

SECOND REGULAR SESSION

HOUSE BILL NO. 2207

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HOSKINS (Sponsor),
HUBBARD AND CUNNINGHAM (86) (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

4670L.02I

AN ACT

To amend chapter 135, RSMo, by adding thereto seven new sections relating to the HCH 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
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 **"HCH Scholarship Program". This program shall grant scholarships to students from**
3 **certain unaccredited urban areas for certain educational costs as defined in sections**
4 **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, that allocates all of its annual revenue with the**
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**

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.

14 students of only one particular school, and that distributes educational scholarships to
15 eligible students in the following manner:

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

21 (b) Ten percent of the educational scholarships are distributed to an eligible
22 student who resides in any city not within a county, and who is eligible for an educational
23 scholarship regardless of the total annual income of the parents;

24 (c) Ten percent of the educational scholarships are distributed to an eligible student
25 who resides in any urban school district containing the greater part of the population of
26 a home rule city with more than four hundred thousand inhabitants and located in more
27 than one county, and who is eligible for an educational scholarship regardless of the total
28 annual income of the parents;

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

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

34 (a) Is enrolled in kindergarten through grade six;

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

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

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

44 (7) "Program", the HCH scholarship program established under sections 135.712
45 to 135.719;

46 (8) "Qualified school", either a public elementary or secondary school in this state
47 that is outside of the district in which a student resides, or a nonpublic elementary or
48 secondary school in the state that complies with all requirements of the program;

49 (9) "Taxpayer", an individual subject to the state income tax imposed in chapter
50 143, RSMo, an individual, a firm, a partner in a firm, corporation, or a shareholder in an
51 S corporation doing business in this state and subject to the state income tax imposed by
52 chapter 143, RSMo, a corporation subject to the annual corporation franchise tax imposed
53 by chapter 147, RSMo, or an express company which pays an annual tax on its gross
54 receipts in this state under chapter 153, RSMo, which files a Missouri income tax return
55 and is not a dependent of any other taxpayer.

135.713. 1. For all tax years beginning on or after January 1, 2009, 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 fifty 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 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. No tax credits authorized under the
22 program shall 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 twenty 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 at least eighty percent of eligible revenues are
33 allocated for educational assistance organizations for grants to eligible students to cover
34 all or part of the tuition and fees at a qualified school.

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.

 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.

11 3. All nonpublic qualified schools shall:

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

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

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

16 4. Qualified schools shall have on record a form signed by the parent or guardian
17 of the scholarship recipient agreeing to the release of the following information to the
18 director:

19 (1) The student's participation as a scholarship recipient under sections 135.712 to
20 135.719; and

21 (2) Testing results for statewide assessment.

22 **5. As a condition of participation, the parents, guardians, and scholarship**
23 **recipients under sections 135.712 to 135.719 shall agree to abide by the code of conduct and**
24 **any parental involvement requirements unless the qualifying school agrees to a waiver of**
25 **any requirements.**

135.716. 1. The department shall provide a standardized format for a receipt to be
2 **issued by an educational assistance 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 educational assistance**
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 an**
8 **educational assistance organization if the department possesses evidence of fraud**
9 **committed by the organization.**

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

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

135.717. 1. The department of elementary and secondary education shall contract
2 **with one or more qualified researchers who have previous experience evaluating school**
3 **choice 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 department of elementary and secondary education may accept grants to
21 assist in funding 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, 2008, 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 on December thirty-first six years after the effective date
14 of sections 135.712 to 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 on December thirty-first twelve years after the
17 effective date of the 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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