

SECOND REGULAR SESSION

# HOUSE BILL NO. 1176

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BUTLER.

4785L.02I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to tax credits for contributions to public school foundations.

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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 one new section, to be known as section 135.650, to read as follows:

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

(1) "Certificate", a tax credit certificate issued under this section;

(2) "Contribution", a donation received by a qualified public school foundation from a taxpayer that is used solely for the benefit of elementary and secondary education. Contributions include but are not limited to cash, stock, bonds, or other marketable securities, or real property that will be valued and documented according to rules promulgated by the department;

(3) "Department", the department of elementary and secondary education;

(4) "Director", the director of the department of elementary and secondary education;

(5) "Qualified public school foundation" or "foundation", a not-for-profit organization operating in this state that meets the definition of a charitable organization whose primary purpose is the furtherance of elementary or secondary public education in a school district that is above the median of all school districts in the state in current expenditures per average daily attendance divided by assessed valuation;

(6) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer under the provisions of chapter 143, 147, 148, or 153, excluding withholding

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.

18 tax imposed by sections 143.191 to 143.265, and in the case of an individual taxpayer, any  
19 liability incurred by such taxpayer under the provisions of chapter 143;

20 (7) "Tax credit", a credit against the tax otherwise due under chapter 143,  
21 excluding withholding tax imposed by sections 143.191 to 143.265, or otherwise due under  
22 chapter 147, 148, or 153;

23 (8) "Taxpayer", any of the following individuals or entities who make a  
24 contribution to a qualified public school foundation:

25 (a) A person, firm, partner in a firm or corporation, a shareholder in an S  
26 corporation, or a member in a limited liability company doing business in the state of  
27 Missouri and subject to the state income tax imposed in chapter 143;

28 (b) A corporation subject to the annual corporation franchise tax imposed in  
29 chapter 147;

30 (c) An insurance company paying an annual tax on its gross premium receipts in  
31 this state;

32 (d) Any other financial institution paying taxes to the state of Missouri or any  
33 political subdivision of this state under chapter 148;

34 (e) An express company that pays an annual tax on its gross receipts in this state  
35 under chapter 153;

36 (f) Any charitable organization that is exempt from federal income tax and whose  
37 Missouri unrelated business taxable income, if any, would be subject to the state income  
38 tax imposed in chapter 143;

39 (g) An individual subject to the state income tax imposed in chapter 143.

40 2. For all taxable years beginning on or after January 1, 2015, a taxpayer shall be  
41 allowed a tax credit for contributions made to a qualified public school foundation. The  
42 amount of such tax credit shall be equal to sixty-five percent of the amount of the  
43 taxpayer's contributions. If the amount of the tax credit issued exceeds the amount of the  
44 taxpayer's state tax liability for the tax year for which the credit is claimed, the difference  
45 shall not be refundable but may be carried forward to any of the taxpayer's three  
46 subsequent taxable years.

47 3. The director shall establish a procedure by which a taxpayer can determine if  
48 an organization has been classified as a qualified public school foundation, and by which  
49 such taxpayer can then contribute to such foundation and claim a tax credit.

50 4. The tax credit authorized in this section shall be claimed at the time the taxpayer  
51 files a Missouri income tax return. To claim the tax credit allowed under this section, the  
52 taxpayer shall submit to a qualified public school foundation an application for the tax  
53 credit on a form authorized and provided by the department and any application fee

54 imposed by the foundation. The application shall be filed with the foundation at the end  
55 of each calendar year in which a contribution was made and for which a tax credit is  
56 claimed under this section. The application shall include any certified documentation and  
57 information required by the department. All required information obtained by the  
58 foundation shall be confidential and not disclosed except by court order, subpoena, or as  
59 otherwise provided by law. If the taxpayer and the contribution comply with all criteria  
60 required by this section and approval is granted by the foundation, the foundation shall  
61 issue a tax credit certificate in the appropriate amount. Tax credit certificates issued under  
62 this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner  
63 of the tax credit certificate shall have the same rights in the tax credit as the original  
64 taxpayer. Whenever a tax credit certificate is assigned, transferred, sold, or otherwise  
65 conveyed, a notarized endorsement shall be filed with the foundation specifying the name  
66 and address of the new owner of the tax credit certificate or the value of the tax credit.

67       5. Each qualified public school foundation shall provide information to the director  
68 concerning the identity of each taxpayer making a contribution to the foundation who is  
69 claiming a tax credit under this section and the amount of the contribution. The director  
70 shall provide the information to the director of revenue. The director shall be subject to  
71 the confidentiality and penalty provisions of section 32.057, relating to the disclosure of tax  
72 information.

73       6. Qualified public school foundations may decline a contribution from a taxpayer.

74       7. The department and the department of revenue may promulgate rules to  
75 implement the provisions of this section. Any rule or portion of a rule, as that term is  
76 defined in section 536.010, that is created under the authority delegated in this section shall  
77 become effective only if it complies with and is subject to all of the provisions of chapter  
78 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and  
79 if any of the powers vested with the general assembly under chapter 536 to review, to delay  
80 the effective date, or to disapprove and annul a rule are subsequently held  
81 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
82 after August 28, 2014, shall be invalid and void.

83       8. Under section 23.253 of the Missouri sunset act:

84       (1) The provisions of the new program authorized under this section shall  
85 automatically sunset on December thirty-first six years after the effective date of this  
86 section unless reauthorized by an act of the general assembly; and

87       (2) If such program is reauthorized, the program authorized under this section  
88 shall automatically sunset on December thirty-first twelve years after the effective date of  
89 the reauthorization of this section; and

90           **(3) This section shall terminate on September first of the calendar year immediately**  
91 **following the calendar year in which the program authorized under this section is sunset.**  
92 **The termination of the program as described in this subsection shall not be construed to**  
93 **preclude any taxpayer who claims any benefit under any program that is sunset under this**  
94 **subsection from claiming such benefit for all allowable activities related to such claim that**  
95 **were completed before the program was sunset, or to eliminate any responsibility of the**  
96 **administering agency to verify the continued eligibility of projects receiving tax credits and**  
97 **to enforce other requirements of law that applied before the program was sunset.**

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