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TESTIMONY IN FAVOR OF LD 1741

*An Act to Promote Educational Opportunity Through the Educational Choice Tax Credit Program,
Eliminating Certain Restrictions on Charter Schools and Virtual Public Charter Schools,
Allowing More Entities to Authorize Charter Schools and Clarifying Educational Policy on
Immunization Requirements*

MAY 8, 2023

Senator Rafferty, Representative Brennan and esteemed colleagues on the Joint Standing
Committee on Education and Cultural Affairs -

My name is Barbara Bagshaw and I proudly represent my neighbors in Windham. I stand before
you to present my bill, LD 1741, *An Act to Promote Educational Opportunity Through the
Educational Choice Tax Credit Program, Eliminating Certain Restrictions on Charter Schools
and Virtual Public Charter Schools, Allowing More Entities to Authorize Charter Schools and
Clarifying Educational Policy on Immunization Requirements.*

LD 1741 provides more choice in education because, at least to me and many of my neighbors,
it's abundantly clear that parents and families desperately need choice. After two-plus years of
disrupting young children's lives from school closures and their parents' economic safety by
naming some "nonessential" and shutting down the state, our State now finds the lowest reading
scores for 4th and 8th graders in its history. Mental health issues are on the rise and our state's
graduation rate is at its lowest since 2016.

Quite simply, my bill clarifies that a school district must make suitable provisions for the education of every person within the age limits prescribed by law who reside in the school administrative unit. What's more, my bill repeals the limit on the total enrollment of virtual public charter schools, a limit on the number of public charter schools and a limit on the expansion of virtual public charter schools.

Additionally, LD 1741 creates the educational choice tax credit program. This program would allow for tax credits for donations made to program to allow for a tax write-off for private donations to nonprofits which help students from low-income households (up to twice the level to qualify for free/reduced-lunch) afford the ideal educational option for them – allowing those dollars to follow the student. It is very important to note that scholarship organizations must spend at least 90% of donations and all interest on investments on students. Period.

I believe that this could empower families who are seeking a better education for their child, but may find alternative educational paths outside of their ability to afford. Whether tuition to a qualified private school or payments to a district school outside of their own, through a Superintendent's Agreement, low-income families deserve the opportunity to choose their ideal school just the same as those who are well-off. Educational success should not depend on a parent's ability to pay more. All Maine students should have the ability to reach their own unique potential. This tax-credit scholarship raises its monies completely outside of the public system. This means it will not drain funds from local public schools. I'd consider this a big win - for parents, districts, and taxpayers.

Lastly, my bill provides an exception to school immunization requirements for students of virtual public charter schools or private schools. After the elimination of religious and philosophical exemptions in public schools, I would contend this language is necessary in making sure all students have the opportunity to learn and grow – regardless of their vaccination status.

Thank you for your consideration of this proposed legislation and I would be happy to answer any of your questions.

LD 1741, An Act to Promote Educational Opportunity Through the Educational Choice Tax Credit Program, Eliminating Certain Restrictions on Charter Schools and Virtual Public Charter Schools, Allowing More Entities to Authorize Charter Schools and Clarifying Educational Policy on Immunization Requirement

Representative Bagshaw Proposed Amendment

Changes in Section 1 highlighted and italicized

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

Sec. 1. 20-A MRSA §2, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. State responsibility for public education. In accordance with the Constitution of Maine, Article VIII, the Legislature shall enact the laws that are necessary to assure that all school administrative units make suitable provisions for the support and maintenance of the public schools and the education of every individual within the age limitations prescribed by state statutes who resides in the school administrative unit and whose parent seeks a public education for the individual. It is the intent of the Legislature that every person within the age limitations prescribed by state statutes shall be provided an opportunity to receive the benefits of a free public education.

Sec. 2. 20-A MRSA §2404, sub-§4, as enacted by PL 2019, c. 253, §1, is repealed.

Sec. 3. 20-A MRSA §2405, sub-§1, as amended by PL 2011, c. 570, §4, is further amended to read:

1. Eligible authorizers. The following groups may become authorizers of public charter schools:

A. A local school board with regard to creating a public charter school within the boundaries of the school administrative unit governed by that local school board;

B. The commission under subsection 8; ~~and~~

C. A collaborative among local school boards that forms to set up a regional public charter school to be located within the area managed and controlled by those local school boards;

D. The University of Maine System; and

E. Educational or research-based nonprofit organizations.

Sec. 4. 20-A MRSA §2405, sub-§10, as enacted by PL 2019, c. 307, §2, is repealed.

Sec. 5. 20-A MRSA §2408, sub-§2, as amended by PL 2019, c. 253, §2, is further amended by repealing the 3rd blocked paragraph.

Sec. 6. 20-A MRSA c. 220 is enacted to read:

CHAPTER 220
EDUCATIONAL TAX CREDIT

§5901. Educational tax credit program

1. Definition. As used in this chapter, unless the context otherwise indicates, "program" means the educational choice tax credit program created under this section and Title 36, section 5217-G.

2. Program created. The department shall create a program as provided by this section to determine eligibility for tax credits under Title 36, section 5217-G for donations made to scholarship organizations.

3. Requirements for scholarship organizations. In order to qualify for a tax credit under the program, a taxpayer must make a donation to a scholarship organization that provides scholarships to qualifying students attending qualifying schools and has notified the department of its intention to participate in the program and comply with the program's requirements. In order to qualify for participation in the program, a scholarship organization must:

A. Demonstrate to the department that the scholarship organization has been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the federal Internal Revenue Code of 1986;

B. Distribute periodic scholarship payments as checks made out to a student's parent;

C. Require a parent to submit receipts for all qualifying instruction-related expenses paid for by the scholarship to the scholarship organization within 90 days of payment;

D. Provide a department-approved receipt to taxpayers for contributions made to the scholarship organization;

E. Ensure that at least 90% of the scholarship organization's revenue from donations is spent on educational scholarships and that all revenue from interest or investments is spent on educational scholarships;

F. Each year, spend a portion of the scholarship organization's expenditures on scholarships for low-income eligible students that is at minimum equal to the percentage of low-income eligible students in the county where the scholarship organization expends the majority of its scholarships;

G. Grant only single-year scholarships;

H. Carry forward no more than 25% of their revenue from donations from the state fiscal year in which the donations were received to the following state fiscal year;

I. Cooperate with the department to conduct criminal background checks on all of the scholarship organization's employees and board members and exclude from employment or governance any individual that might reasonably pose a risk to the appropriate use of donated funds;

J. Ensure that scholarships are portable during the school year and can be used at any qualifying school to which the scholarship organization grants scholarships and that accepts the qualified student according to a parent's wishes. If a student moves to a new qualifying school during a school year, the scholarship organization may allow the amount of the scholarship to be prorated;

K. Report to the department by June 1st of each year the following information prepared by a certified public accountant regarding the scholarship organization's grants in the previous calendar year:

(1) The name and address of the scholarship organization;

(2) The total number and total dollar amount of donations received;

(3) The total number and total dollar amount of scholarships awarded;

(4) The total number and total dollar amount of scholarships awarded to students qualifying for free and reduced-price meals under the National School Lunch Program under 7 Code of Federal Regulations, Part 210; and

(5) The percentage of first-time recipients of scholarships who were enrolled in a public school;

L. Ensure scholarships are not provided for students to attend a school with paid staff or board members or relatives of paid staff or board members in common with the scholarship organization;

M. Annually submit to the department a financial information report for the scholarship organization that complies with uniform financial accounting standards established by the department, that is conducted by a certified public accountant and that an auditor has certified is free of material misstatements;

N. Provide scholarships that cover all or part of the cost to educate a student, including, but not limited to:

(1) Tuition and fees at a qualifying school;

(2) Instruction-related transportation expenses; and

(3) Instruction-related expenses other than transportation subject to the approval of the department, including but not limited to online learning services, tutoring services and instruction-related materials and equipment. Instruction-related expenses may not include the cost of a parent's time expended in the homeschooling of the parent's child; and

O. Provide that, once a qualifying student receives a scholarship under the program, the student remains eligible regardless of household income until the student graduates high school or reaches 21 years of age, whichever occurs first.

In order to be a qualifying student, a student must be a member of a household whose total annual income the year before the student receives a scholarship from the scholarship organization does not exceed an amount equal to 2 times the income standard used to qualify for free or reduced-price meals under the National School Lunch Program under 7 Code of Federal Regulations, Part 210 and reside in this State while receiving the scholarship.

A qualifying school for purposes of this section means a public school other than the public school in which a student seeking a scholarship resides or a private school that has notified the department of an intention to participate in the program.

4. Department duties and powers. The department:

A. Shall:

(1) Provide a standardized format for a receipt to be issued by a scholarship organization to a taxpayer to indicate the value of a donation received;

(2) Provide a standardized format for a scholarship organization to report the information required in this section; and

(3) Notify affected scholarship students and the students' parents of this decision as quickly as possible if the department decides to bar a scholarship organization from the program; and

B. May:

(1) Conduct either a financial review or an audit of a scholarship organization if the department has evidence of fraud; and

(2) Bar a scholarship organization from participating in the program if the department establishes that the scholarship organization has intentionally and substantially failed to comply with the requirements in this section.

5. Rules. The department may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 7. 20-A MRSA §6355, sub-§5 is enacted to read:

5. Virtual public charter schools and private schools. The student is enrolled in or attends a virtual public charter school or a private school.

Sec. 8. 36 MRSA §5217-G is enacted to read:

§5217-G. Educational tax credit and diversion of income tax withheld

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

A. "Qualified taxpayer" means a taxpayer who files a state income tax return and is not a dependent of another taxpayer.

B. "Scholarship organization" means an organization that meets the requirements of Title 20-A, section 5901, subsection 3.

2. Credit allowed. For tax years beginning on or after January 1, 2023, a qualified taxpayer is allowed a credit against the tax imposed by this Part in accordance with the provisions of this section. The credit is created to implement the educational choice tax credit program established under this section and Title 20-A, chapter 220.

A. A qualified 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 3 years the portion, as reduced from year to year, of any unused credits.

B. In the first 5 years of the program, a qualified taxpayer may claim a credit based on donations actually made to a scholarship organization under the program for educational scholarships during the taxable year for which the credit is claimed. Beginning in the 6th year of the program, the amount of the qualified taxpayer's liability for taxes under this Part that is eligible for a credit decreases by 10 percentage points each year until the 10th year of the program and beyond, when the tax credit may be claimed for up to 50 percent of the qualified taxpayer's tax liability.

C. Except as provided in subsection 4, the credit under this section may not reduce the tax otherwise due under this Part to less than zero.

3. Receipt required. A taxpayer shall provide a department-approved receipt for a scholarship donation in order to qualify for the credit described in this section.

4. State income tax withholding. For tax years beginning on or after January 1, 2023, a taxpayer may divert a prorated amount of state income tax withheld to a scholarship organization up to the maximum credit allowed by law, including carry-over credits.

5. Rules. The assessor may adopt rules necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

SUMMARY

This bill clarifies that a school administrative unit must make suitable provisions for the education of every person within the age limits prescribed by law who reside in the school administrative unit *and whose parent seeks a public education for that person*. The bill repeals provisions setting a limit on the total enrollment of virtual public charter schools, a limit on the number of public charter schools and a limit on the expansion of virtual public charter schools. The bill adds 2 categories of authorizers of public charter schools. The bill creates the educational choice tax credit program to allow for tax credits for donations made to certain scholarship organizations. The bill also provides an exception to school immunization requirements for students of virtual public charter schools or private schools.