

FIRST REGULAR SESSION

# SENATE BILL NO. 698

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS RIDGEWAY, GIBBONS, LOUDON,  
NODLER, RUPP, CROWELL, SCOTT AND CLEMENS.

Read 1st time March 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2454S.021

## 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 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;**

**(4) "Educational scholarships", grants to eligible students to**

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

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

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

32 (b) Has a grade point average of two-point five or lower on a  
33 four-point scale or its equivalent;

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

37 (d) Resides within the boundaries of a school district that is  
38 classified as unaccredited by the state board of education.

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

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

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

53 (8) "Public school foundation" is a charitable organization  
54 registered in this state that is exempt from federal income tax under  
55 Section 501(c)(3) of the Internal Revenue Code of 1986, as amended,  
56 that was created to secure donations to be used for the benefit of a

57 public school district;

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

62 (10) "Taxpayer", an individual subject to the state income tax  
63 imposed in chapter 143, RSMo, an individual, a firm, a partner in a  
64 firm, corporation, or a shareholder in an S corporation doing business  
65 in this state and subject to the state income tax imposed by chapter  
66 143, RSMo, a corporation subject to the annual corporation franchise  
67 tax imposed by chapter 147, RSMo, or an express company which pays  
68 an annual tax on its gross receipts in this state under chapter 153,  
69 RSMo, which files a Missouri income tax return and is not a dependent  
70 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. Of  
48 this amount, no more than twenty percent of eligible revenues shall be  
49 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.

56       5. The weighted average daily attendance count for state aid  
57 purposes of a school district whose resident students receive  
58 scholarships under sections 135.712 to 135.719 shall be adjusted such  
59 that no school district shall receive state aid for any pupil who is no  
60 longer enrolled in the school district as the result of using the proceeds

61 of an educational scholarship to transfer to a qualified school under  
62 sections 135.712 to 135.719.

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**  
52 **shall:**

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

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

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

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

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

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

72           **5. An educational assistance organization shall publicly report**

73 to the department by June first of each year the following information  
74 prepared by a certified public accountant regarding their grants in the  
75 previous calendar year:

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

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

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

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

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

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

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

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

103 8. Public school foundations, in order to qualify to participate in  
104 the program under sections 135.712 to 135.719 shall meet the  
105 accountability requirements from subdivisions (1), (2), (3), paragraph  
106 (c) of subdivisions (4), (9), and (10) of subsection 1 of this section and  
107 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 shall  
2 contract with one or more qualified researchers who have previous  
3 experience evaluating school choice programs to conduct a study of the  
4 program with funds donated to the educational assistance  
5 organizations used 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  
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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