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Date: (Filing No. H- )

**TAXATION**

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

COMMITTEE AMENDMENT “ ” 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)