

SECOND REGULAR SESSION

# HOUSE BILL NO. 1783

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BEARDEN (Sponsor), HOSKINS, HUBBARD, JETTON, MUSCHANY, HUNTER, RUPP, ICET, DEMPSEY, NIEVES, PHILLIPS, RICHARD, SATER, DAVIS, LEMBKE, CHINN, ERVIN, SMITH (118), CUNNINGHAM (86), PORTWOOD, STEVENSON, RUESTMAN AND COOPER (120) (Co-sponsors).

Read 1st time February 15, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4402L.01I

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### AN ACT

To amend chapter 135, RSMo, by adding thereto seven new sections relating to the Missouri Student Success Scholarships Tax Credit Program.

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*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 135.650, 135.651, 135.652, 135.653, 135.654, 135.655, and 135.656, to read as follows:

**135.650. 1. Sections 135.650 to 135.656 shall be known and may be cited as the "Missouri Student Success Scholarships Tax Credit Program".**

**2. As used in sections 135.650 to 135.656, the following terms mean:**

**(1) "Department", the department of economic development;**

**(2) "Director", the director of the department of economic development;**

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

**(4) "Eligible student", a student who:**

**(a) Is a member of a household whose parents' total annual income in the year before an educational scholarship is received under this program is no more than one**

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.

13 hundred thirty-five percent of the level that would make the student eligible for a reduced  
14 price lunch under the National School Lunch Act, 42 U.S.C. 1751 et seq., as amended;

15 (b) Has a GPA of two-point five or lower on a four-point scale;

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

19 (d) Resides in any city not within a county, any home rule city with more than four  
20 hundred thousand inhabitants and located in more than one county, or any school district  
21 with an assessed valuation of more than seventeen million but less than eighteen million  
22 dollars located in any county with a charter form of government and with more than one  
23 million inhabitants while receiving an educational scholarship under this program.

24

25 Any student who receives an educational scholarship under this program shall remain  
26 eligible, regardless of household income, until the student graduates from high school or  
27 reaches twenty-one years of age;

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

30 (6) "Program", the Missouri student success scholarships tax credit program  
31 established under sections 135.650 to 135.656;

32 (7) "Qualified school", either a public elementary or secondary school in this state  
33 that is outside of the district in which a student resides, or a nonpublic elementary or  
34 secondary school in the state that complies with all requirements of the program;

35 (8) "Scholarship granting organization", an organization that complies with the  
36 requirements of the program and provides educational scholarships to eligible students  
37 attending qualified schools of their parents' choice;

38 (9) "Taxpayer", an individual subject to the state income tax imposed in chapter  
39 143, RSMo, an individual, a firm, a partner in a firm, corporation, or a shareholder in an  
40 S corporation doing business in this state and subject to the state income tax imposed by  
41 chapter 143, RSMo, a corporation subject to the annual corporation franchise tax imposed  
42 by chapter 147, RSMo, or an express company which pays an annual tax on its gross  
43 receipts in this state under chapter 153, RSMo, which files a Missouri income tax return  
44 and is not a dependent of any other taxpayer.

135.651. 1. For all tax years beginning on or after January 1, 2006, any taxpayer  
2 who makes contributions to a scholarship granting organization may claim a credit against  
3 the tax otherwise due under chapter 143, RSMo, other than taxes withheld under sections  
4 143.191 to 143.265, RSMo, and chapters 147 and 153, RSMo, in an amount equal to one

5 hundred percent of the amount the taxpayer contributed during the tax year for which the  
6 credit is claimed, except that the amount of a taxpayer's federal deduction or credit for  
7 such contribution claimed on the taxpayer's federal income tax return shall be deducted  
8 from the amount of credit due under this section on the taxpayer's Missouri income tax  
9 return. No taxpayer shall claim a credit under sections 135.650 to 135.656 for any  
10 contribution made by the taxpayer, or an agent of the taxpayer, on behalf of the taxpayer's  
11 dependent, or in the case of a business taxpayer, on behalf of the business's agent's  
12 dependent. Any amount of contribution subtracted from federal adjusted gross income  
13 or federal taxable income shall be added back in the determination of Missouri adjusted  
14 gross income or Missouri taxable income before the credit can be claimed.

15 2. The amount of the tax credit claimed shall not exceed the amount of the  
16 taxpayer's state tax liability for the tax year for which the credit is claimed. The  
17 department shall certify the tax credit amount to the taxpayer and to the department of  
18 revenue. Any amount of credit that a taxpayer whose filing status is single, head of  
19 household, or qualifying widow(er), or whose filing status is married filing combined, is  
20 prohibited by the program from claiming in a tax year may be carried forward to any of  
21 such taxpayer's three subsequent taxable years. All tax credits authorized under the  
22 program may be transferred, sold, or assigned.

23 3. The cumulative amount of tax credits which may be allocated to all taxpayers  
24 contributing to a scholarship granting organization in any one fiscal year shall not exceed  
25 forty million dollars, which amount shall annually be adjusted for inflation based on the  
26 consumer price index. The director shall establish a procedure to distribute the tax credits  
27 among taxpayers claiming a tax credit under the program in the order in which the claim  
28 for the tax credit was received by the department. The director shall certify to the  
29 scholarship granting organizations the amount of eligible tax credits that can be taken by  
30 the organizations.

135.652. 1. Each scholarship granting 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 at least ninety percent of its revenue from contributions is spent on  
9 educational scholarships, and that one hundred percent of its revenue from interest or  
10 investments is spent on educational scholarships;

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

14           (6) Ensure that at least eighty percent of eligible revenues are allocated for grants  
15 to eligible students to cover all or part of the tuition and fees at a qualified school;

16           (7) Ensure that no more than twenty percent of eligible revenues are allocated for  
17 other approved educational expenses, including supplemental services such as private  
18 tutors, books and technology, or transportation to a public or private school outside of the  
19 eligible student's resident school district;

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

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

26           (10) Ensure that educational scholarships are portable during the school year and  
27 can be used at any qualified school that accepts the eligible student according to a parent's  
28 wishes. If an eligible student moves to a new qualified school during a school year, the  
29 educational scholarship amount may be prorated;

30           (11) Demonstrate its financial accountability by:

31           (a) Submitting a financial information report for the organization that complies  
32 with uniform financial accounting standards established by the department and is  
33 conducted by a certified public accountant; and

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

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

39           2. Each scholarship granting organization shall ensure that qualified schools that  
40 accept eligible students receiving educational scholarships from the organization will:

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

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

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

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

47           **3. Scholarship granting organizations shall not provide educational scholarships**  
48 **for eligible students to attend any school with paid staff or board members, or relatives**  
49 **thereof, in common with the scholarship granting organization.**

50           **4. A scholarship granting organization shall publicly report to the department by**  
51 **June first of each year the following information prepared by a certified public accountant**  
52 **regarding their grants in the previous calendar year:**

53           **(1) The name and address of the scholarship granting organization;**

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

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

58           **(4) The total number and total dollar amount of educational scholarships awarded**  
59 **during the previous calendar year;**

60           **(5) The total number and total dollar amount of educational scholarships awarded**  
61 **during the previous year to eligible students qualifying for the federal free or reduced price**  
62 **school lunch program; and**

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

65           **5. Before scholarship granting organizations may raise contributions under the**  
66 **program, they shall have received or demonstrated ability to receive applications from**  
67 **eligible students, and shall have identified potential vacancies in qualified schools as**  
68 **determined by the director.**

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

5           **2. All qualified schools shall provide the administration of the statewide**  
6 **assessments under section 160.518, RSMo, or a nationally recognized norm-referenced**  
7 **assessment, to all educational scholarship recipients except those with individualized**  
8 **education plans that specify that such assessment would not be appropriate. Results shall**  
9 **be provided to parents of each educational scholarship recipient.**

10           **3. All nonpublic qualified schools shall:**

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

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

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

15           **4. Public school districts that lose students who transfer to qualifying schools under**  
16 **the program shall not lose the state funding for that student for the period of one school**  
17 **year.**

18           **5. If an eligible student uses the program to attend another public school, the**  
19 **accepting public school shall accept the educational scholarship amount in lieu of the state**  
20 **revenue that would normally be owed the accepting district if the student came without an**  
21 **educational scholarship.**

22           **6. Each scholarship granting organization shall provide educational scholarships**  
23 **to eligible students that do not exceed an average of five thousand dollars, which amount**  
24 **shall annually be adjusted for inflation based on the Consumer Price Index rounded to the**  
25 **nearest fifty-dollar increment.**

**135.654. 1. The department shall provide a standardized format for a receipt to be**  
2 **issued by a scholarship granting 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 scholarship granting**  
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 a**  
8 **scholarship granting organization if the department possesses evidence of fraud committed**  
9 **by the organization.**

10           **4. The department may bar a scholarship granting organization from participating**  
11 **in the program if the department establishes that the scholarship granting organization has**  
12 **intentionally and substantially failed to comply with the requirements in section 135.652.**  
13 **If the department bars a scholarship granting organization from the program under this**  
14 **subsection, it shall notify affected eligible students and their parents of the decision as soon**  
15 **as possible after the determination is made.**

16           **5. The department shall not charge any fee for the administration or marketing of**  
17 **the program.**

**135.655. 1. The joint committee on legislative research shall contract with one or**  
2 **more qualified researchers who have previous experience evaluating school choice**  
3 **programs to conduct a study of the program with funds donated to the state for such**  
4 **purposes.**

5           **2. The study shall assess:**

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

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

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

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

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

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

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

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

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

          135.656. 1. The department and the department of revenue may promulgate rules  
2 to implement the provisions of sections 135.650 to 135.656. Any rule or portion of a rule,  
3 as that term is defined in section 536.010, RSMo, that is created under the authority  
4 delegated in this section shall become effective only if it complies with and is subject to all  
5 of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This  
6 section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the  
7 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or  
8 to disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
9 rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be  
10 invalid and void.

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

12           (1) The provisions of the new program authorized under sections 135.650 to  
13 135.656 shall automatically sunset six years after the effective date of sections 135.650 to  
14 135.656 unless reauthorized by an act of the general assembly; and

15           (2) If such program is reauthorized, the program authorized under sections 135.650  
16 to 135.656 shall automatically sunset twelve years after the effective date of the  
17 reauthorization of sections 135.650 to 135.656; and

18           (3) Sections 135.650 to 135.656 shall terminate on September first of the calendar  
19 year immediately following the calendar year in which the program authorized under  
20 sections 135.650 to 135.656 is sunset.

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