

SECOND REGULAR SESSION

# HOUSE BILL NO. 1589

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE KOENIG.

4452H.02I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapters 135 and 201, RSMo, by adding thereto two new sections relating to children in the protective custody of the state.

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

Section A. Chapters 135 and 201, RSMo, are amended by adding thereto two new sections, to be known as sections 135.2000 and 210.1500, to read as follows:

**135.2000. 1. As used in this section, the following terms mean:**

(1) "Commissioner", the commissioner of education for the department of elementary and secondary education;

(2) "Contribution", a donation of cash;

(3) "Fund", the foster child education fund established in section 210.1500;

(4) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer under the provisions of chapters 143, 147, 148, and 153, excluding sections 143.191 to 143.265 and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer under the provisions of chapter 143, excluding sections 143.191 to 143.265 and related provisions;

(5) "Tax credit", a credit against the taxpayer's state tax liability;

(6) "Tax credit certificate", a certificate evidencing a taxpayer's right to receive a tax credit;

(7) "Taxpayer", a person, firm, partner in a partnership, member in a limited liability company, shareholder in an S corporation, or a corporation doing business in the state of Missouri and subject to the state income tax imposed under chapter 143, or a corporation subject to the annual corporation franchise tax imposed under chapter 147,

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 or an insurance company paying an annual tax on its gross premium receipts in this state,  
19 or other financial institution paying taxes to the state of Missouri or any political  
20 subdivision of this state under the provisions of chapter 148, or an express company which  
21 pays an annual tax on its gross receipts in this state under chapter 153, or an individual  
22 subject to the state income tax under chapter 143, or any charitable organization which is  
23 exempt from federal income tax and whose Missouri unrelated business taxable income,  
24 if any, would be subject to the state income tax imposed under chapter 143.

25       2. (1) Subject to the provisions of subsection 5 of this section, any contribution to  
26 the fund made on or after January 1, 2017, shall be eligible for a tax credit as provided by  
27 this section.

28       (2) For all tax years beginning on or after January 1, 2017, a taxpayer shall be  
29 entitled to receive a tax credit against the taxpayer's state tax liability in an amount equal  
30 to fifty percent of the amount such taxpayer contributed to the fund evidenced by a tax  
31 credit certificate.

32       3. The commissioner shall be responsible for the administration and issuance of tax  
33 credit certificates authorized by this section.

34       4. The amount of the tax credit claimed shall not exceed fifty percent of the  
35 taxpayer's state tax liability for the taxable year for which the credit is claimed, and such  
36 taxpayer shall not be allowed to claim a tax credit in excess of twenty-five thousand dollars  
37 per taxable year. Any amount of credit that the taxpayer is prohibited by this section from  
38 claiming in a taxable year shall not be refundable. However, any tax credit that cannot be  
39 claimed in the taxable year in which the contribution was made may be carried over to the  
40 next three succeeding taxable years until the full credit has been claimed.

41       5. Except for any excess credit which is carried over under subsection 4 of this  
42 section, a taxpayer shall not be allowed to claim a tax credit unless the amount of such  
43 taxpayer's contribution to the fund in such taxpayer's taxable year has a value of one  
44 hundred dollars or more, up to a maximum of fifty thousand dollars. Any excess of a  
45 contribution above fifty thousand dollars or contribution less than one hundred dollars  
46 shall be ineligible to receive a tax credit under this section.

47       6. The total amount of tax credits authorized under the provisions of this section  
48 shall not exceed five million dollars in any fiscal year. The total amount of tax credits  
49 issued but not redeemed shall not exceed fifteen million dollars in any fiscal year. Tax  
50 credits shall be issued in the order contributions are received.

51       7. Tax credits issued under this section shall not be transferred, sold, or assigned.

52       8. The department of elementary and secondary education may promulgate rules  
53 to implement the provisions of this section. Any rule or portion of a rule, as that term is

54 defined under section 536.010, that is created under the authority delegated in this section  
55 shall become effective only if it complies with and is subject to all of the provisions of  
56 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
57 nonseverable, and if any of the powers vested with the general assembly pursuant to  
58 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are  
59 subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
60 proposed or adopted after August 28, 2016 shall be invalid and void.

210.1500. 1. As used in this section, the following terms shall mean:

2 (1) "Eligible recipient", a school-aged child enrolled in kindergarten through  
3 twelfth grade who:

4 (a) Is currently in the protective custody of the state; and

5 (b) Has been in the protective custody of the state for at least twelve of the last  
6 forty-eight months;

7 (2) "Qualified school", a nonpublic elementary or secondary school in this state;

8 (3) "Scholarship", an annual grant to eligible recipients to cover all or part of the  
9 applicable tuition and fees at a qualified school, the amount of which shall be the lesser of:

10 (a) The previous year's tuition and fees for nonscholarship students at the qualified  
11 school;

12 (b) Ninety percent of the previous year's average current expenditure per average  
13 daily attendance for the student's district of residence; or

14 (c) The tuition amount set by the voluntary interdistrict coordinating council for  
15 the student's district of residence, if applicable.

16 2. There is hereby created in the state treasury the "Foster Child Education Fund",  
17 which shall consist of moneys collected from donations made under section 135.2000. The  
18 state treasurer shall be custodian of the fund. In accordance with sections 30.170 and  
19 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated  
20 fund, and, upon appropriation, moneys in the fund shall be used solely for the purposes  
21 of providing scholarships to eligible recipients to attend a qualified school.  
22 Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining  
23 in the fund at the end of the biennium shall not revert to the credit of the general revenue  
24 fund. The state treasurer shall invest moneys in the fund in the same manner as other  
25 funds are invested. Any interest and moneys earned on such investments shall be credited  
26 to the fund.

27 3. Any eligible recipient who receives a scholarship under the provisions of this  
28 section shall continue to be eligible to receive his or her scholarship upon a legal adoption.

29           **4. In the event an eligible recipient who receives a scholarship under the provisions**  
30 **of this section graduates from the qualified school to which he or she first received a**  
31 **scholarship, the eligible recipient shall remain eligible to receive a scholarship under this**  
32 **section to a new qualified school.**

33           **5. The department of elementary and secondary education shall prepare and**  
34 **maintain an easy-to-search database containing statewide assessment scores of all**  
35 **recipients of scholarships under this section. Each recipient shall be assigned a random**  
36 **identification number by the department for purposes of the database and no personally**  
37 **identifiable data shall be accessible on the database.**

38           **6. The department of elementary and secondary education may promulgate rules**  
39 **to implement the provisions of this section. Any rule or portion of a rule, as that term is**  
40 **defined under section 536.010, that is created under the authority delegated in this section**  
41 **shall become effective only if it complies with and is subject to all of the provisions of**  
42 **chapter 536 and, if applicable, section 536.028. This section and chapter 536 are**  
43 **nonseverable, and if any of the powers vested with the general assembly pursuant to**  
44 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**  
45 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**  
46 **proposed or adopted after August 28, 2016 shall be invalid and void.**

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