

SENATE No. 1864

The Commonwealth of Massachusetts

PRESENTED BY:

Ryan C. Fattman

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing an empowerment scholarship tax credit to expand educational opportunities and fair access to quality education for low-and-moderate-income students.

PETITION OF:

NAME:

Ryan C. Fattman

DISTRICT/ADDRESS:

Worcester and Norfolk

SENATE No. 1864

By Mr. Fattman, a petition (accompanied by bill, Senate, No. 1864) of Ryan C. Fattman for legislation to establish an empowerment scholarship tax credit to expand educational opportunities and fair access to quality education for low-and-moderate-income students. Revenue.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act establishing an empowerment scholarship tax credit to expand educational opportunities and fair access to quality education for low-and-moderate-income students.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 6 of chapter 62 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by inserting after paragraph (v) the following new
3 subsection:-

4 (w) (1) A taxpayer making a qualified donation to a qualified scholarship program
5 offered to qualifying students to an accredited Massachusetts tuition-based school providing
6 elementary and/or secondary education, shall be allowed a refundable credit against the taxes
7 imposed by this chapter.

8 (2) As used in this subsection, the following words have the following meanings:-

9 “Qualified donation”, a monetary donation to a “qualified scholarship program”.

10 “Qualified scholarship program”, a means-tested scholarship program offered and
11 maintained by any Massachusetts accredited tuition-based school providing elementary and/or
12 secondary education.

13 “Qualifying students”, students residing in the Commonwealth of Massachusetts who
14 would otherwise be accepted to any of the afore-referenced tuition-based schools but for the
15 inability to afford tuition, fees and related education expenses, specifically only students whose
16 household income levels do not exceed a specified amount or who are in foster care or out-of-
17 home care.

18 “Accredited Massachusetts tuition-based school providing elementary and/or secondary
19 education”, any elementary, middle or high school located in the Commonwealth of
20 Massachusetts which has any nationally- or state-recognized accreditation and which maintains a
21 means-based scholarship program for students who would otherwise be accepted to the school
22 but for the inability to afford tuition, fees and related education expenses.

23 “Taxpayer”, a taxpayer subject to an excise under this chapter.

24 (3) A taxpayer making a qualified donation to a qualified scholarship program shall be
25 allowed a refundable credit against the taxes imposed by this chapter. The credit shall be equal
26 to 30 per cent of the amount of the qualified donation. The amount of the credit that may be
27 claimed by a taxpayer for each qualified donation shall not exceed \$250,000.

28 (4) If the amount of the credit allowed under this subsection exceeds the taxpayer’s
29 liability, the commissioner shall treat the excess as an overpayment and shall pay the taxpayer
30 the entire amount of the excess.

31 (5) All or any tax credits issued in accordance with this section may be in addition to any
32 charitable deductions claimed on the taxpayer's federal income tax return for the same qualified
33 donations.

34 (6) Any tax credits which arise under this section from the qualified donation by a pass-
35 through tax entity such as a trust, estate, partnership, corporation, limited partnership, limited
36 liability partnership, limited liability corporation, subchapter S organization, or other fiduciary,
37 shall be used either by such entity in the event it is the taxpayer on behalf of such entity or by the
38 member, partner, shareholder, or beneficiary, as the case may be, in proportion to its interest in
39 such entity in the event that income, deductions, and tax liability passes through such entity to
40 such member, partner, shareholder, or beneficiary. Such tax credits may not be claimed by both
41 the entity and the member, partner, shareholder, or beneficiary, for the same donation.

42 (7) Any tax credits which arise under this chapter from the qualified donations by a
43 married couple shall be used only if the spouses file a joint return, if both spouses are required to
44 file Massachusetts income tax returns. If only one spouse is required to file a Massachusetts
45 income tax return, that spouse may claim the credit allowed by this chapter on a separate return.

46 (8) The secretaries of education and administration and finance, acting jointly and in
47 writing, shall authorize tax credits under this subsection together with subsection 38II of chapter
48 63. The total cumulative value of the tax credits authorized pursuant to this section and said
49 section 38II of said chapter 63 shall not exceed \$20,000,000 annually. No credits shall be
50 allowed under this subsection except to the extent authorized in this paragraph. The
51 commissioner, after consulting with the secretaries concerning, among other things, the increased

52 access to education opportunities’ objectives of this section, shall adopt regulations governing
53 applications for and other administration of the tax credits.

54 SECTION 2. Section 38 of Chapter 63 of the General Laws, as appearing in the 2018
55 Official Edition, is hereby amended by inserting after Section 38HH the following new
56 subsection: -

57 Section 38II. (a) As used in this subsection, the following words have the following
58 meanings:-

59 “Qualified donation”, a monetary donation to a “qualified scholarship program”.

60 “Qualified scholarship program”, a means-tested scholarship program offered and
61 maintained by any Massachusetts accredited tuition-based school providing elementary and/or
62 secondary education.

63 “Qualifying students”, students residing in the Commonwealth of Massachusetts who
64 would otherwise be accepted to any of the afore-referenced tuition-based schools but for the
65 inability to afford tuition, fees and related education expenses.

66 “Accredited Massachusetts tuition-based school providing elementary and/or secondary
67 education”, any elementary, middle or high school located in the Commonwealth of
68 Massachusetts which has any nationally- or state-recognized accreditation and which maintains a
69 means-based scholarship program for students who would otherwise be accepted to the school
70 but for the inability to afford tuition, fees and related education expenses.

71 “Taxpayer”, a taxpayer subject to an excise under this chapter.

72 (b) A taxpayer making a qualified donation to a qualified scholarship program shall be
73 allowed a refundable credit against the taxes imposed by this chapter. The credit shall be equal
74 to 30 per cent of the amount of the qualified donation. The amount of the credit that may be
75 claimed by a taxpayer for each qualified donation shall not exceed \$250,000.

76 (c) If the amount of the credit allowed under this subsection exceeds the taxpayer's
77 liability, the commissioner shall treat the excess as an overpayment and shall pay the taxpayer
78 the entire amount of the excess.

79 (d) All or any tax credits issued in accordance with this section may be in addition to any
80 charitable deductions claimed on the taxpayer's federal income tax return for the same qualified
81 donations.

82 (e) Any tax credits which arise under this section from the qualified donation by a pass-
83 through tax entity such as a trust, estate, partnership, corporation, limited partnership, limited
84 liability partnership, limited liability corporation, subchapter S organization, or other fiduciary,
85 shall be used either by such entity in the event it is the taxpayer on behalf of such entity or by the
86 member, partner, shareholder, or beneficiary, as the case may be, in proportion to its interest in
87 such entity in the event that income, deductions, and tax liability passes through such entity to
88 such member, partner, shareholder, or beneficiary. Such tax credits may not be claimed by both
89 the entity and the member, partner, shareholder, or beneficiary, for the same donation.

90 (f) Any tax credits which arise under this chapter from the qualified donations by a
91 married couple shall be used only if the spouses file a joint return, if both spouses are required to
92 file Massachusetts income tax returns. If only one spouse is required to file a Massachusetts
93 income tax return, that spouse may claim the credit allowed by this chapter on a separate return.

94 (g) The secretaries of education and administration and finance, acting jointly and in
95 writing, shall authorize tax credits under this subsection together with subsection (w) of section 6
96 of chapter 62. The total cumulative value of the tax credits authorized pursuant to this section
97 and said subsection (w) shall not exceed \$20,000,000 annually. No credits shall be allowed
98 under this subsection except to the extent authorized in this paragraph. The commissioner of
99 revenue, after consulting with the secretaries concerning, among other things, the increased
100 access to education opportunities' objectives of this section, shall adopt regulations governing
101 applications for and other administration of the tax credits.

102 SECTION 3. (a) Within 2 years after the effective date of this act, and annually
103 thereafter, the state auditor shall issue an economic analysis report on the performance of this tax
104 credit to the House and Senate Committees on Ways and Means and to the Joint Committee on
105 Revenue. An economic analysis shall include, but not be limited to, a good faith estimate, on
106 both a direct and indirect basis, as to the:

107 (A) Net change in state revenue; and

108 (B) Net change in state expenditures, which shall include, but not be limited to, costs of
109 administering the tax credit; and

110 (C) Net change in economic activity; and

111 (D) Net change in public benefit.

112 (b) Within 2 years after the effective date of this act, and annually thereafter, each
113 recipient school with a qualified scholarship program must report annually to the Department of
114 Revenue, the following:

115 (A) The total number and dollar value of individual contributions; and

116 (B) The total number and dollar value of corporate contributions; and

117 (C) The total number and dollar value of scholarships awarded to eligible students.

118 SECTION 4. Sections 1 and 2 shall be effective for tax years beginning on and after

119 January 1, 2021.