

MAINE STATE LEGISLATURE

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Report A

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Date: 2/15/12

Report A

L.D. 835
(Filing No. H-703)

TAXATION

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "B" to H.P. 632, L.D. 835, Bill, "An Act To Strengthen Maine's Economy through Improvements to the Educational Opportunity Tax Credit"

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

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,

COMMITTEE AMENDMENT

1 college or university was the commencement of course work for the degree program
2 as a whole;

3 **Sec. 3. 20-A MRSA §12542, sub-§3, ¶C**, as amended by PL 2009, c. 553, Pt. A,
4 §10, is further amended to read:

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

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

14 A. The individual may claim the educational opportunity tax credit only with respect
15 to loans that are part of that individual's financial aid package and that ~~have a term of~~
16 at least 8 years are entered into before July 1, 2023.

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

18 **§12545. Report**

19 By February 1, 2021, each accredited Maine community college, college and
20 university, as defined in section 12541, subsection 1, shall report to the department on
21 efforts to promote and enroll individuals in the program and to train admissions and
22 financial aid staff about the program. By March 1, 2021, the department shall report
23 findings and recommendations regarding the program to the joint standing committee of
24 the Legislature having jurisdiction over education and cultural affairs and the joint
25 standing committee of the Legislature having jurisdiction over taxation matters. By
26 March 1, 2021, the Department of Administrative and Financial Services, Bureau of
27 Revenue Services shall report on implementation of the educational opportunity tax
28 credit, including statistics on credits claimed, to the joint standing committee of the
29 Legislature having jurisdiction over education and cultural affairs and the joint standing
30 committee of the Legislature having jurisdiction over taxation matters.

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

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

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

37 A-1. "Accredited non-Maine community college, college or university" means an
38 institution located outside the State that is accredited by a regional accrediting
39 association or by one of the specialized accrediting agencies recognized by the
40 United States Secretary of Education.

1 **Sec. 8. 36 MRSA §5217-D, sub-§1, ¶E**, as enacted by PL 2007, c. 469, Pt. B,
2 §1, is amended to read:

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

9 **Sec. 9. 36 MRSA §5217-D, sub-§2**, as enacted by PL 2007, c. 469, Pt. B, §1, is
10 amended to read:

11 **2. Credit allowed.** A taxpayer constituting an opportunity program participant or an
12 employer of a qualified employee is allowed a credit against the tax imposed by this Part
13 for each taxable year under the terms established in this section. The credit is created to
14 implement the Job Creation Through Educational Opportunity Program established under
15 Title 20-A, chapter 428-C.

16 ~~The credit may not reduce the tax otherwise due under this Part to less than zero.~~ A
17 taxpayer entitled to the credit for any taxable year may carry over and apply to the tax
18 liability for any one or more of the next succeeding 10 years the portion, as reduced from
19 year to year, of any unused credits. More than one taxpayer may claim a credit based on
20 loan payments actually made to a relevant lender or lenders to benefit a single
21 opportunity program participant, but no 2 taxpayers may claim the credit based on the
22 same payment.

23 The credit allowed to an opportunity program participant is refundable. The credit
24 allowed to an employer of a qualified employee may not reduce the tax otherwise due
25 under this Part to less than zero.

26 **Sec. 10. 36 MRSA §5217-D, sub-§5**, as amended by PL 2009, c. 434, §78, is
27 further amended to read:

28 **5. Conditions for an employer claiming the credit.** A taxpayer constituting an
29 employer may claim the credit under this section under the following circumstances. The
30 employer may undertake to make partial or full loan payments directly to the relevant
31 lender or lenders on behalf of a qualified employee, having taken reasonable steps to
32 ascertain that the employee is in fact a qualified employee, and may claim a credit based
33 on amounts that came due and were paid by the employer during the term of employment.
34 To receive the credit, the employer must retain for 5 years any proof of eligibility that the
35 employee or independent contractor provides.

36 The employer may claim a credit for the amount that the qualified employee could have
37 claimed during any months when the qualified employee was employed, had the qualified
38 employee made the partial or full loan payments instead, under conditions where the
39 qualified employee had sufficient income to claim the full credit for the taxable year. If
40 the qualified employee is employed only on a part-time basis, the employer may claim a
41 credit only up to half of the total that the qualified employee could have claimed had the
42 qualified employee made all payments and earned sufficient income to claim the full
43 credit for the taxable year, but the amount the employer claims must still be based on
44 amounts actually paid. An employer is not disqualified under this section if the qualified

1 employee is not eligible to claim the credit solely because the employee's associate
2 degree or bachelor's degree was awarded by an accredited non-Maine community college,
3 college or university.

4 **Sec. 11. Application.** The portions of this Act that amend the Maine Revised
5 Statutes, Title 36, section 5217-D apply to tax years beginning on or after January 1,
6 2013.'

7 **SUMMARY**

8 This amendment, which is the majority report, replaces the bill and makes the
9 following changes to the educational opportunity tax credit.

10 1. Beginning January 1, 2013, it allows an individual who transfers to an accredited
11 Maine community college, college or university after completing up to 30 credit hours of
12 course work at a non-Maine accredited community college, college or university to be
13 eligible for a portion of the tax credit created to implement the Job Creation Through
14 Educational Opportunity Program.

15 2. It provides that an individual may claim the educational opportunity tax credit
16 only with respect to loans that are part of that individual's financial aid package and that
17 are entered into before July 1, 2023.

18 3. It makes the credit refundable for a Job Creation Through Educational
19 Opportunity Program participant entitled to the credit.

20 4. It allows an employer to claim the credit if a qualified employee meets all
21 eligibility criteria for a Job Creation Through Educational Opportunity Program
22 participant except that the qualified employee's associate degree or bachelor's degree was
23 awarded by an accredited non-Maine community college, college or university.

24 5. It requires all Maine community colleges, colleges and universities to report to the
25 Department of Education by February 1, 2021 on efforts to promote and enroll
26 individuals in the Job Creation Through Educational Opportunity Program and to train
27 admissions and financial aid staff about the program.

28 6. It requires the Department of Education and the Department of Administrative and
29 Financial Services, Bureau of Revenue Services to report by March 1, 2021 to the joint
30 standing committee of the Legislature having jurisdiction over education and cultural
31 affairs and the joint standing committee of the Legislature having jurisdiction over
32 taxation matters.

33 7. It requires the joint standing committee of the Legislature having jurisdiction over
34 taxation matters to review the educational opportunity tax credit by June 1, 2021. The
35 committee is required to consider information provided by the Department of
36 Administrative and Financial Services, Bureau of Revenue Services and the Department
37 of Education to determine whether the credit should be retained, modified or repealed.

38 **FISCAL NOTE REQUIRED**

39
40 (See attached)
41



125th MAINE LEGISLATURE

LD 835

LR 1210(07)

An Act To Strengthen Maine's Economy through Improvements to the Educational Opportunity Tax Credit

Fiscal Note for Bill as Amended by Committee Amendment "B" (H-703)
Committee: Taxation
Fiscal Note Required: Yes

Fiscal Note

	FY 2011-12	FY 2012-13	Projections FY 2013-14	Projections FY 2014-15
Net Cost (Savings)				
General Fund	\$0	\$146,300	\$715,350	\$1,037,400
Revenue				
General Fund	\$0	(\$146,300)	(\$715,350)	(\$1,037,400)
Other Special Revenue Funds	\$0	(\$7,700)	(\$37,650)	(\$54,600)

Fiscal Detail and Notes

The bill modifies the educational opportunity tax credit by extending it to encompass (at a reduced level of benefit) certain individuals who transfer to an accredited Maine community college, college or university from an accredited out-of-state institution, removes restrictions on the term of eligible loans and makes the credit refundable for tax years beginning on or after January 1, 2013. The changes made by the bill apply only to tax years beginning after December 31, 2012, and the credit does not apply to any loans entered into on or after July 1, 2023. The Legislature is required to review the effectiveness of the educational opportunity income tax credit by no later than June 1, 2021. The bill will reduce General Fund revenues and reduce revenue sharing starting in fiscal year 2012-13. Maine Revenue Services (MRS) states that revenue reductions may be substantially larger beyond fiscal year 2014-15 as more cohorts become eligible for the credit and participation levels increase. The refundability of the credit creates greater uncertainty regarding the size of the potential revenue reduction.

Additional costs to the University of Maine System, the Maine Community College System and Maine Maritime Academy to report the required information to the Department of Education by February 1, 2021 can be absorbed within the budgeted resources of each institution. The Department of Education has estimated the cost for its staff to compile the data submitted and submit the required recommendations by March 1, 2021 to be approximately \$8,000 in fiscal year 2020-21.