

HOUSE _____ **AMENDMENT NO.** _____

Offered By

AMEND House Committee Substitute for House Bill No. 1526, Page 1, Section A, Line 4, by inserting after all of said line the following:

“135.712. 1. Sections 135.712 to 135.719 shall be known and may be cited as the “Opportunity Scholarship Program”. This program shall grant scholarships to students for certain educational costs as defined in sections 135.712 to 135.719.

2. As used in sections 135.712 to 135.719, the following terms mean:

(1) "Department", the department of economic development;

(2) "Director", the director of the department of economic development;

(3) "Educational assistance organization", a charitable organization registered in this state that is exempt from federal taxation under the Internal Revenue Code of 1986, as amended, is certified by the director, and that allocates all of its annual revenue, with the exception of marketing and administrative expenses in paragraph (c) of subdivision (4) of subsection 1 of section 135.714 and as otherwise directed in sections 135.712 to 135.719, derived from contributions for which a credit is claimed under this section for educational assistance;

(4) "Eligible student", a student whose parent provides information that the student resides in a household whose income does not exceed the level required for a reduced price lunch under the federal free and reduced price lunch program. Any student who receives an educational scholarship under this program shall remain eligible until the student graduates from high school or reaches twenty-one years of age, whichever occurs earlier;

(5) "Parent", a parent, guardian, custodian, or other person with authority to act on behalf of the eligible student;

(6) "Opportunity scholarships", grants to eligible students to cover all or part of the applicable tuition and fees at a qualified school, or other approved educational expenses, including but not limited to transportation and tuition and equipment necessary for virtual classes or programs;

(7) "Program", the opportunity scholarship program established under sections 135.712 to 135.719;

(8) "Qualified school", a nonpublic elementary or secondary school in the state that

1 complies with all requirements of the program;

2 (9) "Qualifying contribution", a donation of cash, stock, bonds, or other marketable
3 securities for purposes of claiming a tax credit under sections 135.712 to 135.719;

4 (10) "Taxpayer", an individual subject to the state income tax imposed in chapter 143, an
5 individual, a firm, a partner in a firm, corporation, or a shareholder in an S corporation doing
6 business in this state and subject to the state income tax imposed by chapter 143, a corporation
7 subject to the annual corporation franchise tax imposed by chapter 147, or an express company
8 which pays an annual tax on its gross receipts in this state under chapter 153, which files a
9 Missouri income tax return and is not a dependent of any other taxpayer.

10 135.713. 1. For all tax years beginning on or after January 1, 2012, any taxpayer who
11 makes a qualifying contribution to an educational assistance organization may claim a credit
12 against the tax otherwise due under chapter 143, other than taxes withheld under sections 143.191
13 to 143.265, and chapters 147 and 153, in an amount equal to sixty percent of the amount the
14 taxpayer contributed during the tax year for which the credit is claimed. No taxpayer shall claim a
15 credit under sections 135.712 to 135.719 for any contribution made by the taxpayer, or an agent of
16 the taxpayer, on behalf of the taxpayer's dependent, or in the case of a business taxpayer, on behalf
17 of the business's agent's dependent.

18 2. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state
19 tax liability for the tax year for which the credit is claimed. The department shall certify the tax
20 credit amount to the taxpayer and to the department of revenue. A taxpayer may carry the credit
21 forward to any of such taxpayer's four subsequent taxable years. All tax credits authorized under
22 the program may be transferred, sold, or assigned.

23 3. The cumulative amount of tax credits which may be allocated to all taxpayers
24 contributing to educational assistance organizations in any one fiscal year shall not exceed forty
25 million dollars, which amount shall annually be adjusted by the department for inflation based on
26 the consumer price index for the Midwest, as defined and officially recorded by the United States
27 Department of Labor, or its successor. The director shall establish a procedure by which the
28 cumulative amount of tax credits are equally apportioned among all facilities classified as
29 educational assistance organizations. If an educational assistance organization fails to use all, or
30 some percentage to be determined by the director, of its apportioned tax credits during this
31 predetermined period of time, the director may reapportion these unused tax credits to those
32 educational assistance organizations that have used all, or some percentage to be determined by
33 the director, of their apportioned tax credits during this predetermined period of time. The
34 director may establish more than one period of time and reapportion more than once during each
35 fiscal year. To the maximum extent possible, the director shall establish the procedure described
36 in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits

possible up to the cumulative amount of tax credits available for the fiscal year.

135.714. 1. Each educational assistance organization shall:

(1) Notify the department of its intent to provide educational scholarships to eligible students attending qualified schools;

(2) Demonstrate to the department that it is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

(3) Provide a department-approved receipt to taxpayers for contributions made to the organization;

(4) Ensure that:

(a) One hundred percent of its revenues from interest or investments is spent on educational scholarships;

(b) At least ninety percent of its revenues from qualifying contributions is spent on educational scholarships; and

(c) Marketing and administrative expenses shall not exceed the following limits of its remaining revenue from contributions: ten percent for the first one hundred thousand dollars; eight percent for the next four hundred thousand dollars; six percent for the next five hundred thousand dollars; and three percent thereafter;

(5) Distribute educational scholarship payments four times per year in the form of checks made out to an eligible student's parent and mailed to the qualified school where the student is enrolled. The parent shall endorse the check before it can be deposited;

(6) Provide the department, upon request, with criminal background checks on all of its employees and board members, and exclude from employment or governance any individual that might reasonably pose a risk to the appropriate use of contributed funds;

(7) Ensure that opportunity scholarships are portable during the school year and can be used at any qualified school that accepts the eligible student according to a parent's wishes. If an eligible student moves to a new qualified school during a school year, the opportunity scholarship amount may be prorated;

(8) Demonstrate its financial accountability by:

(a) Submitting a financial information report for the organization that complies with uniform financial accounting standards established by the department and is conducted by a certified public accountant; and

(b) Having an auditor certify that the report is free of material misstatements;

(9) Demonstrate its financial viability, if it is to receive donations of fifty thousand dollars or more during the school year, by filing with the department before the start of the school year a surety bond payable to the state in an amount equal to the aggregate amount of contributions expected to be received during the school year; and

1 (10) Award no more than fifty percent of the tuition, fees, transportation, or cost of
2 equipment requested for a scholarship to any eligible student whose family income exceeds the
3 level required for eligibility for a free lunch in the federal free and reduced price lunch program.

4 2. Each educational assistance organization shall ensure that qualified schools that accept
5 eligible students receiving opportunity scholarships from the organization will:

6 (1) Comply with all health and safety laws or codes that apply to nonpublic schools;

7 (2) Hold a valid occupancy permit if required by their municipality;

8 (3) Certify that the qualified schools will not discriminate in admissions of eligible
9 students on the basis of race, color, national origin, or disability;

10 (4) Provide academic accountability to parents of the eligible students in the program by
11 regularly reporting to the parent on the student's progress.

12 3. Educational assistance organizations shall not provide opportunity scholarships for
13 eligible students to attend any school with paid staff or board members, or relatives thereof, in
14 common with the educational assistance organization. Educational assistance organizations shall
15 not provide scholarships to only one qualified school or to students of only one school.

16 4. An educational assistance organization shall publicly report to the department by June
17 first of each year the following information prepared by a certified public accountant regarding its
18 grants in the previous calendar year:

19 (1) The name and address of the educational assistance organization;

20 (2) The name and address of each eligible student who received a opportunity scholarship
21 from the organization;

22 (3) The total number and total dollar amount of contributions received during the previous
23 calendar year;

24 (4) The total number and total dollar amount of opportunity scholarships awarded during
25 the previous calendar year; and

26 (5) The total number and total dollar amount of opportunity scholarships awarded during
27 the previous year to eligible students qualifying for the federal free and reduced price school lunch
28 program by free and reduced price categories.

29 5. Before educational assistance organizations may raise contributions under the program,
30 they shall have received or demonstrated ability to receive applications from eligible students, and
31 shall have identified potential vacancies in qualified schools as determined by the director.

32 135.715. 1. All qualified schools shall comply with all state laws that apply to public
33 schools regarding criminal background checks for employees and shall exclude from employment
34 any person prohibited by state law from working in a public school. Each qualified school shall
35 certify to the educational assistance organization that it does not follow a "last-in, first-out" policy
36 for personnel decisions and that it does not award tenure.

1 2. All qualified schools may administer to their scholarship students the statewide
2 assessments under section 160.518, a nationally recognized norm-referenced assessment, or an
3 assessment of educational functioning level for adult basic education that meets the guidelines for
4 the national reporting system for adult education and literacy, except for those students with
5 individualized education programs that specify that such assessment would not be appropriate.
6 Such assessments or tests shall not be required to be given more frequently in a grade than the
7 statewide assessments are given. Results shall be provided to parents of each opportunity
8 scholarship recipient. The results of the scholarship recipients shall not be considered for
9 purposes of school accreditation or for purposes of the federal No Child Left Behind Act.

10 3. All qualified schools shall:

11 (1) Comply with all health and safety laws or codes that apply to nonpublic schools;

12 (2) Hold a valid occupancy permit if required by their municipality; and

13 (3) Certify that they will not discriminate in admissions on the basis of race, color,
14 national origin, or disability;

15 (4) File a statement of intent to participate that includes the information listed in this
16 subdivision;

17 (5) For initial applicants, file a list of the information required under this subsection, and
18 for requalifying schools, annual reporting of the information required under this subsection. No
19 public reporting of information required under this subsection shall be personally identifiable to
20 an individual student;

21 (6) Be fiscally sound as evidenced by three years in existence, a surety bond, or letter of
22 credit covering the amount of funds received on behalf of scholarship recipients;

23 (7) Be accredited by a regional or national accrediting agency or for a school that is not
24 currently accredited, provisional approval pending the achievement of accreditation no later than
25 the fourth school year of participation;

26 (8) Annually administer a parental satisfaction survey; and

27 (9) Demonstrate evidence of the annual transmittal of the information required by this
28 section to parents and evidence of its availability to applicants.

29 4. Qualified schools shall have on record a form signed by the parent of the scholarship
30 recipient agreeing to the release of the following information to the director:

31 (1) The student's participation as a scholarship recipient under sections 135.712 to
32 135.719; and

33 (2) Testing results for statewide assessment.

34 5. As a condition of participation, the parents and scholarship recipients under sections
35 135.712 to 135.719 shall agree to abide by the school's code of conduct and any parental
36 involvement requirements unless the qualifying school agrees to a waiver of any requirements.

1 135.716. 1. The department shall provide a standardized format for a receipt to be issued
2 by an educational assistance organization to a taxpayer to indicate the value of a contribution
3 received. The department shall require a taxpayer to provide a copy of this receipt when claiming
4 the tax credit authorized by the program.

5 2. The department shall provide a standardized format for educational assistance
6 organizations to report the information required in subsection 1 of this section.

7 3. The department may conduct either a financial review or an audit of an educational
8 assistance organization if the department possesses evidence of fraud committed by the
9 organization or foundation.

10 4. The department may bar an educational assistance organization from participating in
11 the program if the department establishes that the educational assistance organization has
12 intentionally and substantially failed to comply with the requirements in section 135.714. If the
13 department bars an educational assistance organization from the program under this subsection, it
14 shall notify affected eligible students and their parents of the decision as soon as possible after the
15 determination is made.

16 5. The department of economic development shall receive no more than two percent of
17 the qualifying contributions for marketing and administrative expenses or the costs incurred in
18 administering the program, whichever is less. The director shall establish procedures to ensure
19 the percentage of funds for administration of the program is directed to the department of
20 economic development in a timely manner with the necessary information to verify the correct
21 amount has been transmitted. The remaining funds shall be distributed to the educational
22 assistance organizations.

23 135.717. 1. Subject to appropriations, the joint committee on education shall conduct a
24 study of the program. The joint committee may contract with one or more qualified researchers if
25 assistance is needed and if funds are available.

26 2. The study shall assess the following areas:

27 (1) The impact of the program on public and private school capacity, availability, and
28 quality of service; and

29 (2) Student performance on annual assessment instruments before and after entering the
30 program, provided that no participating student shall be individually identified.

31 3. The study shall be conducted during the first five years of commencement of the
32 program and shall cover that five year period.

33 4. The joint committee shall provide the general assembly with a final report of the
34 evaluation of the program.

35 5. The public and nonpublic participating schools to and from which students transfer as
36 part of the program shall cooperate with the research effort by providing student assessment

1 instrument scores and any other data necessary to complete this study. Scores and data shall be
2 provided in such a manner that no participating student, or participating student's scores, shall be
3 individually identified.

4 135.719. 1. The department and the department of revenue may promulgate rules to
5 implement the provisions of sections 135.712 to 135.719. Any rule or portion of a rule, as that
6 term is defined in section 536.010, that is created under the authority delegated in this section
7 shall become effective only if it complies with and is subject to all of the provisions of chapter
8 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any
9 of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
10 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
11 grant of rulemaking authority and any rule proposed or adopted after August 28, 2012, shall be
12 invalid and void.

13 2. Under section 23.253 of the Missouri sunset act:

14 (1) The provisions of the new program authorized under sections 135.712 to 135.719 shall
15 automatically sunset six years after the effective date of sections 135.712 to 135.719 unless
16 reauthorized by an act of the general assembly; and

17 (2) If such program is reauthorized, the program authorized under sections 135.712 to
18 135.719 shall automatically sunset six years after the effective date of the reauthorization of
19 sections 135.712 to 135.719; and

20 (3) Sections 135.712 to 135.719 shall terminate on September first of the calendar year
21 immediately following the calendar year in which the program authorized under sections 135.712
22 to 135.719 is sunset.”

23
24 Further amend said bill by amending the title, enacting clause, and intersectional references
25 accordingly.