

HOUSE BILL NO. 345

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CUNNINGHAM (86), LEMBKE (85), VILLA, GEORGE, JETTON, SCHLOTTACH, RUPP, ST. ONGE (Co-sponsors), COOPER (120), LIESE, MEINERS, CRAWFORD, DEMPSEY, WRIGHT, SANDER, DEEKEN, LUETKEMEYER, JACKSON, BRUNS, PARKER, CROWELL, SPRENG, ICET, SUTHERLAND, SMITH (118), WALSH, DAVIS (19), AVERY, SCHNEIDER, RICHARD, STEVENSON, BEARDEN, SMITH (14), PHILLIPS, NIEVES, LIPKE (157), KRATKY, STEFANICK, CORCORAN, KELLY (144), MARSH, TAYLOR, MYERS, SHOEMAKER (8), WILSON (130), BEHNEN, HILGEMANN, HANAWAY AND MOORE.

Read 1st time January 30, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0649L.011

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to a tax credit for certain education-related charitable donations.

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

Section A. Chapter 135, RSMo, is amended by adding thereto one new section, to be known as section 135.827, to read as follows:

135.827. 1. As used in this section, the following terms mean:

- (1) "Contribution", a donation of cash, stock, bonds, or other marketable securities;**
- (2) "Director", the director of the department of economic development;**
- (3) "Qualified school", any elementary or secondary school in this state which a child may attend to satisfy the requirements of section 167.031, RSMo, and which does not discriminate on the basis of race, color, handicap, national origin, or ancestry;**
- (4) "Qualified student", any elementary or secondary school student whose parents' or guardians' income would make the student eligible for a free or reduced price school lunch pursuant to the National School Lunch Act, or any student receiving special education services pursuant to an individualized plan pursuant to sections 162.670 to 162.999, RSMo;**
- (5) "Scholarship charity", a charitable organization in this state that is exempt from federal taxation pursuant to the Internal Revenue Code, as amended, and that**

15 allocates at least ninety percent of its annual revenue derived from contributions for which
16 a credit is claimed pursuant to this section for educational scholarships to qualified
17 students to assist them in attending a qualified school of their parents' or guardians'
18 choice. To qualify as a scholarship charity, the charitable organization shall provide
19 educational scholarships to students without limiting availability to students attending a
20 particular school and shall ensure that scholarship proceeds are used by the parent or
21 guardian to pay for any of the following: school tuition; book fees; school related
22 transportation expenses; payments to purchase equipment or material necessary to
23 participate in the school's academic program, including scientific laboratory equipment,
24 literary, and mathematics materials; apprenticeship programs, fees, expenses, and
25 materials necessary to participate in school sponsored extracurricular activities, including
26 dramatic, music, and athletic activities; and payments for academic tutoring;

27 (6) "State tax liability", any liability incurred by a taxpayer pursuant to chapters
28 143, 147, and 153, RSMo, excluding withholding taxes pursuant to sections 143.191 to
29 143.265, RSMo, and related provisions;

30 (7) "Taxpayer", an individual subject to the state income tax imposed in chapter
31 143, RSMo, an individual, a firm, a partner in a firm, corporation, or a shareholder in an
32 S corporation doing business in this state and subject to the state income tax imposed by
33 chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax
34 imposed by chapter 147, RSMo, or an express company which pays an annual tax on its
35 gross receipts in this state pursuant to chapter 153, RSMo.

36 2. For all tax years beginning on or after January 1, 2006, or for all tax years
37 beginning on or after the first day of the state fiscal year following the state fiscal year
38 during which total state revenues, as determined pursuant to section 17, article X, of the
39 Missouri Constitution, exceeds one hundred twenty percent of total state revenues for fiscal
40 year 2000, whichever occurs first, any taxpayer who makes contributions to a scholarship
41 charity may claim a credit against the tax otherwise due pursuant to chapter 143, RSMo,
42 other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, and chapters 147
43 and 153, RSMo, in an amount equal to fifty percent of the amount the taxpayer
44 contributed during the tax year for which the credit is claimed; except that, no taxpayer
45 shall claim a credit pursuant to this section for any contribution made by the taxpayer, or
46 an agent of the taxpayer, on behalf of the taxpayer's dependent, or in the case of a business
47 taxpayer, on behalf of the business's agent's dependent.

48 3. The amount of the tax credit claimed shall not exceed the amount of the
49 taxpayer's state tax liability for the tax year that the credit is claimed, and no taxpayer
50 shall claim a tax credit in excess of fifty thousand dollars per tax year. Any amount of

51 credit that the taxpayer is prohibited by this section from claiming in a tax year may be
52 carried forward to any of the taxpayer's four subsequent taxable years. Except for any
53 credit carried over pursuant to this section, no taxpayer shall claim a credit pursuant to
54 this section unless the amount contributed to a scholarship charity is one hundred dollars
55 or more.

56 4. The cumulative amount of tax credits which may be claimed by all taxpayers
57 contributing to scholarship charities in any one fiscal year shall not exceed two million
58 dollars. The director shall establish a procedure by which, from the beginning of the fiscal
59 year until some point in time later in the fiscal year to be determined by the director, the
60 cumulative amount of tax credits are equally apportioned among all charities classified as
61 scholarship charities. If a scholarship charity fails to use all, or some percentage to be
62 determined by the director, of its apportioned tax credits during the predetermined period
63 of time, the director may reapportion the unused tax credits to those scholarship charities
64 that have used all, or some percentage to be determined by the director, of their
65 apportioned tax credits during the predetermined period of time. The director may
66 establish more than one period of time and reapportion more than once during each fiscal
67 year. To the maximum extent possible, the director shall establish the procedure described
68 in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits
69 possible up to the cumulative amount of tax credits available for the fiscal year.

70 5. The director shall determine, at least annually, which charities in this state may
71 be classified as scholarship charities. The director may require a charity seeking
72 classification as a scholarship charity to provide any information reasonably necessary to
73 make such a determination. The director shall classify a charity as a scholarship charity
74 if the charity qualifies as a scholarship charity as defined in this section.

75 6. The director shall establish a procedure by which a taxpayer can determine if
76 a charity has been classified as a scholarship charity, and by which taxpayers can claim the
77 tax credit pursuant to this section.

78 7. No rule or portion of a rule promulgated pursuant to the authority of this section
79 shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.