

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1284

S.P. 465

In Senate, March 31, 2009

An Act To Create a Scholarship Granting Organization Tax Credit

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator SHERMAN of Aroostook.
Cosponsored by Senator WESTON of Waldo and
Representatives: BROWNE of Vassalboro, CUSHING of Hampden, EDGECOMB of Caribou,
HAMPER of Oxford, JOY of Crystal, LEWIN of Eliot, NUTTING of Oakland.

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 reporting**

4 A scholarship granting organization, as defined in Title 36, section 5219-DD, using
5 voluntary cash contributions provided pursuant to Title 36, section 5219-DD shall report
6 annually by August 1st to the Department of Administrative and Financial Services,
7 Bureau of Revenue Services, in a form prescribed by the bureau:

8 1. Name. The name, address and contact name of the scholarship granting
9 organization;

10 2. Number of contributions. The total number of contributions received during the
11 previous calendar year;

12 3. Amount of contributions. The total dollar amount of contributions received
13 during the previous calendar year;

14 4. Number of children. The total number of children awarded educational
15 scholarships during the previous calendar year;

16 5. Amount and type of scholarships. The total dollar amount of educational
17 scholarships awarded during the previous calendar year, the total number and dollar
18 amount of educational scholarships awarded during the previous school year to students
19 qualifying for the federal free and reduced price lunch program pursuant to 42 United
20 States Code, Section 1758(b) and the percentage of first-time educational scholarship
21 recipients who were enrolled in a public school during the previous school year; and

22 6. School information. For each school to which educational scholarships were
23 awarded:

24 A. The name and address of the school;

25 B. The number of educational scholarships awarded during the previous calendar
26 year; and

27 C. The total dollar amount of educational scholarships awarded during the previous
28 calendar year.

29 Sec. 2. 36 MRSA §5219-DD is enacted to read:

30 **§5219-DD. Scholarship granting organization credit**

31 1. Definitions. As used in this section, unless the context otherwise indicates, the
32 following terms have the following meanings.

33 A. "Educational scholarship" means a grant to a student to pay for part or all of the
34 tuition and fees at a qualified school, including transportation to a qualified school
35 outside of the school district in which that student resides.

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

2 (1) Is a dependent in a household in which the annual household income the year
3 immediately prior to receiving an educational scholarship is no more than 250%
4 of the income guidelines developed annually used to qualify for a free and
5 reduced price lunch under the free and reduced price lunch program pursuant to
6 42 United States Code, Section 1758(b);

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

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

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

15 C. "Low-income eligible student" means an eligible student who is a dependent in a
16 household in which, based on the annual household income, the eligible student
17 would qualify for a free or reduced price lunch under the federal free and reduced
18 price lunch program pursuant to 42 United States Code, Section 1758(b).

19 D. "Private school" means an academy, seminary, institute or other private
20 corporation or body formed for educational purposes covering kindergarten to grade
21 12 or any portion thereof that:

22 (1) Is located in this State; and

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

25 E. "Qualified school" means a private school or a public school as defined in Title
26 20-A, section 1, subsection 24.

27 F. "Scholarship granting organization" means a charitable organization in this State
28 pursuant to Section 501(c)(3) of the Code that provides educational scholarships to
29 eligible students.

30 **2. Duties of scholarship granting organization.** A scholarship granting
31 organization, in addition to the requirements of Title 20-A, section 5815, shall:

32 A. Allocate at least 90% of its annual revenue from contributions for educational
33 scholarships and 100% of its income from interest or investments of that revenue for
34 educational scholarships;

35 B. Provide educational scholarships to a percentage of low-income eligible students
36 equal to or greater than the percentage of low-income eligible students in the county
37 in which the scholarship granting organization expends the majority of its revenue on
38 educational scholarships;

39 C. Ensure that at least 50% of first-time recipients of educational scholarships were
40 not continuously enrolled in a private school during the year prior to receiving an
41 educational scholarship for the first time;

1 D. Provide educational scholarships to eligible students without limiting availability
2 of those scholarships to students of a specific qualified school;

3 E. Demonstrate its financial accountability to the bureau by submitting an annual
4 financial information report for the scholarship granting organization that complies
5 with uniform financial accounting standards established by the bureau. The annual
6 financial report must be completed by a certified public accountant and certified by
7 the assessor as free of material misstatements; and

8 F. Demonstrate its financial viability, if the scholarship granting organization expects
9 to receive donations of \$50,000 or more during the usual school year, by filing with
10 the bureau prior to the start of the usual school year:

11 (1) A surety bond payable to the State in an amount equal to the aggregate
12 amount of contributions expected to be received during the usual school year; or

13 (2) Financial information that demonstrates the financial viability of the
14 scholarship granting organization.

15 3. Amount. A taxpayer is allowed a credit in the amount of voluntary cash
16 contributions made by the taxpayer during the taxable year to a scholarship granting
17 organization up to a maximum amount of 50% of the tax otherwise due under this Part.

18 4. Conditions. The credit allowed under subsection 3 is subject to the conditions
19 under this subsection.

20 A. A married couple that files separate returns for a taxable year in which each
21 spouse could have filed a joint return may each claim only 1/2 of the tax credit that
22 would have been allowed for a joint return.

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

26 C. The tax credit is not allowed for an educational scholarship provided to an eligible
27 student who is attending a school that employs a paid staff or board member, or an
28 immediate family member of that paid staff or board member, who is an immediate
29 family member of a member of the scholarship granting organization.

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

35 D. The scholarship granting organization must meet the reporting requirements
36 specified in Title 20-A, section 5815.

37 5. Limitation; carry-forward. The credit under this section may not reduce the tax
38 otherwise due under this Part to less than 50% of that tax. A taxpayer entitled to a credit
39 under this section for any taxable year may carry over and apply to the tax liability for
40 any one or more of the next succeeding 3 taxable years the portion, as reduced from year
41 to year, of any unused credits.

1 **6. Review or audit by bureau; penalties.** If the bureau has a reasonable belief that
2 a scholarship granting organization has failed to comply with the requirements of
3 subsection 2 or Title 20-A, section 5815, the bureau may conduct a financial review or an
4 audit of that scholarship granting organization. If the bureau determines that the
5 scholarship granting organization has intentionally and substantially failed to comply
6 with the requirements of subsection 2 or Title 20-A, section 5815, the bureau may bar the
7 scholarship granting organization from participating in the credit. Upon taking such
8 action, the bureau shall notify affected students as soon as practicable.

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

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

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

16 **Sec. 3. Application.** This Act applies to tax years beginning on or after January 1,
17 2009.

18 SUMMARY

19 This bill establishes a scholarship granting organization credit to provide a tax credit
20 to individuals and corporations who donate to scholarship granting organizations.
21 Scholarship granting organizations are defined as organizations that provide grants or
22 scholarships to public or private school students in kindergarten to grade 12 who are from
23 households that qualify for the federal free and reduced price lunch program.

24 The maximum amount of the credit is the amount of voluntary cash contributions
25 made to a scholarship granting organization up to a maximum of 50% of the tax owed.
26 Scholarship granting organizations that receive such contributions are subject to reporting
27 requirements. The credit is not available for contributions made to a scholarship granting
28 organization if a member of that organization is an immediate family member of a paid
29 staff member or board member of the public or private school.