

FIRST REGULAR SESSION

# HOUSE BILL NO. 808

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BEARDEN (Sponsor), HUBBARD, HOSKINS, ROBB, MEINERS, MUSCHANY, RUESTMAN, HUNTER, HUGHES, EL-AMIN, STEVENSON, BIVINS, MAY, ST. ONGE, SCHARNHORST, RICHARD, PARSON, TILLEY, JONES (117), SCHLOTTACH, KINGERY, EMERY, JETTON, FAITH, ICET, SANDER, NOLTE, ONDER, SCHOELLER, COOPER (158), DEMPSEY, DAVIS, LEMBKE, SMITH (14), NIEVES, COOPER (120), KELLY, PORTWOOD, DEEKEN, SATER, KRATKY, BRUNS, COOPER (155), FUNDERBURK, SCHAAF, LIPKE, VILLA, THRELKELD AND DOUGHERTY (Co-sponsors).

Read 1st time February 7, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

0856L.01I

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### AN ACT

To amend chapter 135, RSMo, by adding thereto seven new sections relating to the Betty L. Thompson Scholarship 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  
2 known as sections 135.712, 135.713, 135.714, 135.715, 135.716, 135.717, and 135.719, to read  
3 as follows:

**135.712. 1. Sections 135.712 to 135.719 shall be known and may be cited as the**  
2 **"Betty L. Thompson Scholarship Program". This program shall grant scholarships to**  
3 **students from low-income families in urban areas for certain educational costs as defined**  
4 **in sections 135.712 to 135.719.**

5 **2. As used in sections 135.712 to 135.719, the following terms mean:**

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

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

8 **(3) "Educational assistance organization", a charitable organization registered in**  
9 **this state that is exempt from federal taxation under the Internal Revenue Code of 1986,**  
10 **as amended, is certified by the director, and that allocates all of its annual revenue with the**

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.

11 exception of marketing and administrative expenses in paragraph (c) of subdivision (4) of  
12 subsection 1 of section 135.714 derived from contributions for which a credit is claimed  
13 under this section for educational assistance and which does not provide scholarships to  
14 students of only one particular school;

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

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

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

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

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

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

32  
33 Any student who receives an educational scholarship under this program shall remain  
34 eligible, regardless of household income, until the student graduates from high school or  
35 reaches twenty-one years of age, except that the educational assistance organization shall,  
36 in accordance with rules, check the household income level of scholarship recipients at least  
37 once every three years, and may require a sliding scale of descending scholarship amounts  
38 if the household income level exceeds three hundred percent of the level that would make  
39 the student eligible for a reduced price lunch under the National School Lunch Act, 42  
40 U.S.C. 1751 et seq., as amended;

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

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

45 (8) "Public school foundation" is a charitable organization registered in this state  
46 that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue

47 Code of 1986, as amended, that was created to secure donations to be used for the benefit  
48 of a public school district;

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

52 (10) "Taxpayer", an individual subject to the state income tax imposed in chapter  
53 143, RSMo, an individual, a firm, a partner in a firm, corporation, or a shareholder in an  
54 S corporation doing business in this state and subject to the state income tax imposed by  
55 chapter 143, RSMo, a corporation subject to the annual corporation franchise tax imposed  
56 by chapter 147, RSMo, or an express company which pays an annual tax on its gross  
57 receipts in this state under chapter 153, RSMo, which files a Missouri income tax return  
58 and is not a dependent of any other taxpayer.

135.713. 1. For all tax years beginning on or after January 1, 2007, any taxpayer  
2 who makes contributions to an educational assistance organization may claim a credit  
3 against the tax otherwise due under chapter 143, RSMo, other than taxes withheld under  
4 sections 143.191 to 143.265, RSMo, and chapters 147 and 153, RSMo, in an amount equal  
5 to sixty-five percent of the amount the taxpayer contributed during the tax year for which  
6 the credit is claimed, except that the amount of a taxpayer's credit for such contribution  
7 claimed on the taxpayer's federal income tax return shall be deducted from the amount of  
8 credit due under this section on the taxpayer's Missouri income tax return. No taxpayer  
9 shall claim a credit under sections 135.712 to 135.719 for any contribution made by the  
10 taxpayer, or an agent of the taxpayer, on behalf of the taxpayer's dependent, or in the case  
11 of a business taxpayer, on behalf of the business's agent's dependent. Any amount of  
12 contribution subtracted from federal adjusted gross income or federal taxable income shall  
13 be added back in the determination of Missouri adjusted gross income or Missouri taxable  
14 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 educational assistance organizations 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 for the Midwest, as defined and officially recorded by the United  
27 States department of labor, or its successor. The director shall establish a procedure to  
28 distribute the tax credits among taxpayers claiming a tax credit under the program in the  
29 order in which the claim for the tax credit was received by the department. The director  
30 shall certify to the educational assistance organizations the amount of eligible tax credits  
31 that can be taken by the organizations.

32 4. The director shall ensure that:

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

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

135.714. 1. Each educational assistance 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:

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

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

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

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

20           **(6) 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           **(7) 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           **(8) 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           **(9) 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; and**

35           **(10) 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 educational assistance organization shall ensure that qualified schools,**  
40 **excluding home schools and excluding public schools outside the qualified students' district**  
41 **of residence, that accept eligible students receiving educational scholarships from the**  
42 **organization will:**

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

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

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

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

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

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

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

59           **(1) The name and address of the educational assistance organization;**

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

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

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

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

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

71           **6. Before educational assistance organizations may raise contributions under the**  
72 **program, they shall have received or demonstrated ability to receive applications from**  
73 **eligible students, and shall have identified potential vacancies in qualified schools as**  
74 **determined by the director.**

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

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

**135.715. 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 require their scholarship students to take the**  
6 **appropriate statewide assessments, except those with individualized education plans that**  
7 **specify that such assessment would not be appropriate. The assessments shall be**  
8 **administered by the home district and the qualified school shall use scholarship funds to**  
9 **reimburse the district for the cost of administering the assessment. Results shall be**

10 provided to parents of each educational scholarship recipient. The results of the  
11 scholarship recipients shall not be considered for purposes of school accreditation or for  
12 purposes of the federal No Child Left Behind Act.

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

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

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

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

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

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

31 **6. Qualified schools shall have on record a form signed by the parent or guardian**  
32 **of the scholarship recipient agreeing to the release of the following information to the**  
33 **director:**

34 **(1) The student's participation as a scholarship recipient under sections 135.712 to**  
35 **135.719; and**

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

37 **7. As a condition of participation, the parents, guardians, and scholarship**  
38 **recipients under sections 135.712 to 135.719 shall agree to abide by the code of conduct and**  
39 **any parental involvement requirements unless the qualifying school agrees to a waiver of**  
40 **any requirements.**

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

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

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

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

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

**135.717. 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 educational**  
4 **assistance organizations used for tuition scholarships.**

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.**

**135.719. 1. The department and the department of revenue may promulgate rules**  
2 **to implement the provisions of sections 135.712 to 135.719. 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, 2007, 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 135.712 to**  
13 **135.719 shall automatically sunset six years after the effective date of sections 135.712 to**  
14 **135.719 unless reauthorized by an act of the general assembly; and**

15           **(2) If such program is reauthorized, the program authorized under sections 135.712**  
16 **to 135.719 shall automatically sunset twelve years after the effective date of the**  
17 **reauthorization of sections 135.712 to 135.719; and**

18           **(3) Sections 135.712 to 135.719 shall terminate on September first of the calendar**  
19 **year immediately following the calendar year in which the program authorized under**  
20 **sections 135.712 to 135.719 is sunset.**

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