

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 698
94TH GENERAL ASSEMBLY

Reported from the Committee on Pensions, Veterans' Affairs and General Laws, March 15, 2007, with recommendation that the Senate Committee Substitute do pass.

2454S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 135, RSMo, by adding thereto seven new sections relating to the Betty L. Thompson Scholarship Program.

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 "Betty L. Thompson Scholarship Program". This program shall grant scholarships to students from low-income families in urban areas 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 derived from contributions for which a credit is claimed under this section for educational assistance and which does not provide scholarships to students of only one particular school;

20 (4) "Educational scholarships", grants to eligible students to
21 cover all or part of the applicable tuition and fees at a qualified school,
22 or other approved educational expenses, including supplemental
23 services such as private tutors, textbooks, and transportation to a
24 public or nonpublic school outside of the eligible student's resident
25 school district;

26 (5) "Eligible student", a student who:

27 (a) Is a member of a household whose parents' total annual
28 income in the year before an educational scholarship is received under
29 this program is no more than one hundred thirty-five percent of the
30 level that would make the student eligible for a reduced price lunch
31 under the National School Lunch Act, 42 U.S.C. 1751 et seq., as
32 amended;

33 (b) Has a GPA of two-point five or lower on a four-point scale or
34 its equivalent;

35 (c) Was eligible to attend a public school in the semester before
36 an educational scholarship is received under this program, or is
37 starting school in this state for the first time; and

38 (d) Resides in any city not within a county or any urban school
39 district containing the greater part of the population of a home rule
40 city with more than four hundred thousand inhabitants and located in
41 more than one county while receiving an educational scholarship under
42 this program.

43 Any student who receives an educational scholarship under this
44 program shall remain eligible, regardless of household income, until
45 the student graduates from high school or reaches twenty-one years of
46 age, except that the educational assistance organization shall, in
47 accordance with rules, check the household income level of scholarship
48 recipients at least once every three years, and may require a sliding
49 scale of descending scholarship amounts if the household income level
50 exceeds three hundred percent of the level that would make the student
51 eligible for a reduced price lunch under the National School Lunch Act,
52 42 U.S.C. 1751 et seq., as amended;

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

55 (7) "Program", the Betty L. Thompson scholarship program
56 established under sections 135.712 to 135.719;

57 (8) "Public school foundation" is a charitable organization
58 registered in this state that is exempt from federal income tax under
59 Section 501(c)(3) of the Internal Revenue Code of 1986, as amended,
60 that was created to secure donations to be used for the benefit of a
61 public school district;

62 (9) "Qualified school", either a public elementary or secondary
63 school in this state that is outside of the district in which a student
64 resides, or a nonpublic elementary or secondary school in the state that
65 complies with all requirements of the program;

66 (10) "Taxpayer", an individual subject to the state income tax
67 imposed in chapter 143, RSMo, an individual, a firm, a partner in a
68 firm, corporation, or a shareholder in an S corporation doing business
69 in this state and subject to the state income tax imposed by chapter
70 143, RSMo, a corporation subject to the annual corporation franchise
71 tax imposed by chapter 147, RSMo, or an express company which pays
72 an annual tax on its gross receipts in this state under chapter 153,
73 RSMo, which files a Missouri income tax return and is not a dependent
74 of any other taxpayer.

135.713. 1. For all tax years beginning on or after January 1,
2 2007, any taxpayer who makes contributions to an educational
3 assistance organization may claim a credit against the tax otherwise
4 due under chapter 143, RSMo, other than taxes withheld under sections
5 143.191 to 143.265, RSMo, and chapters 147 and 153, RSMo, in an
6 amount equal to sixty-five percent of the amount the taxpayer
7 contributed during the tax year for which the credit is claimed, except
8 that the amount of a taxpayer's credit for such contribution claimed on
9 the taxpayer's federal income tax return shall be deducted from the
10 amount of credit due under this section on the taxpayer's Missouri
11 income tax return. No taxpayer shall claim a credit under sections
12 135.712 to 135.719 for any contribution made by the taxpayer, or an
13 agent of the taxpayer, on behalf of the taxpayer's dependent, or in the
14 case of a business taxpayer, on behalf of the business's agent's
15 dependent. Any amount of contribution subtracted from federal
16 adjusted gross income or federal taxable income shall be added back in
17 the determination of Missouri adjusted gross income or Missouri
18 taxable income before the credit can be claimed.

19 2. The amount of the tax credit claimed shall not exceed the

20 amount of the taxpayer's state tax liability for the tax year for which
21 the credit is claimed. The department shall certify the tax credit
22 amount to the taxpayer and to the department of revenue. Any amount
23 of credit that a taxpayer whose filing status is single, head of
24 household, or qualifying widow(er), or whose filing status is married
25 filing combined, is prohibited by the program from claiming in a tax
26 year may be carried forward to any of such taxpayer's three subsequent
27 taxable years. All tax credits authorized under the program may be
28 transferred, sold, or assigned.

29 3. The cumulative amount of tax credits which may be allocated
30 to all taxpayers contributing to educational assistance organizations in
31 any one fiscal year shall not exceed forty million dollars, which amount
32 shall annually be adjusted for inflation based on the consumer price
33 index for the Midwest, as defined and officially recorded by the United
34 States department of labor, or its successor. The director shall
35 establish a procedure to distribute the tax credits among taxpayers
36 claiming a tax credit under the program in the order in which the
37 claim for the tax credit was received by the department. The director
38 shall certify to the educational assistance organizations the amount of
39 eligible tax credits that can be taken by the organizations.

40 4. The director shall ensure that:

41 (1) At least eighty percent of eligible revenues are allocated for
42 educational assistance organizations for grants to eligible students to
43 cover all or part of the tuition and fees at a qualified school, and that
44 at least fifteen percent of the recipients are students receiving special
45 education services with individualized education plans that reflect
46 substantially the same distribution of the varieties of disabilities in
47 statewide statistics for students receiving special education services.
48 Of this amount, no more than twenty percent of eligible revenues shall
49 be allocated for other approved educational expenses, including
50 supplemental services such as private tutors, books and technology, or
51 transportation to a public or nonpublic school outside of the eligible
52 student's resident school district;

53 (2) No more than twenty percent of eligible revenues are
54 allocated for public school foundations to be used for the benefit of
55 public schools.

135.714. 1. Each educational assistance organization shall:

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

4 (2) Demonstrate to the department that it is exempt from federal
5 income tax under section 501(c)(3) of the Internal Revenue Code of
6 1986, as amended;

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

9 (4) Ensure that:

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

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

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

19 (5) Ensure that one hundred percent of first-time recipients of
20 educational scholarships were not continuously enrolled in a nonpublic
21 school during the previous semester, or that the first-time recipients
22 are eligible for kindergarten;

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

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

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

36 (9) Demonstrate its financial accountability by:

37 (a) Submitting a financial information report for the
38 organization that complies with uniform financial accounting standards

39 established by the department and is conducted by a certified public
40 accountant; and

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

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

48 2. Each educational assistance organization shall ensure that
49 qualified schools, excluding home schools and excluding public schools
50 outside the qualified students' district of residence, that accept eligible
51 students receiving educational scholarships from the organization will:

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

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

56 (3) Certify that the qualified schools will not discriminate in
57 admissions on the basis of race, color, national origin, religion, or
58 disability;

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

62 3. Educational assistance organizations shall not provide
63 educational scholarships for eligible students to attend any school with
64 paid staff or board members, or relatives thereof, in common with the
65 educational assistance organization.

66 4. Notwithstanding the accountability requirements of subsection
67 2 of this section, pupils who are home schooled may receive a
68 scholarship under sections 135.712 to 135.719 up to the amount of
69 money spent on educational expenses, excluding any payment to the
70 pupil's parent or guardian for instructional services.

71 5. An educational assistance organization shall publicly report
72 to the department by June first of each year the following information
73 prepared by a certified public accountant regarding their grants in the
74 previous calendar year:

75 (1) The name and address of the educational assistance

76 organization;

77 (2) The name and address of each eligible student who received
78 an educational scholarship from the organization;

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

81 (4) The total number and total dollar amount of educational
82 scholarships awarded during the previous calendar year;

83 (5) The total number and total dollar amount of educational
84 scholarships awarded during the previous year to eligible students
85 qualifying for the federal free or reduced price school lunch program;
86 and

87 (6) The percentage of first-time recipients of educational
88 scholarships who were continuously enrolled in a public school during
89 the previous year.

90 6. Before educational assistance organizations may raise
91 contributions under the program, they shall have received or
92 demonstrated ability to receive applications from eligible students, and
93 shall have identified potential vacancies in qualified schools as
94 determined by the director.

95 7. Each educational assistance organization shall provide
96 educational scholarships to eligible students that do not exceed an
97 average of five thousand dollars, which amount shall annually be
98 adjusted for inflation based on the consumer price index for the
99 Midwest, as defined and officially recorded by the United States
100 department of labor, or its successor agency, rounded up to the nearest
101 fifty dollar increment.

102 8. Public school foundations, in order to qualify to participate in
103 the program under sections 135.712 to 135.719 shall meet the
104 accountability requirements from subdivisions (1), (2), (3), paragraph
105 (c) of subdivision (4), (9), and (10) of subsection 1 of this section and
106 subsection 5 of this section.

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

5 2. All qualified schools shall require their scholarship students
6 to take the appropriate statewide assessments, except those with

7 individualized education plans that specify that such assessment would
8 not be appropriate. The assessments shall be administered by the home
9 district and the qualified school shall use scholarship funds to
10 reimburse the district for the cost of administering the
11 assessment. Results shall be provided to parents of each educational
12 scholarship recipient. The results of the scholarship recipients shall
13 not be considered for purposes of school accreditation or for purposes
14 of the federal No Child Left Behind Act.

15 3. All nonpublic qualified schools shall:

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

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

20 (3) Certify that they will not discriminate in admissions on the
21 basis of race, color, national origin, religion, or disability.

22 4. Qualified students, except home schooled students, shall
23 initially select a school in any district that is neither unaccredited nor
24 provisionally accredited and which is located adjacent to a district
25 described in paragraph (d) of subdivision (5) of subsection 2 of section
26 135.712 or within twenty miles of a qualified student's place of
27 residence at the time of the student's application, if any such district
28 has opted to accept qualified students by a majority vote of the district
29 board. Such district shall have the right of first acceptance of the
30 qualified student. If the district declines to accept the applicant, the
31 applicant may then select from any qualified school. The director shall
32 establish procedures to accomplish this right of first acceptance in a
33 timely manner.

34 5. If an eligible student uses the program to attend another
35 public school, the accepting public school shall accept the educational
36 scholarship amount in lieu of the state revenue that would normally be
37 owed the accepting district if the student came without an educational
38 scholarship.

39 6. Qualified schools shall have on record a form signed by the
40 parent or guardian of the scholarship recipient agreeing to the release
41 of the following information to the director:

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

44 **(2) Testing results for statewide assessment.**

45 **7. As a condition of participation, the parents, guardians, and**
46 **scholarship recipients under sections 135.712 to 135.719 shall agree to**
47 **abide by the code of conduct and any parental involvement**
48 **requirements unless the qualifying school agrees to a waiver of any**
49 **requirements.**

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

7 **2. The department shall provide a standardized format for**
8 **educational assistance organizations and public school foundations to**
9 **report the information required in subsection 1 of this section.**

10 **3. The department may conduct either a financial review or an**
11 **audit of an educational assistance organization or public school**
12 **foundation if the department possesses evidence of fraud committed by**
13 **the organization or foundation.**

14 **4. The department may bar an educational assistance**
15 **organization or public school foundation from participating in the**
16 **program if the department establishes that the educational assistance**
17 **organization or public school foundation has intentionally and**
18 **substantially failed to comply with the requirements in section 135.714.**
19 **If the department bars an educational assistance organization or public**
20 **school foundation from the program under this subsection, it shall**
21 **notify affected eligible students and their parents of the decision as**
22 **soon as possible after the determination is made.**

23 **5. The department of economic development shall receive no**
24 **more than two percent of the qualifying contributions for marketing**
25 **and administrative expenses or the costs incurred in administering the**
26 **program, whichever is less. The director shall establish procedures to**
27 **ensure the percentage of funds for administration of the program is**
28 **directed to the department of economic development in a timely**
29 **manner with the necessary information to verify the correct amount**
30 **has been transmitted. The remaining funds shall be distributed to the**
31 **educational assistance organizations or public school foundations.**

135.717. 1. The joint committee on legislative research in
2 conjunction with the department of elementary and secondary
3 education shall contract with one or more qualified researchers who
4 have previous experience evaluating school choice programs to conduct
5 a study of the program.

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
9 program;

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

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

15 (5) Each participating student's performance on annual
16 assessment instruments before and after entering the program.

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

21 4. The public and nonpublic participating schools to and from
22 which students transfer shall cooperate with the research effort by
23 providing student assessment instrument scores and any other data
24 necessary to complete this study.

25 5. The joint committee on legislative research may accept grants
26 to assist in funding this study.

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

135.719. 1. The department and the department of revenue may
2 promulgate rules to implement the provisions of sections 135.712 to
3 135.719. Any rule or portion of a rule, as that term is defined in section

4 536.010, RSMo, that is created under the authority delegated in this
5 section shall become effective only if it complies with and is subject to
6 all of the provisions of chapter 536, RSMo, and, if applicable, section
7 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
8 and if any of the powers vested with the general assembly pursuant to
9 chapter 536, RSMo, to review, to delay the effective date, or to
10 disapprove and annul a rule are subsequently held unconstitutional,
11 then the grant of rulemaking authority and any rule proposed or
12 adopted after August 28, 2007, shall be invalid and void.

13 2. Under section 23.253, RSMo, of the Missouri Sunset Act:

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

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

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

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