

HOUSE BILL NO. 1735

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DIECKHAUS.

5738L.03I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 135, RSMo, by adding thereto seven new sections relating to a scholarship program for unaccredited school districts.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 135, RSMo, is amended by adding thereto seven new sections, to be known as sections 135.712, 135.713, 135.714, 135.715, 135.716, 135.717, and 135.719, to read as follows:

135.712. 1. Sections 135.712 to 135.719 shall be known and may be cited as the "Passport Scholarship Program". This program shall grant scholarships to students from unaccredited districts 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 who resides in any unaccredited district. Any student who receives an educational scholarship under this program shall remain eligible

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 until the student graduates from high school or reaches twenty-one years of age, whichever
18 occurs earlier;

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

21 (6) "Passport scholarships", grants to eligible students to cover all or part of the
22 applicable tuition and fees at a qualified school, or other approved educational expenses,
23 including but not limited to transportation;

24 (7) "Program", the passport scholarship program established under sections
25 135.712 to 135.719;

26 (8) "Qualified school", a nonpublic elementary or secondary school in the state that
27 complies with all requirements of the program;

28 (9) "Qualifying contribution", a donation of cash, stock, bonds, or other
29 marketable securities for purposes of claiming a tax credit under sections 135.712 to
30 135.719;

31 (10) "Taxpayer", an individual subject to the state income tax imposed in chapter
32 143, an individual, a firm, a partner in a firm, corporation, or a shareholder in an S
33 corporation doing business in this state and subject to the state income tax imposed by
34 chapter 143, a corporation subject to the annual corporation franchise tax imposed by
35 chapter 147, or an express company which pays an annual tax on its gross receipts in this
36 state under chapter 153, which files a Missouri income tax return and is not a dependent
37 of any other taxpayer.

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

9 2. The amount of the tax credit claimed shall not exceed the amount of the
10 taxpayer's state tax liability for the tax year for which the credit is claimed. The
11 department shall certify the tax credit amount to the taxpayer and to the department of
12 revenue. Any amount of credit that a taxpayer whose filing status is single, head of
13 household, or qualifying widow or widower, or whose filing status is married filing
14 combined, or whose filing status is corporate, business or franchise, is prohibited by the
15 program from claiming in a tax year may be carried forward to any of such taxpayer's four

16 subsequent taxable years. All tax credits authorized under the program may be
17 transferred, sold, or assigned.

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

135.714. 1. Each educational assistance organization shall:

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

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

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

8 **(4) Ensure that:**

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

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

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

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

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

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

27 **(8) Demonstrate its financial accountability by:**

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

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

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

36 **2. Each educational assistance organization shall ensure that qualified schools that**
37 **accept eligible students receiving passport scholarships from the organization will:**

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

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

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

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

44 **3. Educational assistance organizations shall not provide passport scholarships for**
45 **eligible students to attend any school with paid staff or board members, or relatives**
46 **thereof, in common with the educational assistance organization. Educational assistance**
47 **organizations shall not provide scholarships to students of only one school.**

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

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

52 **(2) The name and address of each eligible student who received a passport**
53 **scholarship from the organization;**

54 **(3) The total number and total dollar amount of contributions received during the**
55 **previous calendar year;**

56 **(4) The total number and total dollar amount of passport scholarships awarded**
57 **during the previous calendar year; and**

58 **(5) The total number and total dollar amount of passport scholarships awarded**
59 **during the previous year to eligible students qualifying for the federal free and reduced**
60 **price school lunch program.**

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

135.715. 1. All qualified schools shall comply with all state laws that apply to
2 **public schools regarding criminal background checks for employees and shall exclude from**
3 **employment any person prohibited by state law from working in a public school.**

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

14 **3. All qualified schools shall:**

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

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

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

19 **(4) File a statement of intent to participate that includes the information listed in**
20 **this subdivision;**

21 **(5) For initial applicants, file a list of the information required under this**
22 **subsection, and for requalifying schools, annual reporting of the information required**

23 under this subsection. No public reporting of information required under this subsection
24 shall be personally identifiable to an individual student;

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

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

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

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

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

35 (1) The student's participation as a scholarship recipient under sections 135.712 to
36 135.719; and

37 (2) Testing results for statewide assessment.

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

135.716. 1. The department shall provide a standardized format for a receipt to be
2 issued by an educational assistance organization to a taxpayer to indicate the value of a
3 contribution received. The department shall require a taxpayer to provide a copy of this
4 receipt when claiming 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
8 educational assistance organization if the department possesses evidence of fraud
9 committed by the organization or foundation.

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

16 5. The department of economic development shall receive no more than two percent
17 of the qualifying contributions for marketing and administrative expenses or the costs

18 incurred in administering the program, whichever is less. The director shall establish
19 procedures to ensure the percentage of funds for administration of the program is directed
20 to the department of economic development in a timely manner with the necessary
21 information to verify the correct amount has been transmitted. The remaining funds shall
22 be distributed to the educational assistance organizations.

135.717. 1. Subject to appropriations or the availability of private donations, the
2 joint committee on legislative research shall contract with one or more qualified
3 researchers who have previous experience evaluating school choice programs to conduct
4 a study of the program with funds donated to the educational assistance organizations used
5 for tuition scholarships.

6 2. The study shall assess:

7 (1) The level of parental satisfaction with the program;

8 (2) The level of participating students' satisfaction with the program;

9 (3) The overall impact of the program on public school students and on the resident
10 school districts and schools from which the participating students transferred;

11 (4) The impact of the program on public and private school capacity, availability,
12 and quality of service; and

13 (5) Each participating student's performance on annual assessment instruments
14 before and after entering the program, provided that the study's assessment shall be
15 conducted so that no participating student shall be individually identifiable.

16 3. The researchers who conduct the study shall apply appropriate analytical and
17 behavioral science methodologies to ensure public confidence in the study, and shall
18 provide the general assembly with a final report of the evaluation of the program.

19 4. The public and nonpublic participating schools to and from which students
20 transfer shall cooperate with the research effort by providing student assessment
21 instrument scores and any other data necessary to complete this study. Scores and data
22 shall be provided in such a manner that no participating student, or participating student's
23 scores, shall be individually identifiable.

24 5. The joint committee on legislative research shall apply for grants to assist in
25 funding the study and shall use any such funds received to conduct this study.

26 6. The study shall begin within one year of commencement of the program and
27 shall cover a period of six years. The general assembly may require periodic reports from
28 the researchers. The researchers shall make their data and methodology available for
29 public review while complying with the requirements of 20 U.S.C. Section 1232g, as
30 amended. In the event that the program is reauthorized, the researchers shall continue the
31 study and shall continue to report as required in this section.

- 2 **135.719. 1. The department and the department of revenue may promulgate rules**
3 **to implement the provisions of sections 135.712 to 135.719. Any rule or portion of a rule,**
4 **as that term is defined in section 536.010, that is created under the authority delegated in**
5 **this section shall become effective only if it complies with and is subject to all of the**
6 **provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536**
7 **are nonseverable and if any of the powers vested with the general assembly pursuant to**
8 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**
9 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
10 **proposed or adopted after August 28, 2012, shall be invalid and void.**
- 11 **2. Under section 23.253 of the Missouri sunset act:**
- 12 **(1) The provisions of the new program authorized under sections 135.712 to**
13 **135.719 shall automatically sunset six years after the effective date of sections 135.712 to**
14 **135.719 unless reauthorized by an act of the general assembly; and**
- 15 **(2) If such program is reauthorized, the program authorized under sections 135.712**
16 **to 135.719 shall automatically sunset six years after the effective date of the reauthorization**
17 **of sections 135.712 to 135.719; and**
- 18 **(3) Sections 135.712 to 135.719 shall terminate on September first of the calendar**
19 **year immediately following the calendar year in which the program authorized under**
sections 135.712 to 135.719 is sunset.

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