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

Introduced By: Representatives Blazejewski, Jackson, Reilly, Williams, and Dickinson

Date Introduced: March 02, 2011

Referred To: House Finance

It is enacted by the General Assembly as follows:

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

CHAPTER 57.1

JOB CREATION THROUGH EDUCATIONAL OPPORTUNITIES PROGRAM

16-57.1-1. Short title. -- This act shall be known and may be cited as the "Job Creation Through Educational Opportunity Program Act of 2011."

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

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

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

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

(4) Keep young people in this state through incentives for educational opportunity and
creation of more high-paying jobs; and

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

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

(1) "Accredited Rhode Island 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:

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

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

(iii) Any campus of Rhode Island College;

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

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

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

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

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

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

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

(8) "Rhode Island resident" means an individual who, at the time the individual commences the relevant degree program, is registered to vote in the state or occupies a dwelling in the state and continues to occupy a dwelling in the state during the school year, except periods...
when it is reasonably necessary for the individual to live elsewhere as part of an accredited Rhode Island community college, college or university's academic programs.

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

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

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

(1) For an individual graduating in calendar year 2011, the individual's principal cap is eight thousand nine hundred dollars ($8,900) for a bachelor's degree earner or three thousand seven hundred dollars ($3,700) for an associate’s degree earner, multiplied by the number of years of full-time attendance to obtain the relevant degree.

(2) Beginning in calendar year 2012, by November 1st annually the state tax administrator shall multiply the educational cost-of-living adjustment by the principal cap applicable to individuals who graduate in that calendar year; the result is the principal cap for individuals who graduate during the following calendar year.

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

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

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

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

(2) An individual must attend and obtain an associate’s degree or a bachelor's degree from an accredited Rhode Island 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 an accredited Rhode Island community college, college or university:

(3) 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. 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

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

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

(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 eight (8) years;

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

(3) The individual, including an individual who has graduated from an accredited Rhode Island community college, college or university after September 1, 2011, 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.

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

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

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

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

(4) An individual may take advantage of any forbearance or deferment provisions in the relevant loan agreements without forfeiting the right to claim the educational opportunity tax credit when the individual resumes repayment. This paragraph applies to a student that obtained a bachelor's or associate’s degree from an accredited Rhode Island community college, college or university after September 1, 2011.

16-57.1-8. Effective date; participation by individual already enrolled in degree program. -- The program must commence for the first semester that begins after the effective date of this chapter. A Rhode Island resident who, when the program commences, is enrolled in an associate’s or a bachelor's degree program at an accredited Rhode Island community college, college or university may participate, subject to the same essential terms as other program participants. Such an individual need only meet the eligibility requirements in this chapter from September 1, 2011 forward. Provided, that in calculating the benefits available to the person under this chapter, including, but not limited to, credits and reimbursements, only education undertaken and expenses incurred on or after the effective date of this chapter may be considered for calculating the amount of the principal cap and/or any other additional benefits under this chapter.

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

16-57.1-10. Effect on funding or 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 shall serve as justification to decrease other funds appropriated or allocated
to the Rhode Island Community College, Rhode Island College, the University of Rhode Island,
and/or to any other accredited Rhode Island community college, college, or university.

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

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

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

(3) “Part time” employment means employment with a normal workweek of between
sixteen (16) and (32) hours;

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

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

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

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

(8) "Term of employment" includes all months when the individual is actually employed.

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

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

(c) Credit not to reduce tax to less than zero. -- The credit may not reduce the tax
otherwise due under this section to less than zero dollars ($0.00). A taxpayer entitled to the credit for any taxable year may carry over and apply to the tax liability for any one or more of the next succeeding ten (10) years the portion, as reduced from year to year, of any unused credits. More than one taxpayer may claim a credit based on loan payments actually made to a relevant lender or lenders to benefit a single opportunity program participant, but no two (2) taxpayers may claim the credit based on the same payment.

(d) Calculation of the credit. -- The credit in this section is determined on the basis of the amount under paragraph (b) or paragraph (c), 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’s degree after December 31, 2011 by the total number of academic credit hours earned for the bachelor’s or associate’s degree.

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

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

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

(f) Conditions for an employer claiming the credit. -- (1) A taxpayer who is 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 five (5) years any proof of eligibility that the employee or independent contractor provides.

(2) The employer may claim a credit against the business corporation tax liability or, for an unincorporated employer, against business income or personal income tax liability, but not both, 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.

SECTION 2. This act shall take effect upon passage.

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This act would establish the "Job Creation Through Educational Opportunity Program Act of 2011." The purpose of this program would be to create incentives for individual residents of this state to pursue higher education and to remain within this state after attaining a post-secondary degree or certificate. One of the key components of this program would be an educational opportunity tax credit which could be claimed for certain expenses associated with post-secondary education, as calculated by the mechanisms provided in the act.

This act would take effect upon passage.