree or at the Maine Community
9 College System for an associate degree for the academic year beginning in the prior
10 calendar year, divided by the average tuition and fees for that degree in that system for
11 the academic year beginning in the calendar year immediately preceding the prior
12 calendar year.

13 **Sec. A-4. 20-A MRSA §12541, sub-§4-A** is enacted to read:

14 **4-A. Financial aid package.** "Financial aid package" means all financial aid
15 received by a student and includes any loans that are certified by an accredited Maine
16 community college, college or university's financial aid office, subject to any changes
17 made by that institution's financial aid office. These loans may include private loans for
18 the cost of attendance at an accredited Maine community college, college or university or
19 less than the full amount of loans under federal programs, depending on the practices of
20 the accredited Maine community college, college or university.

21 **Sec. A-5. 20-A MRSA §12541, sub-§5**, as enacted by PL 2007, c. 469, Pt. A, §1,
22 is amended to read:

23 **5. Maine resident.** "Maine resident" means an individual who qualifies for Maine
24 residence under Title 21-A, section 112. An individual is a Maine resident if, at the time
25 the individual commences the relevant degree program, the individual is registered to
26 vote in the State or occupies a dwelling in the State and continues to occupy a dwelling in
27 the State during the school year, except periods when it is reasonably necessary for the
28 individual to live elsewhere as part of an accredited Maine community college, college or
29 university's academic programs.

30 **Sec. A-6. 20-A MRSA §12541, sub-§6**, as enacted by PL 2007, c. 469, Pt. A, §1,
31 is repealed.

32 **Sec. A-7. 20-A MRSA §12541, sub-§7**, as enacted by PL 2007, c. 469, Pt. A, §1,
33 is amended to read:

34 **7. Principal cap.** "Principal cap" means the cap described in section 12542,
35 subsection ~~2~~ 2-A.

36 **Sec. A-8. 20-A MRSA §12542, sub-§2**, as enacted by PL 2007, c. 469, Pt. A, §1,
37 is repealed.

38 **Sec. A-9. 20-A MRSA §12542, sub-§2-A** is enacted to read:

39 **2-A. Principal cap.** The principal cap limits the loan principal for purposes of
40 claiming the educational opportunity tax credit. The University of Maine System and the
41 Maine Community College System shall publish on their respective publicly accessible

1 websites the average in-state tuition and mandatory fees applicable to their respective
2 programs and provide those figures to the State Tax Assessor and all accredited Maine
3 community colleges, colleges and universities by September 1st each year.

4 A. For an individual graduating in 2010, the individual's principal cap is \$7,865 for a
5 bachelor's degree earner or \$3,300 for an associate degree earner, multiplied by the
6 number of years of full-time attendance to obtain the relevant degree.

7 B. Beginning in 2010, by November 1st annually the State Tax Assessor shall
8 multiply the educational cost-of-living adjustment by the principal cap applicable to
9 individuals who graduate in that calendar year; the result is the principal cap for
10 individuals who graduate during the following calendar year.

11 C. For an individual earning a degree from an accredited Maine community college,
12 college or university, the relevant accredited Maine community college, college or
13 university shall certify, once the individual has earned the degree, the total principal
14 of loans the individual received as part of that individual's financial aid package.

15 D. For an individual whose student loans exceed the principal cap, a benchmark loan
16 payment must be calculated as described in this paragraph. The State Tax Assessor
17 shall annually by November 1st calculate what the monthly payment would be on a
18 loan for the amount of the principal cap, to be paid over 10 years, at the interest rate
19 offered for federally subsidized Stafford loans under 20 United States Code, Section
20 1077a, during the individual's last year of enrollment at an accredited Maine
21 community college, college or university.

22 **Sec. A-10. 20-A MRSA §12542, sub-§3**, as enacted by PL 2007, c. 469, Pt. A,
23 §1, is amended to read:

24 **3. Eligibility for the program.** ~~The state board shall draft an opportunity contract~~
25 ~~for use in enrolling individuals in the program. The terms of the opportunity contract~~
26 ~~must require an individual who wishes To be eligible to participate in the program to:~~

27 A. ~~Certify that that~~ An individual is must be a Maine resident;

28 B. ~~Agree to~~ An individual must attend and to obtain a specified degree, either an
29 associate degree or a bachelor's degree, from an accredited Maine junior community
30 college, college or university. The individual need not obtain the degree from the
31 institution in which that individual originally enrolled, so as long as all course work
32 toward the degree is performed at accredited Maine junior community colleges,
33 colleges or universities;

34 C. ~~Agree to~~ An individual must live in this State while pursuing the degree,
35 excepting periods when it is reasonably necessary for the individual to live elsewhere
36 as part of the relevant institution's academic programs. The individual shall must also
37 agree to live in this State after obtaining the degree during any period when that
38 individual seeks to take advantage of the educational opportunity tax credit; and

39 D. ~~Agree to~~ An individual must maintain records relating to loan payments claimed
40 under the educational opportunity tax credit for 5 years after those payments are
41 claimed; and,

42 E. ~~With respect to educational loans, agree to the following:~~

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- ~~(1) 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;~~
- ~~(2) If the individual in any way accelerates repayment, the individual forfeits any right to claim an educational opportunity tax credit for that taxable year or any future taxable year; and~~
- ~~(3) The individual may refinance said loans only if they remain separate from other debt and if the effect of the refinancing is to decrease both the annual repayment and the total remaining indebtedness.~~

~~In exchange for the consideration outlined in paragraphs B to E, the State shall agree to permit the individual to take advantage of the educational opportunity tax credit.~~

~~The opportunity contract must leave space for the accredited Maine junior college, college or university to certify that the individual has obtained the relevant degree, and to certify whether or not the loan principal that the individual incurs in pursuing the relevant degree exceeds the principal cap.~~

Sec. A-11. 20-A MRS §12542, sub-§3-A is enacted to read:

3-A. Educational loans. The following provisions apply with respect to an individual's educational loans.

- 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.
- B. If the individual makes any prepayment, that prepayment is not eligible for the educational opportunity tax credit.
- C. The individual, including an individual who has graduated from an accredited Maine community college, college or university after January 1, 2008, may refinance educational loans only if they remain separate from other debt, whether noneducational debt or educational debt incurred in a program other than the degree program for which the educational opportunity tax credit is claimed.

Sec. A-12. 20-A MRS §12542, sub-§4, as enacted by PL 2007, c. 469, Pt. A, §1, is repealed.

Sec. A-13. 20-A MRS §12542, sub-§4-A is enacted to read:

4-A. Administration. The program must be administered as described in this subsection.

- A. The department, in consultation with the State Tax Assessor, shall make information about the program available on the department's publicly accessible website. The department shall refer any questions regarding the program to the relevant accredited Maine community college, college or university's financial aid office. The assessor shall provide to an accredited Maine community college, college or university information that is necessary to document a student's eligibility for the educational opportunity tax credit.

1 B. A Maine resident who enrolls in an accredited Maine community college, college
2 or university who receives financial aid in the form of loans must have the
3 opportunity to participate in the program. An accredited Maine community college,
4 college or university shall, at a minimum, provide information about the program in
5 financial aid award materials, entrance interviews, exit interviews, materials listing
6 financial aid resources and, as appropriate, any promotional materials provided by
7 state agencies, to the extent such contacts with students are already part of the
8 accredited Maine community college, college or university's procedures.

9 C. An accredited Maine community college, college or university must document for
10 the student information required for purposes of the educational opportunity tax
11 credit. The accredited Maine community college, college or university shall provide
12 an original or certified copy to the student and shall retain a copy of the
13 documentation in its files for at least 10 years after the student graduates.

14 D. An individual may take advantage of any forbearance or deferment provisions in
15 the relevant loan agreements without forfeiting the right to claim the educational
16 opportunity tax credit when the individual resumes repayment. This paragraph
17 applies to a student that obtained a bachelor's or associate degree from an accredited
18 Maine community college, college or university after September 20, 2007.

19 **Sec. A-14. 20-A MRSA §12542, sub-§5**, as enacted by PL 2007, c. 469, Pt. A,
20 §1, is amended to read:

21 **5. Effective date; participation by individual already enrolled in degree**
22 **program.** The program must commence for the first semester that begins after the
23 effective date of this chapter. A Maine residents resident who when the program
24 commences are is enrolled in an associate or a bachelor's degree program at an accredited
25 Maine junior community college, college or university may participate, subject to the
26 same essential terms as other program participants. When such an individual obtains the
27 relevant degree, it must be specified in the individual's opportunity contract what
28 percentage of the course work completed in pursuit of the degree was performed while
29 the individual was participating in the program. The principal cap and benchmark loan
30 payment must be calculated in the ordinary way as provided in this chapter, but the
31 individual must then apply the percentage in this subsection to actual payments or to the
32 benchmark loan payment, whichever applies, in determining the amount the individual
33 can claim under the educational opportunity tax credit for a given year. Such an
34 individual need only meet the eligibility requirements in subsection 3 from January 1,
35 2008 forward.

36 **Sec. A-15. 20-A MRSA §12542, sub-§6** is enacted to read:

37 **6. Promotion by state agencies.** The department, the Finance Authority of Maine,
38 the Department of Economic and Community Development and any other agency
39 engaging in education-related outreach shall integrate promotion of the program into
40 existing educational opportunity outreach efforts to the extent possible in a manner
41 consistent with the scope of the program and its centrality to the State's efforts to raise
42 educational attainment.

43 **Sec. A-16. 20-A MRSA §12543**, as enacted by PL 2007, c. 469, Pt. A, §1, is
44 amended to read:

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§12543. 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 opportunity tax credit serve as justification to decrease other funds appropriated or allocated to accredited Maine junior community colleges, colleges or universities, including institutions in the Maine Community College System and the University of Maine System, or to other higher education programs.

Sec. A-17. 20-A MRSA §12544, as enacted by PL 2007, c. 469, Pt. A, §1, is repealed.

Sec. A-18. Report on progress in implementation. An accredited Maine community college, college or university, as defined in the Maine Revised Statutes, Title 20-A, section 12541, subsection 1, shall report to the Department of Education in writing by February 1, 2011 and by February 1, 2012 on efforts to promote and enroll individuals in the Job Creation Through Educational Opportunity Program and to train admissions and financial aid staff about the program. The department shall convey the information gathered pursuant to this section to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by March 1, 2011 and March 1, 2012. The State Tax Assessor shall report on implementation of the program to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by March 1, 2011 and March 1, 2012.

Sec. A-19. Repeal of current rules. The State Board of Education shall repeal Chapter 145 of Title 05-071 of the Code of Maine Rules.

PART B

Sec. B-1. 36 MRSA §5122, sub-§2, ¶FF is enacted to read:

FF. To the extent included in federal adjusted gross income, student loan payments made by the taxpayer's employer in accordance with section 5217-D.

Sec. B-2. 36 MRSA §5217-D, sub-§1, ¶F, as enacted by PL 2007, c. 469, Pt. B, §1, is repealed.

Sec. B-3. 36 MRSA §5217-D, sub-§1, ¶G, as enacted by PL 2007, c. 469, Pt. B, §1, is amended to read:

G. "Opportunity program participant" means an individual who ~~enters into an opportunity contract with the State~~, obtains the specified degree and complies with the requirements under Title 20-A, section 12542, ~~subsections 3 to 5~~.

Sec. B-4. 36 MRSA §5217-D, sub-§3, as enacted by PL 2007, c. 469, Pt. B, §1, is amended to read:

3. Calculation of the credit. The following provisions govern the calculation of the credit in this section is determined on the basis of the amount under paragraph A or paragraph B, whichever is less, multiplied by the proration factor. For purposes of this subsection, the proration factor is the amount derived by dividing the total number of academic credit hours earned for a bachelor's or associate degree after December 31,

1 2007 by the total number of academic credit hours earned for the bachelor's or associate
2 degree.

3 A. ~~If the relevant opportunity program participant's opportunity contract limits the~~
4 ~~amount of the credit to a benchmark loan payment, and the relevant opportunity~~
5 ~~program participant's is less than the actual monthly payment due is higher than that~~
6 ~~amount, then the credit claimed may not exceed the product of the benchmark loan~~
7 ~~payment and the number of months during the taxable year in which the taxpayer~~
8 ~~made loan payments.~~

9 B. ~~If the relevant opportunity program participant's opportunity contract certifies that~~
10 ~~the principal for the relevant loans is at or below the level of the principal cap, or if~~
11 ~~the relevant opportunity program participant's actual monthly loan payment amount~~
12 ~~is below less than the benchmark loan payment, the taxpayer may claim a credit must~~
13 ~~be based only on regularly scheduled the actual loan payments actually made during~~
14 ~~the taxable year.~~

15 C. ~~If the credit is claimed on behalf of an individual who was already enrolled in an~~
16 ~~associate or a bachelor's degree program at an accredited Maine junior college,~~
17 ~~college or university, as defined in Title 20-A, section 12541, subsection 1, on the~~
18 ~~commencement of the Job Creation Through Educational Opportunity Program under~~
19 ~~Title 20-A, chapter 428-C, the percentage figure listed in the opportunity contract, as~~
20 ~~specified under Title 20-A, section 12542, subsection 5, must be applied to the~~
21 ~~amount determined under paragraph A or B.~~

22 **Sec. B-5. Application.** This Part applies to tax years beginning on or after January
23 1, 2010.'

24 **SUMMARY**

25 This amendment strikes and replaces the bill in order to make a number of
26 improvements to the Job Creation Through Educational Opportunity Program. Part A of
27 the amendment accomplishes the following.

28 1. It amends the definition of "accredited Maine junior college, college or
29 university" in the program to reflect the name change of junior college to community
30 college and to include the requirement that the institution must have accreditation.

31 2. It amends the definition of "Maine resident" to clarify when an individual is
32 considered a Maine resident for the purposes of this program.

33 3. It defines the terms "financial aid package" and "educational cost-of-living
34 adjustment."

35 4. It changes the eligibility criteria for participation in the program.

36 5. It repeals the definition of "opportunity contract" and provisions pertaining to the
37 use of the contract.

38 6. It requires the Maine Community College System and the University of Maine
39 System to publish and disseminate to the Department of Education and all accredited
40 Maine community colleges, colleges and universities the average in-state tuition and
41 mandatory fees.

1 7. It requires the State Tax Assessor to annually determine the principal cap and
2 benchmark loan payment amounts and to provide to an accredited Maine community
3 college, college or university the information necessary to document a student's eligibility
4 for the educational opportunity tax credit. The principal cap is based on in-state tuition
5 and mandatory fees for either the Maine Community College System or the University of
6 Maine System, depending on whether the enrollment is for pursuit of an associate degree
7 or of a bachelor's degree.

8 8. It requires the Department of Education, in consultation with the State Tax
9 Assessor, to make information about the program available on the department's publicly
10 accessible website. The department shall refer any questions regarding the program to
11 the relevant accredited Maine community college, college or university's financial aid
12 office.

13 9. It provides that all accredited Maine community colleges, colleges and universities
14 shall certify the total principal that an individual who has earned a degree at the
15 institution has received as part of the individual's financial aid package.

16 10. It repeals the rule-making provision established in Maine Revised Statutes for the
17 administration of the program.

18 11. It directs all accredited Maine community colleges, colleges and universities to
19 file a report with the Department of Education by February 1, 2011 and February 1, 2012
20 on how the program is working and it directs the department to convey the information
21 gathered to the joint standing committee of the Legislature having jurisdiction over
22 education and cultural affairs by March 1, 2011 and March 1, 2012.

23 12. It also directs the State Tax Assessor to report on implementation of the program
24 to the joint standing committee of the Legislature having jurisdiction over education and
25 cultural affairs by March 1, 2011 and March 1, 2012.

26 13. It directs the State Board of Education to repeal the rules adopted for the
27 administration of the program.

28 Part B of the amendment amends the educational opportunity tax credit to reflect the
29 changes that were made to the program in Part A and enacts an income modification to
30 Maine taxable income with respect to loan payment amounts paid by employers that are
31 subject to federal income taxes.

32 **FISCAL NOTE REQUIRED**

33 **(See attached)**



124th MAINE LEGISLATURE

LD 1296

LR 1402(02)

An Act To Strengthen the Job Creation Through Educational Opportunity Program

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Education and Cultural Affairs

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any implementation, inter-agency consultation, reporting and related costs to Maine Revenue Services can be absorbed within existing budgeted resources.

Additional costs to the Department of Education, the Maine Community College System, the University of Maine System, the Finance Authority of Maine and the Department of Economic and Community Development associated with fulfilling the requirements of this legislation can be absorbed within existing budgeted resources.