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H.P. 885

House of Representatives, April 9, 2015

An Act To Allow Educational Access for Families

Reference to the Committee on Taxation suggested and ordered printed.

Robert B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative SHERMAN of Hodgdon.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 20-A MRSA §5815** is enacted to read:

3 **§5815. Scholarship granting organization**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Educational scholarship" means a grant to an eligible student to pay for part or
7 all of the tuition and fees at a qualified school, including transportation to a qualified
8 school outside of the school administrative unit in which that eligible student resides.

9 B. "Eligible student" means a student who:

10 (1) Is a dependent in a household in which the annual household income the year
11 immediately prior to receiving an educational scholarship is equal to or below
12 250% of the nonfarm income official poverty line that is applicable to a family of
13 the size involved, as defined by the federal Department of Health and Human
14 Services and updated annually in the Federal Register under authority of 42
15 United States Code, Section 9902(2);

16 (2) Is enrolled in a qualified school, was eligible to attend a public school the
17 preceding semester or is starting school for the first time in this State; and

18 (3) Is a resident of this State while receiving an educational scholarship.

19 A student who meets the requirements of subparagraph (1) and who receives an
20 educational scholarship remains an eligible student regardless of household income
21 until the student is graduated from secondary school or attains 21 years of age,
22 whichever occurs first. For purposes of this paragraph, "household income" has the
23 same meaning as in Title 36, section 6201, subsection 7.

24 C. "Private school" means an academy, seminary, institute or other private
25 corporation or body formed for educational purposes covering kindergarten to grade
26 12 or any portion thereof that:

27 (1) Is located in this State; and

28 (2) Satisfies the requirements prescribed by the laws of this State for private
29 schools.

30 D. "Qualified school" means a private school or a public school.

31 E. "Scholarship granting organization" means a charitable organization in this State
32 pursuant to the United States Internal Revenue Code of 1986, Section 501(c)(3) that
33 provides educational scholarships to eligible students using voluntary contributions, a
34 portion of which are eligible for the tax credit under Title 36, section 5219-NN.

35 **2. Duties of scholarship granting organization.** Beginning with the 2016-2017
36 school year, a scholarship granting organization, in addition to the requirements of
37 subsections 3 and 4, shall:

- 1 A. Allocate at least 90% of its annual revenue from contributions for educational
2 scholarships and 100% of its income from interest on or investments of that revenue
3 for educational scholarships;
- 4 B. Provide educational scholarships to an eligible student up to a maximum of
5 \$3,500 for a school year and provide educational scholarships to a family with more
6 than one eligible student up to a maximum of \$7,000 for a school year;
- 7 C. Ensure that first-time recipients of educational scholarships were not continuously
8 enrolled in a private school during the year prior to receiving the educational
9 scholarship;
- 10 D. Provide educational scholarships to eligible students without limiting availability
11 of those scholarships to students of a specific qualified school;
- 12 E. Demonstrate its financial accountability to the Department of Administrative and
13 Financial Services, Bureau of Revenue Services by submitting an annual financial
14 information report for the scholarship granting organization that complies with
15 uniform financial accounting standards established by the bureau. The annual
16 financial information report must be completed by a certified public accountant and
17 certified by the State Tax Assessor as free of material misstatements; and
- 18 F. Demonstrate its financial viability, if the scholarship granting organization expects
19 to receive donations of \$50,000 or more during the usual school year, by filing with
20 the department prior to the start of the usual school year:
- 21 (1) A surety bond payable to the State in an amount equal to the aggregate
22 amount of contributions expected to be received during the usual school year; or
- 23 (2) Financial information that demonstrates the financial viability of the
24 scholarship granting organization.
- 25 **3. Reporting to department.** A scholarship granting organization using voluntary
26 cash contributions eligible for the tax credit provided pursuant to Title 36, section
27 5219-NN shall report annually by August 1st to the department, in a form prescribed by
28 the department:
- 29 A. The name, address and contact name of the scholarship granting organization;
- 30 B. The total number of contributions received during the previous calendar year;
- 31 C. The total dollar amount of contributions received during the previous calendar
32 year;
- 33 D. The total number of students awarded educational scholarships during the
34 previous calendar year;
- 35 E. The total dollar amount of educational scholarships awarded during the previous
36 calendar year; and
- 37 F. For each school attended by students receiving educational scholarships during the
38 previous calendar year:
- 39 (1) The name and address of the school;

1 (2) The number of educational scholarships awarded during the previous
2 calendar year; and

3 (3) The total dollar amount of educational scholarships awarded during the
4 previous calendar year.

5 **4. Reporting to contributors.** A scholarship granting organization using voluntary
6 cash contributions provided pursuant to Title 36, section 5219-NN shall provide to each
7 contributor annually by January 31st information regarding the amount of voluntary
8 contributions made by the contributor that are eligible for the credit provided pursuant to
9 Title 36, section 5219-NN.

10 **5. Certification by department.** The department shall annually certify to the
11 Department of Administrative and Financial Services, Bureau of Revenue Services those
12 organizations that qualify as scholarship granting organizations pursuant to this section.

13 **6. Rulemaking.** The department shall adopt routine technical rules, as defined in
14 Title 5, chapter 375, subchapter 2-A, to implement the provisions of this section.

15 **Sec. 2. 36 MRSA §5219-NN** is enacted to read:

16 **§5219-NN. Scholarship granting organization credit**

17 **1. Credit allowed.** For tax years beginning on or after January 1, 2016, a taxpayer is
18 allowed a credit in the amount of voluntary cash contributions made by the taxpayer
19 during the taxable year to a scholarship granting organization, as certified by the
20 Department of Education pursuant to Title 20-A, section 5815, subsection 5, up to a
21 maximum amount of \$1,000 annually.

22 **2. Conditions.** The credit allowed under subsection 1 is subject to the following
23 conditions.

24 **A.** Any part of a voluntary cash contribution that is used to reduce the taxpayer's
25 Maine income tax liability except as provided in this section is ineligible for the
26 credit provided pursuant to this section.

27 **B.** The tax credit is not allowed for an educational scholarship provided to an eligible
28 student for tuition or expenses paid to a school that employs as a staff or board
29 member of that school a member of or immediate family member of a member of the
30 scholarship granting organization.

31 For purposes of this paragraph, "immediate family member" means a person's spouse,
32 parent, grandparent, child, grandchild, sister, brother, stepparent, stepgrandparent,
33 stepchild, stepgrandchild, stepsister, stepbrother, mother-in-law, father-in-law,
34 brother-in-law, sister-in-law, son-in-law, daughter-in-law, guardian, former guardian
35 or domestic partner.

36 **3. Limitation; carry-forward.** The credit under this section may not reduce the tax
37 otherwise due under this Part to less than 50% of that tax, after the allowance for all other
38 credits. A taxpayer entitled to a credit under this section for any taxable year may carry

1 over and apply to the tax liability for any one or more of the next succeeding 3 taxable
2 years the portion, as reduced from year to year, of any unused credits.

3 **4. Review or audit by bureau; penalties.** If the bureau has a reasonable belief that
4 a scholarship granting organization has failed to comply with the requirements of Title
5 20-A, section 5815, the bureau may conduct a financial review or an audit of that
6 scholarship granting organization. If the bureau determines that the scholarship granting
7 organization has intentionally and substantially failed to comply with the requirements of
8 Title 20-A, section 5815, the bureau may bar the scholarship granting organization from
9 participating in the credit. Upon taking such action, the bureau shall notify the
10 Department of Education, which shall notify affected students as soon as practicable.

11 **5. Rulemaking.** The bureau shall adopt routine technical rules pursuant to Title 5,
12 chapter 375, subchapter 2-A to implement the provisions of this section, including:

13 A. A method to monitor payments by scholarship granting organizations to qualified
14 schools and eligible students; and

15 B. A standardized receipt for use by a scholarship granting organization to provide
16 proof of contribution by a taxpayer for use by that taxpayer in claiming the credit
17 under this section.

18 **Sec. 3. Application.** This Act applies to tax years beginning on or after January 1,
19 2016.

20 SUMMARY

21 This bill establishes a scholarship granting organization credit to provide a Maine
22 income tax credit to individuals and corporations who donate to scholarship granting
23 organizations beginning in the 2016 tax year. Scholarship granting organizations are
24 defined as organizations that provide educational scholarships, beginning in the 2016-
25 2017 school year, to public or private school students in kindergarten to grade 12 who are
26 from households in which the household incomes are equal to or below 250% of the
27 income guidelines used to qualify for federal Department of Health and Human Services
28 programs.

29 The amount of the credit is the amount of voluntary cash contributions made to a
30 scholarship granting organization, up to a maximum of \$1,000 annually of the tax owed.
31 Scholarship granting organizations that receive such contributions are subject to reporting
32 requirements. The credit is not available for an educational scholarship provided to a
33 student who attends a school that employs a paid staff or board member who is a member
34 or an immediate family member of a member of the scholarship granting organization.