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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO EDUCATION - HIGHER EDUCATION - JOB CREATION THROUGH
EDUCATIONAL OPPORTUNITY PROGRAM

Introduced By: Representatives Blazejewski, Gallison, Keable, Jackson, and Morrison

Date Introduced: February 09, 2012

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 16 of the General Laws entitled "Education" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 57.1

4 JOB CREATION THROUGH EDUCATIONAL OPPORTUNITIES PROGRAM

5 **16-57.1-1. Short title. --** This act shall be known and may be cited as the "Job Creation
6 Through Educational Opportunity Program Act of 2012."

7 **16-57.1-2. Program established. --** (a) The Job Creation Through Educational
8 Opportunity Program, referred to in this chapter as the "program," is created to reimburse
9 education-related costs for Rhode Island residents who obtain an associate's degree or a
10 bachelor's degree in this state, and live, work and pay taxes in this state thereafter. The program is
11 designed to achieve the following goals:

12 (1) Promote economic opportunity for people in this state by ensuring access to the
13 training and higher education that higher-paying jobs require;

14 (2) Bring more and higher-paying jobs to this state by increasing the skill level of this
15 state's workforce;

16 (3) Offer educational opportunity and retraining to individuals impacted by job loss,
17 workplace injury, disability or other hardship;

18 (4) Keep young people in this state through incentives for educational opportunity and

1 creation of more high-paying jobs; and

2 (5) Accomplish all of the goals in this chapter with as little bureaucracy as possible.

3 **16-57.1-3. Definitions.** -- As used in this chapter the following terms have the following
4 meanings unless the context clearly requires otherwise:

5 (1) "Accredited Rhode Island community college, college or university" means an
6 institution that is accredited by a regional accrediting association or by one of the specialized
7 accrediting agencies recognized by the United States Secretary of Education and is:

8 (i) Any campus of the Rhode Island Community College System;

9 (ii) Any campus of the University of Rhode Island;

10 (iii) Any campus of Rhode Island College;

11 (iv) Any educational institution that is located in this state and has authorization to confer
12 an associate's degree or a bachelor's degree, in accordance with the Rhode Island general laws.

13 (2) "Benchmark loan payment" means the figure described in section 16-57.1-4.

14 (3) "Board" means the board of governors for higher education as established pursuant to
15 chapter 16-59.

16 (4) "Educational cost-of-living adjustment" means for any calendar year an amount equal
17 to the average tuition and fees at the University of Rhode Island for a bachelor's degree or at
18 Rhode Island Community College for an associate's degree for the academic year beginning in
19 the prior calendar year, divided by the average tuition and fees for that degree in that system for
20 the academic year beginning in the calendar year immediately preceding the prior calendar year.

21 (5) "Educational institution" means an institution of higher learning or a vocational
22 school, or an eligible institution as identified by the Rhode Island higher education assistance
23 authority pursuant to chapter 16-57.

24 (6) "Educational opportunity tax credit" means the tax credit provided for in this chapter.

25 (7) "Financial aid package" means all financial aid received by a student and includes any
26 loans that are certified by an accredited Rhode Island community college, college or university's
27 financial aid office, subject to any changes made by that institution's financial aid office. These
28 loans may include private loans for the cost of attendance at an accredited Rhode Island
29 community college, college or university or less than the full amount of loans under federal
30 programs, depending on the practices of the accredited Rhode Island community college, college
31 or university.

32 (8) "Rhode Island resident" means an individual who, at the time the individual
33 commences the relevant degree program, is registered to vote in the state or occupies a dwelling
34 in the state and continues to occupy a dwelling in the state during the school year, except periods

1 when it is reasonably necessary for the individual to live elsewhere as part of an accredited Rhode
2 Island community college, college or university's academic programs.

3 (9) "Principal cap" means the cap on aid provided for in section 16-57.1-4.

4 (10) "Tax administrator" or "state tax administrator" means the tax administrator within
5 the department of revenue appointed by the director of revenue with the approval of the governor
6 pursuant to section 44-1-1.

7 **16-57.1-4. Principal cap.** -- (a) The principal cap limits the loan principal for purposes of
8 claiming the educational opportunity tax credit. The University of Rhode Island, Rhode Island
9 College, and the Rhode Island Community College shall publish on their respective publicly
10 accessible websites the average in-state tuition and mandatory fees applicable to their respective
11 programs and provide those figures to the state tax administrator and all accredited Rhode Island
12 community colleges, colleges and universities by September 1st each year.

13 (1) For an individual graduating in calendar year 2012, the individual's principal cap is
14 five thousand dollars (\$5,000) for a bachelor's degree earner or two thousand dollars (\$2,000) for
15 an associate's degree earner, multiplied by the number of years of full-time attendance to obtain
16 the relevant degree.

17 (2) Beginning in calendar year 2013, by November 1st annually the state tax administrator
18 shall multiply the educational cost-of-living adjustment by the principal cap applicable to
19 individuals who graduate in that calendar year; the result is the principal cap for individuals who
20 graduate during the following calendar year.

21 (3) For an individual earning a degree from an accredited Rhode Island community
22 college, college or university, the relevant accredited Rhode Island community college, college or
23 university shall certify, once the individual has earned the degree, the total principal of loans the
24 individual received as part of that individual's financial aid package.

25 (4) For an individual whose student loans exceed the principal cap, a benchmark loan
26 payment must be calculated as described in this paragraph. The state tax administrator shall
27 annually calculate by November 1st what the monthly payment would be on a loan for the amount
28 of the principal cap, to be paid over ten (10) years, at the interest rate offered for federally
29 subsidized Stafford loans under 20 United States Code, Section 1077a, during the individual's last
30 year of enrollment at an accredited Rhode Island community college, college or university.

31 **16-57.1-5. Eligibility for the program.** -- To be eligible to participate in the program:

32 (1) An individual must be a Rhode Island resident;

33 (2) An individual must attend and obtain an associate's degree or a bachelor's degree
34 from an accredited Rhode Island community college, college or university. The individual need

1 not obtain the degree from the institution in which that individual originally enrolled, as long as
2 all course work toward the degree is performed at an accredited Rhode Island community college,
3 college or university;

4 (3) An individual must live in this state while pursuing the degree, excepting periods
5 when it is reasonably necessary for the individual to live elsewhere as part of the relevant
6 institution's academic programs. The individual must also agree to live in this state after obtaining
7 the degree during any period when that individual seeks to take advantage of the educational
8 opportunity tax credit; and

9 (4) An individual must maintain records relating to loan payments claimed under the
10 educational opportunity tax credit for five (5) years after those payments are claimed.

11 **16-57.1-6. Educational loans. --** The following provisions apply with respect to an
12 individual's educational loans:

13 (1) The individual may claim the educational opportunity tax credit only with respect to
14 loans that are part of that individual's financial aid package and that have a term of at least eight
15 (8) years;

16 (2) If the individual makes any prepayment, that prepayment is not eligible for the
17 educational opportunity tax credit;

18 (3) The individual, including an individual who has graduated from an accredited Rhode
19 Island community college, college or university after September 1, 2012, may refinance
20 educational loans only if they remain separate from other debt, whether noneducational debt or
21 educational debt incurred in a program other than the degree program for which the educational
22 opportunity tax credit is claimed.

23 **16-57.1-7. Administration. --** The program must be administered as described in this
24 section:

25 (1) The board of governors for higher education, in consultation with the state tax
26 administrator, shall make information about the program available on the board's publicly
27 accessible website. The board shall refer any questions regarding the program to the relevant
28 accredited Rhode Island community college, college or university's financial aid office. The
29 assessor shall provide to an accredited Rhode Island community college, college or university
30 information that is necessary to document a student's eligibility for the educational opportunity
31 tax credit;

32 (2) A Rhode Island resident who enrolls in an accredited Rhode Island community
33 college, college or university and receives financial aid in the form of loans must have the
34 opportunity to participate in the program. An accredited Rhode Island community college, college

1 or university shall, at a minimum, provide information about the program in financial aid award
2 materials, entrance interviews, exit interviews, materials listing financial aid resources and, as
3 appropriate, any promotional materials provided by state agencies, to the extent such contacts
4 with students are already part of the accredited Rhode Island community college, college or
5 university's procedures;

6 (3) An accredited Rhode Island community college, college or university must document
7 for the student information required for purposes of the educational opportunity tax credit. The
8 accredited Rhode Island community college, college or university shall provide an original or
9 certified copy to the student and shall retain a copy of the documentation in its files for at least
10 ten (10) years after the student graduates;

11 (4) An individual may take advantage of any forbearance or deferment provisions in the
12 relevant loan agreements without forfeiting the right to claim the educational opportunity tax
13 credit when the individual resumes repayment. This paragraph applies to a student that obtained a
14 bachelor's or associate's degree from an accredited Rhode Island community college, college or
15 university after September 1, 2012.

16 **16-57.1-8. Effective date; participation by individual already enrolled in degree**
17 **program. --** The program must commence for the first semester that begins after the effective
18 date of this chapter. A Rhode Island resident who, when the program commences, is enrolled in
19 an associate's or a bachelor's degree program at an accredited Rhode Island community college,
20 college or university may participate, subject to the same essential terms as other program
21 participants. Such an individual need only meet the eligibility requirements in this chapter from
22 September 1, 2012 forward. Provided, that in calculating the benefits available to the person
23 under this chapter, including, but not limited to, credits and reimbursements, only education
24 undertaken and expenses incurred on or after the effective date of this chapter may be considered
25 for calculating the amount of the principal cap and/or any other additional benefits under this
26 chapter.

27 **16-57.1-9. Promotion by state agencies. --** The board, the higher education assistance
28 authority established pursuant to chapter 16-57, the department of economic development, and
29 any other agency engaging in education-related outreach shall integrate promotion of the program
30 into existing educational opportunity outreach efforts to the extent possible in a manner consistent
31 with the scope of the program and its centrality to the state's efforts to raise educational
32 attainment.

33 **16-57.1-10. Effect on funding or higher education. --** It is the intent of the legislature
34 that neither the existence of the program nor the benefits provided under the educational

1 opportunity tax credit shall serve as justification to decrease other funds appropriated or allocated
2 to the Rhode Island Community College, Rhode Island College, the University of Rhode Island,
3 and/or to any other accredited Rhode Island community college, college, or university.

4 **16-57.1-11. Credit for educational opportunity. --** (a) Definitions. -- As used in this
5 section, unless the context otherwise indicates, the following terms have the following meanings:

6 (1) "Employer" means a person, business, partnership, association, corporation, including
7 a municipal corporation, trust or nonprofit entity that employs the services of one or more
8 individual persons;

9 (2) "Full-time" employment means employment with a normal workweek of thirty-two
10 (32) hours or more;

11 (3) "Part-time" employment means employment with a normal workweek of between
12 sixteen (16) and thirty-two (32) hours;

13 (4) "Qualified employee" means an employee who is eligible for the credit provided in
14 this section and who is employed at least part- time;

15 (5) "Opportunity program participant" means an individual who obtains the specified
16 degree and complies with the requirements under this chapter;

17 (6) "Resident individual" has the same meaning as "Rhode Island resident" as defined in
18 this chapter;

19 (7) "Seasonal employment" means employment in an industry in which, because of the
20 seasonal nature thereof, it is customary to operate only during a regularly recurring period or
21 periods of less than twenty-six (26) weeks in a calendar year;

22 (8) "Term of employment" includes all months when the individual is actually employed.
23 It includes time periods when an individual is on leave or vacation. It extends to the full year for
24 individuals working for employers who customarily operate only during a regularly recurring
25 period of nine (9) months or more in a calendar year. For individuals working for employers who
26 customarily operate only during regularly recurring periods of less than nine (9) months in a
27 calendar year, including seasonal employment, the term of employment extends only to time
28 periods when the individual is actually working.

29 (b) Credit allowed. -- A taxpayer constituting an opportunity program participant or an
30 employer of a qualified employee is allowed a credit against the state personal or business
31 corporation tax, whichever is appropriate, for each taxable year under the terms established in this
32 section. The credit is created to implement the Job Creation Through Educational Opportunity
33 Program established under this chapter 16-57.1.

34 (c) Credit not to reduce tax to less than zero. -- The credit may not reduce the tax

1 otherwise due under this section to less than zero dollars (\$0.00). A taxpayer entitled to the credit
2 for any taxable year may carry over and apply to the tax liability for any one or more of the next
3 succeeding ten (10) years the portion, as reduced from year to year, of any unused credits. More
4 than one taxpayer may claim a credit based on loan payments actually made to a relevant lender
5 or lenders to benefit a single opportunity program participant, but no two (2) taxpayers may claim
6 the credit based on the same payment.

7 (d) Calculation of the credit. -- The credit in this section is determined on the basis of the
8 amount under paragraph (b) or paragraph (c), whichever is less, multiplied by the proration
9 factor. For purposes of this subsection, the proration factor is the amount derived by dividing the
10 total number of academic credit hours earned for a bachelor's or associate's degree after
11 December 31, 2011 by the total number of academic credit hours earned for the bachelor's or
12 associate's degree.

13 (1) If the benchmark loan payment is less than the actual monthly amount, then the credit
14 claimed may not exceed the product of the benchmark loan payment and the number of months
15 during the taxable year in which the taxpayer made loan payments.

16 (2) If the opportunity program participant's actual monthly loan payment amount is less
17 than the benchmark loan payment, the credit must be based on the actual loan payments made
18 during the taxable year.

19 (e) Conditions for an opportunity program participant claiming the credit. -- An
20 opportunity program participant may claim the credit only if the participant is a resident
21 individual. The participant may claim the credit based only on regular payments made during
22 months in which the individual was working for an employer located in this state. A married
23 couple filing jointly under may claim the credit only to the extent that the spouse on whose behalf
24 the credit is claimed meets these requirements.

25 (f) Conditions for an employer claiming the credit. -- (1) A taxpayer who is an employer
26 may claim the credit under this section under the following circumstances. The employer may
27 undertake to make partial or full loan payments directly to the relevant lender or lenders on behalf
28 of a qualified employee, having taken reasonable steps to ascertain that the employee is in fact a
29 qualified employee, and may claim a credit based on amounts that came due and were paid by the
30 employer during the term of employment. To receive the credit, the employer must retain for five
31 (5) years any proof of eligibility that the employee or independent contractor provides.

32 (2) The employer may claim a credit against the business corporation tax liability or, for
33 an unincorporated employer, against business income or personal income tax liability, but not
34 both, for the amount that the qualified employee could have claimed during any months when the

1 qualified employee was employed, had the qualified employee made the partial or full loan
2 payments instead, under conditions where the qualified employee had sufficient income to claim
3 the full credit for the taxable year. If the qualified employee is employed only on a part-time
4 basis, the employer may claim a credit only up to half of the total that the qualified employee
5 could have claimed had the qualified employee made all payments and earned sufficient income
6 to claim the full credit for the taxable year, but the amount the employer claims must still be
7 based on amounts actually paid.

8 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO EDUCATION - HIGHER EDUCATION - JOB CREATION THROUGH
EDUCATIONAL OPPORTUNITY PROGRAM

1 This act would establish the "Job Creation Through Educational Opportunity Program
2 Act of 2012." The purpose of this program would be to create incentives for individual residents
3 of this state to pursue higher education and to remain within this state after attaining a post-
4 secondary degree or certificate. One of the key components of this program would be an
5 educational opportunity tax credit which could be claimed for certain expenses associated with
6 post-secondary education, as calculated by the mechanisms provided in the act.

7 This act would take effect upon passage.

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