

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2002

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Legislative Document

No. 2162

H.P. 1655

House of Representatives, March 7, 2002

**An Act to Supplement Maine's Academic Attainment and to Retain Talent.**

(AFTER DEADLINE)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND, Clerk

Presented by Speaker SAXL of Portland.

Cosponsored by President BENNETT of Oxford and

Representative RICHARD of Madison, Senators: CATHCART of Penobscot, MITCHELL of Penobscot.

2  
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 36 MRSA §5219-U** is enacted to read:

5 **§5219-U. Educational attainment investment tax credit**

6  
7 **1. Definitions.** As used in this section, unless the  
8 context otherwise indicates, the following terms have the  
9 following meanings.

10  
11 A. "Eligible student" means a student who is a resident of  
12 the State and who is also a graduate from an approved  
13 secondary school or the equivalent, including, but not  
14 limited to, a student who received equivalent instruction  
15 through home instruction, a student who matriculated at an  
16 accredited public or private institution of higher education  
17 in the State prior to high school graduation, a student who  
18 successfully completed a general educational development  
19 examination or its equivalent or a student participating in  
20 a regional postsecondary educational program operated  
21 through the New England Higher Education Compact set forth  
22 in Title 20-A, chapter 413.

23  
24 B. "Qualified scholarship organization" means a private,  
25 nonprofit organization qualified under Section 501(c)(3) of  
26 the Code and certified by the Secretary of State pursuant to  
27 subsection 4 that awards at least 95% of the contribution  
28 that is eligible for a tax credit under this section for one  
29 of the following purposes:

30  
31 (1) To provide need-based scholarships or to repay  
32 loans related to education to eligible students who are  
33 or will be attending an accredited public or private  
34 institution of higher education in the State; or

35  
36 (2) To repay postsecondary education loans for any  
37 person who, upon graduation from an accredited public  
38 or private institution of higher education outside of  
39 the State, resides in the State and is employed by a  
40 business or organization in the State or resides in the  
41 State and is self-employed.

42  
43 C. "Resident of the State" means a person who is either an  
44 independent student who has been a domiciled resident of the  
45 State for at least one calendar year prior to the date of  
46 attendance at an accredited public or private educational  
47 institution or a dependent student whose parent or legal  
48 guardian has been a domiciled resident of the State at least  
49 one calendar year prior to the date of attendance at an  
50 accredited public or private educational institution. A

2 residence established in the State for the purpose of  
4 attending an accredited public or private institution of  
6 higher education in the State is not sufficient to establish  
8 a domiciled residence in the State. An individual may  
10 establish a domiciled residence in the State by providing  
12 indicia of residency satisfactory to the Secretary of State,  
14 which may include evidence of home ownership within the  
16 State, filing of state income tax returns for residents or,  
18 if the applicant is attending an accredited public  
20 institution of higher education in the State, resident  
22 tuition bills. When a person ceases to maintain a domiciled  
24 residence in the State, as when the parents of a minor move  
26 from the State, the person will ordinarily thereafter be  
28 classified as a nonresident of the State, but may be  
30 eligible to obtain a scholarship or postsecondary education  
32 loan repayment in the first year after leaving the State by  
34 establishing to the satisfaction of the Secretary of State  
36 that the person is ineligible to obtain financial aid  
38 provided by any other state.

20 **2. Credit allowed.** A resident individual or corporate  
22 taxpayer is allowed a credit against the tax otherwise due under  
24 this Part in the amount of 10% of the amount contributed in tax  
26 year 2002 and in the amount of 50% of the amount contributed in a  
28 year after tax year 2002 to a qualified scholarship  
30 organization. For purposes of this subsection, the contribution  
32 provided may not directly benefit a spouse or dependent, as  
34 defined by Section 152 of the Code, of an individual taxpayer or  
36 of a director, trustee, officer or employee of a corporate  
38 taxpayer claiming credit. The contribution may be made in cash,  
40 its equivalent or in stock. In no case may this credit reduce  
42 the tax otherwise due under this Part to less than zero.

34 **3. Carry over to succeeding years.** A taxpayer entitled to  
36 a credit under this section for any taxable year may carry over  
38 and apply to the tax liability for any one or more of the next  
40 succeeding 5 taxable years the portion, as reduced from year to  
42 year, of any unused credits.

40 **4. Certification of scholarship organizations.** A  
42 scholarship organization shall apply to the Secretary of State to  
44 be certified as a qualified scholarship organization. The  
46 Secretary of State shall certify a scholarship organization if it  
48 files with the Secretary of State a copy of the determination  
50 letter of the 501(c)(3) status issued by the Internal Revenue  
Service and a statement that the purposes outlined in the  
scholarship organization's articles of incorporation are  
consistent with the purposes set forth in subsection 1, paragraph  
B. After certification, a qualified scholarship organization  
shall notify the Secretary of State within 10 days if the

2 Internal Revenue Service revokes its 501(c)(3) status or if it  
4 alters its purpose so that contributors to that organization are  
6 not eligible for a tax credit under this section. If the  
8 Secretary of State receives notification that a qualified  
10 scholarship organization's 501(c)(3) status is revoked by the  
12 Internal Revenue Service or its purposes have been altered so  
14 that contributors to that organization are not eligible for a tax  
16 credit under this section, the Secretary of State shall  
immediately revoke the organization's certification as a  
qualified scholarship organization. A qualified scholarship  
organization shall pay a penalty to the Secretary of State of  
\$100 for each month that it fails to notify the Secretary of  
State under this subsection up to a maximum of \$1,000. The  
Secretary of State and the State Tax Assessor may adopt routine  
technical rules as defined in Title 5, chapter 375, subchapter  
II-A to ensure compliance with this section.

18 **5. Recapture.** In the event that the Secretary of State  
20 revokes the certification of a scholarship organization, there  
22 must be added to the tax imposed on the contributor to this  
24 scholarship organization under this Part for the taxable year in  
which the revocation occurs an amount equal to the excess of the  
amount of credit revoked over the amount of credit not yet taken.

26 **6. Annual filing with Secretary of State.** A qualified  
28 scholarship organization shall file with the annual report  
30 required by Title 13-B, section 1301 a statement that 95% of the  
contributions to the qualified scholarship organization eligible  
for a tax credit under this section was expended for at least one  
of the purposes set forth in subsection 1, paragraph B.

32 **Sec. 2. Review of policy alternatives available to Legislature in**  
34 **creating endowment fund to provide scholarships.** Beginning January  
36 1, 2003 and pursuant to legislation enacted during the Second  
38 Regular Session of the 120th Legislature to implement the  
40 recommendations of the Blue Ribbon Commission on Postsecondary  
42 Educational Attainment, the advisory council established to  
44 address policies related to higher education attainment in the  
46 State shall review the policy alternatives available to the  
48 Legislature in creating an endowment fund for the benefit of  
50 eligible residents of the State to meet the high cost of  
attending an institution of higher education. The advisory  
council review must include an examination of existing endowment  
programs in the State as well as endowment programs established  
in other states to provide financial assistance to eligible  
residents of the State enrolled at an institution of higher  
education. The advisory council shall submit a report that  
includes its findings and recommendations, including any  
suggested legislation, to the joint standing committee of the  
Legislature having jurisdiction over education matters and the

2 Legislative Council no later than December 1, 2003. If the  
3 advisory council requires a limited extension of time to complete  
4 its report, it may apply to the Legislative Council, which may  
5 grant the extension. The advisory council is not authorized to  
6 introduce legislation. Following receipt and review of the  
7 report, the joint standing committee of the Legislature having  
8 jurisdiction over education matters may report out a bill to the  
9 Second Regular Session of the 121st Legislature.

10 This section takes effect only if legislation enacted during  
11 the Second Regular Session of the 120th Legislature establishes  
12 an advisory council to address policies related to higher  
13 education attainment in the State.

14 **Sec. 3. Application.** That section of this Act that enacts the  
15 Maine Revised Statutes, Title 36, section 5219-U applies to tax  
16 years beginning on or after January 1, 2002.  
17

## 20 SUMMARY

21 This bill establishes a tax credit for individuals or  
22 corporations that provide a contribution that promotes the  
23 postsecondary educational attainment of Maine residents or that  
24 promotes the migration of college-educated persons to work in  
25 Maine. To accomplish this, the bill proposes the following.  
26

27 1. It provides that contributions eligible for a tax credit  
28 include funds contributed by an individual or corporation to a  
29 qualified scholarship organization, which is a 501(c)(3)  
30 corporation and is certified by the Secretary of State, whose  
31 purpose is to provide 95% of the contribution it receives to  
32 award student financial assistance to Maine residents to attend  
33 institutions of higher education and to repay educational loans  
34 of persons who migrate to the State for employment purposes.  
35

36 2. It provides that contributions eligible for a tax credit  
37 include funds contributed to provide for need-based scholarships  
38 and the repayment of postsecondary educational loans for eligible  
39 residents of the State, including displaced workers, who are or  
40 will be attending a public or private institution of higher  
41 education in the State.  
42

43 3. It also provides that contributions eligible for a tax  
44 credit include funds contributed to provide for the repayment of  
45 postsecondary education loans for residents of the State who,  
46 upon graduation from a public or private institution of higher  
47 education outside of the State, return to the State to be  
48 employed by a business or organization in the State or to be  
49 self-employed in the State or for any person who, upon graduation  
50 from an accredited public or private institution of higher

2 education outside of the State, resides in the State and is  
employed by a business or organization in the State or resides in  
the State and is self-employed.

4  
6 4. It provides that the tax credit is 10% of the amount  
contributed in tax year 2002 and 50% of the amount contributed in  
the years after 2002. The credit may not reduce the  
8 contributor's Maine income tax to less than zero.

10 5. It establishes that, beginning January 1, 2003 and  
pursuant to legislation enacted during the Second Regular Session  
12 of the 120th Legislature to implement the recommendations of the  
Blue Ribbon Commission on Postsecondary Educational Attainment,  
14 the advisory council established to address policies related to  
higher education attainment in the State shall review the policy  
16 alternatives available to the Legislature in creating an  
endowment fund for the benefit of eligible residents of the State  
18 to meet the high cost of attending an institution of higher  
education. The advisory council shall submit a report, including  
20 any suggested legislation, by December 1, 2003. Following  
receipt and review of the report, the joint standing committee of  
22 the Legislature having jurisdiction over education matters may  
report out a bill to the Second Regular Session of the 121st  
24 Legislature.