

FIRST REGULAR SESSION

# SENATE BILL NO. 497

92ND GENERAL ASSEMBLY

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INTRODUCED BY SENATORS YECKEL, KINDER AND STEELMAN.

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Read 1st time February 13, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1174S.031

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## AN ACT

To amend chapter 167, RSMo, by adding thereto three new sections relating to the show-me parental choice tax credit program.

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

Section A. Chapter 167, RSMo, is amended by adding thereto three new sections, to be known as sections 167.420, 167.423, and 167.425, to read as follows:

**167.420. 1. As used in sections 167.420 to 167.425, the following terms mean:**

**(1) "Department", the department of revenue;**

**(2) "Eligible contribution", a monetary contribution from a taxpayer, subject to the restrictions provided in this section, to an eligible nonprofit scholarship-funding organization. The taxpayer making the contribution may not designate a specific child as the beneficiary of the contribution. The taxpayer may not contribute more than five million dollars to any single eligible nonprofit scholarship funding organization;**

**(3) "Eligible home school expenses", any amount paid for home school educational materials including, but not limited to computer hardware, software, books, supplies, transportation, or any other educational expense, provided the taxpayer can document claimed expenses to the department of revenue;**

**(4) "Eligible nonprofit scholarship-funding organization", a Missouri nonprofit corporation incorporated pursuant to chapter 355, RSMo, that provides scholarships to Missouri students. As a nonprofit corporation incorporated pursuant to chapter 355, RSMo, the eligible nonprofit scholarship funding organization shall select the method for election of officers pursuant to section 355.326, RSMo, based on the class**

of corporation selected;

(5) "Eligible nonpublic school", a nonpublic, religious, nonreligious, home, and contract school, or an innovative educational program located in Missouri that offers an education to students in any grades kindergarten through twelve and that meets the requirements in subsection 5 of this section;

(6) "Eligible public school", a public charter school located in an urban or metropolitan school district established pursuant to section 160.400, RSMo, or kindergarten, elementary school or secondary school owned or exclusively controlled by the state or one of its subdivisions located in a metropolitan or urban school district, as those terms are defined in this section;

(7) "Metropolitan school district", any school district the boundaries of which are coterminous with the limits of any city which is not within a county;

(8) "Qualified student", any kindergarten through twelfth grade student residing in a metropolitan or urban school district, as those terms are defined in this section, who is eligible for free or reduced-price school lunches under the federal Free and Reduced Lunch Program and who fits one of the following criteria:

(a) Is a resident pupil of a school district of this state as the term "resident pupil" is defined in section 163.011, RSMo;

(b) Received a scholarship from an eligible nonprofit scholarship-funding organization during the previous school year;

(c) Is currently enrolled in an eligible nonpublic school, but did not receive a scholarship during the previous school year;

(9) "Urban school district", any school district located in any city which has not less than four hundred thousand inhabitants, other than a city not located within a county.

2. The "Show Me Parental Choice Tax Credit Program" is hereby created and established to:

(1) Encourage private, voluntary contributions to nonprofit scholarship-funding organizations to enhance opportunities for low income children in public school districts located in metropolitan and urban school districts as these terms are defined in this section;

(2) Encourage private, voluntary contributions designated to a public school improvement fund;

(3) Expanded educational opportunities for children of families that have limited financial resources and children with special needs;

(4) Enable children in this state to achieve a greater level of excellence and inclusion in their education;

(5) Benefit Missouri children and their families exclusively and is not established for the benefit of any participating public or private school.

3. The tax credits provided in this section shall be limited as follows:

(1) There shall be allowed a credit against the state tax liability incurred pursuant to chapter 143, RSMo, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, RSMo, in an amount equal to one hundred percent of an eligible contribution made pursuant to sections 167.420 to 167.425;

(2) The cumulative amount of tax credits which may be granted each fiscal year for contributions to eligible nonprofit scholarship funding organizations pursuant to this section shall not exceed five million dollars;

(3) The cumulative amount of tax credits which may be granted each fiscal year for eligible contributions to the Missouri public school improvement fund pursuant to section 167.423, and the schools of choice resource center fund pursuant to section 167.425 shall not exceed five million dollars;

(4) The tax credit allowed by this section shall be claimed by the taxpayer at the time such taxpayer files a return. Any amount of tax credit which exceeds the tax due may be carried over to any of the next five subsequent taxable years, but shall not be refunded and shall not be transferable, except as provided in subsection 6 of this section.

4. The obligations of eligible nonprofit scholarship funding organizations shall be as follows:

(1) An eligible nonprofit scholarship-funding organization shall provide scholarships, from eligible contributions, to qualified students for:

(a) Tuition or textbook expenses for, or transportation to, an eligible nonpublic school. At least seventy-five percent of the scholarship funding must be used to pay tuition expenses; or

(b) Transportation expenses to a Missouri public school that is located outside the district in which the student resides;

(c) Tutorial scholarships to be awarded solely to students who are enrolled in eligible public schools. Tutorial scholarships may be used solely to obtain tutorial assistance from a provider approved by the scholarship organization. All students wishing to obtain tutorial assistance grants shall make application to a scholarship funding organization by the thirtieth day of the school year in which the scholarship will be used;

(2) The amount of a scholarship provided to any child for any single school year by all eligible nonprofit scholarship-funding organizations from eligible

contributions shall not exceed the following annual limits:

(a) The lesser of the actual tuition charged by a qualified nonpublic school in which a qualified student is enrolled pursuant to this section, or six thousand dollars for a scholarship awarded to a student enrolled in an eligible nonpublic school;

(b) The lesser of the state per pupil allocation for the school district in which the qualified student resides or six thousand dollars for a scholarship awarded to a student enrolled in a Missouri public school that is located outside the district in which the student resides;

(3) An eligible nonprofit scholarship-funding organization that receives an eligible contribution must spend ninety percent of the eligible contribution to provide scholarships in the same fiscal year in which the contribution was received. All interest accrued from contributions must be used for scholarships;

(4) An eligible nonprofit scholarship-funding organization that receives eligible contributions must provide to the department an annual financial and compliance audit of its accounts and records conducted by an independent certified public accountant and in accordance with rules adopted by the department;

(5) Payment of the scholarship by the eligible nonprofit scholarship-funding organization:

(a) To qualified public or nonpublic schools shall be by an individual negotiable instrument made payable to the student's parent. The negotiable instrument must be mailed by the eligible nonprofit scholarship-funding organization to the public or nonpublic school of the parent's choice, and the parent shall restrictively endorse the negotiable instrument to the nonpublic school. An eligible nonprofit scholarship-funding organization shall ensure that, upon receipt of a scholarship negotiable instrument, the parent, who is the payee of the negotiable instrument, has restrictively endorsed the negotiable instrument to the nonpublic or public school of the parent's choice for deposit into the account of the nonpublic school;

(b) To qualifying home school families shall be by negotiable instrument made payable to the student's parent upon a demonstration to the department by the parent that qualifying home school expenses have been incurred.

5. An eligible nonpublic school must:

(1) Demonstrate fiscal soundness by demonstrating any one of the following by:

(a) Providing the department with a statement by a certified public accountant confirming that the nonpublic school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming

year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the department; or

(b) Having been in lawful operation for the prior school year;

(2) Meet state and local health and safety laws and codes applicable to all public or nonpublic schools;

(3) Comply with all state law relating to general regulation of nonpublic schools.

6. The tax credits shall be administered as follows:

(1) The tax credits shall be awarded by the department on a first-come, first-served basis. Taxpayers seeking a tax credit under this section shall apply to the department, which shall approve or deny the request. If approved, the department shall notify the taxpayer that the tax credit-approved donation must be made within thirty days to an approved student scholarship funding organization. Tax credit approval notices not acted upon within thirty days of issuance shall be void. Student scholarship funding organizations shall promptly notify the taxpayer and the department upon receipt of the tax credit-approved donation;

(2) A taxpayer may not convey, assign, or transfer the credit authorized by the section to another entity unless all of the assets of the taxpayer are conveyed, assigned, or transferred in the same transaction;

(3) An application for tax credit pursuant to this section shall be submitted to the department on forms established by rule of the department;

(4) The department of revenue and the department of elementary and secondary education shall develop a cooperative agreement to assist in the administration of this section. The department of revenue shall be responsible for annually submitting, by March fifteenth, a list of eligible nonprofit scholarship-funding organizations that meet the requirements of this section;

(5) The department shall adopt rules necessary to administer the provisions of this section, including rules establishing application forms and procedures and governing the allocation of tax credits pursuant to this section on a first-come, first-served basis and to determine eligibility of nonprofit scholarship-funding organizations and identify qualified students as defined in this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if

any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

7. An eligible nonprofit scholarship-funding organization, its agents, and employees shall not be liable for any acts or omissions of an eligible nonpublic school, including but not limited to the operation, funding and performance of the eligible nonpublic school.

167.423. 1. There is hereby established a special fund in the state treasury to be known as the "Missouri Public School Improvement Fund", which shall be administered by the department of elementary and secondary education. The fund shall include eligible contributions for public school education program improvement grants, pursuant to subsection 3 of section 167.420, as well as such moneys as may be appropriated by the general assembly from time to time and designated for the fund. The fund shall be used solely for the payment of school improvement grants to public schools located in urban or metropolitan school districts as though terms are defined in section 167.420 for educational program enhancements in accordance with guidelines meeting criteria established by the department and approved by the board of education.

2. The department of elementary and secondary education shall determine the amount of the grant to be allocated to each eligible public school.

3. The department of elementary and secondary education shall determine the amount of the grants to be allocated to eligible applicants by June thirtieth of any year. The department shall then certify to the comptroller the amount of grant an eligible public school shall receive. Payments shall be made by check issued to the treasurer.

167.425. There is hereby established a special fund in the state treasury to be known as the "Schools of Choice Resource Center Fund", which shall be administered by the department of elementary and secondary education. The fund shall include eligible contributions for schools of choice resource centers pursuant to subsection 3 of section 167.420, as well as such moneys as may be appropriated by the general assembly from time to time and designated for the fund. The fund shall be distributed by the commissioner of the department of elementary and secondary education to one or more nonprofit organizations, selected by the commissioner, for the purpose of coordinating, staffing, and administering "Schools of Choice Resource Centers" in urban and metropolitan school districts as those terms are defined in section 167.420 to assist parents in learning how to be better education consumers, to provide

information on education alternatives in the area, and to assist parents, schools, and school boards in implementing and responding to this program.

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