# MAINE STATE LEGISLATURE

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Report

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1 L.D. 835 Date: 2/15/12 Report B (Filing No. H-704) 2 **TAXATION** 3 Reproduced and distributed under the direction of the Clerk of the House. 4 STATE OF MAINE 5 **HOUSE OF REPRESENTATIVES** 6 7 125TH LEGISLATURE 8 SECOND REGULAR SESSION COMMITTEE AMENDMENT "C" to H.P. 632, L.D. 835, Bill, "An Act To 9 Strengthen Maine's Economy through Improvements to the Educational Opportunity Tax 10 11 Credit" 12 Amend the bill by striking out everything after the enacting clause and before the 13 summary and inserting the following: 14 'Sec. 1. 20-A MRSA §12541, sub-§1-A is enacted to read: 15 Accredited non-Maine community college, college or university. "Accredited non-Maine community college, college or university" means an institution 16 17 located outside the State that is accredited by a regional accrediting association or by one 18 of the specialized accrediting agencies recognized by the United States Secretary of 19 Education. 20 Sec. 2. 20-A MRSA §12542, sub-§3, ¶B, as amended by PL 2009, c. 553, Pt. A, 21 §10, is further amended to read: 22 B. An individual must attend and obtain an associate degree or a bachelor's degree 23 from an accredited Maine community college, college or university. The individual 24 need not obtain the degree from the institution in which that individual originally 25 enrolled, as long as all course work toward the degree is performed at accredited 26 Maine community colleges, colleges or universities. Beginning January 1, 2013, an 27 individual who transfers to an accredited Maine community college, college or 28 university after completing the equivalent of up to 30 credit hours of course work 29 toward a degree at an accredited non-Maine community college, college or university 30 is eligible for a portion of the benefits that would have been available under the 31 program had the individual performed all course work at an accredited Maine 32 community college, college or university. Such an individual is eligible for 1/2 of the 33 educational opportunity tax credit in the case of obtaining an associate degree and 3/4 34 of the educational opportunity tax credit in the case of obtaining a bachelor's degree. 35 Program eligibility for such an individual must be determined as if the 36 commencement of course work at the relevant accredited Maine community college,

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1 2	college or university was the commencement of course work for the degree program as a whole;
3 4	<b>Sec. 3. 20-A MRSA §12542, sub-§3, ¶C,</b> as amended by PL 2009, c. 553, Pt. A, §10, is further amended to read:
5 6 7 8 9 10	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
12 13	<b>Sec. 4. 20-A MRSA §12542, sub-§3-A, ¶A,</b> as enacted by PL 2009, c. 553, Pt. A, §11, is amended to read:
14 15 16	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.
17	Sec. 5. 20-A MRSA §12545 is enacted to read:
18	§12545. Report
19 20 21 22 23 24 25 26 27 28 29 30	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.
31	Sec. 6. 36 MRSA §199-C, sub-§3 is enacted to read:
32 33 34 35	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.
36 37 38 39	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.

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- **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-§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. 10.** 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.'

34 SUMMARY

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

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

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- 2. It provides that an 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 are entered into before July 1, 2023.

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

  4. It requires all Maine community colleges, colleges and universities to report to the Department of Education by February 1, 2021 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.
  - 5. It requires the Department of Education and the Department of Administrative and Financial Services, Bureau of Revenue Services to report by March 1, 2021 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.
  - 6. It requires the joint standing committee of the Legislature having jurisdiction over taxation matters to review the educational opportunity tax credit by June 1, 2021. The committee is required to consider information provided by the Department of Administrative and Financial Services, Bureau of Revenue Services and the Department of Education to determine whether the credit should be retained, modified or repealed.

### FISCAL NOTE REQUIRED

(See attached)



## 125th MAINE LEGISLATURE

LD 835

LR 1210(08)

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

Credit

Fiscal Note for Bill as Amended by Committee Amendment (H-704)

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)	фо	<b>#70.050</b>	<b>#2.42.000</b>	<b>#</b> 40 4 000
General Fund	\$0	\$78,850	\$343,900	\$494,000
Revenue				
General Fund	\$0	(\$78,850)	(\$343,900)	(\$494,000)
Other Special Revenue Funds	\$0	(\$4,150)	(\$18,100)	(\$26,000)

#### 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 and removes restrictions on the term of eligible loans. The credit is available 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.

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.