

SECOND REGULAR SESSION

HOUSE BILL NO. 1739

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CUNNINGHAM, PORTWOOD, HENDRICKSON,
GAMBARO (Co-sponsors), BEARDEN, MYERS, MOORE, DEMPSEY, LUETKENHAUS,
BEHNEN, BARTELSMEYER AND REINHART.

Read 1st time January 30, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3964L.01I

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to tax credits for donations to educational charities and scholarship charities.

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
2 known as section 135.825, to read as follows:

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

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

3 (2) "Educational charity", a charitable organization in this state that is exempt
4 from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, as
5 amended, and that allocates at least ninety percent of its annual revenue to a qualified
6 public school district for any educational use;

7 (3) "Educational use", any expenditure approved by the elected local board of
8 education which furthers the mission of a qualified public school district including, but not
9 limited to, curricula, facilities, professional development, salaries, and extracurricular
10 activities;

11 (4) "Qualified nonpublic school", any elementary or secondary school of a child's
12 parent's choice which:

13 (a) Is situated in this state;

14 (b) Does not discriminate on the basis of race, color, handicap, national origin, or
15 ancestry;

16 (c) Is not a part of the public school system of this state;

17 (d) Charges tuition for the rendering of elementary and secondary education

18 services; and

19 (e) A child may attend to satisfy the requirements of section 167.031, RSMo;

20 (5) "Qualified public school", any elementary or secondary school which:

21 (a) Is situated in this state;

22 (b) Is part of the public school system of this state;

23 (c) Does not discriminate on the basis of race, color, handicap, national origin, or
24 ancestry;

25 (d) Is located outside of a child's school district of residence, but has accepted such
26 a child for enrollment upon payment of tuition for the rendering of elementary and
27 secondary education services; and

28 (e) A child may attend to satisfy the requirements of section 167.031, RSMo;

29 (6) "Qualified public school district", any public school district, as defined in
30 subdivision (12) of section 169.600, RSMo, situated in this state which does not
31 discriminate on the basis of race, color, handicap, national origin, or ancestry and which
32 a child may attend to satisfy the requirements of section 167.031, RSMo;

33 (7) "Scholarship charity", a charitable organization in this state that is exempt
34 from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, as
35 amended, and that allocates at least ninety percent of its annual revenue for educational
36 scholarships to children to allow them to attend a qualified school. To qualify as a
37 scholarship charity the charitable organization shall provide educational scholarships to
38 students without limiting availability to students attending a particular qualified nonpublic
39 or public school and shall give preference to students of families who demonstrate financial
40 need; however, no qualified nonpublic or public school shall be required to accept for
41 enrollment any student who does not meet such school's acceptance criteria;

42 (8) "Taxpayer", a person, individual, firm, a partner in a firm, corporation, or
43 shareholder in a corporation.

44 2. For tax years beginning on or after January 1, 2002, any taxpayer which makes
45 voluntary cash contributions to a scholarship charity or an educational charity shall
46 receive a credit against the tax otherwise due pursuant to chapter 143, RSMo, other than
47 taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in an amount equal to fifty
48 percent of all such contributions made during such taxpayer's taxable year; except that,
49 no taxpayer shall claim a credit pursuant to this section for any contribution made by the
50 taxpayer or an agent of the taxpayer, on behalf of the taxpayer's dependent, or in the case
51 of a business taxpayer, on behalf of the business's agent's dependent.

52 3. The amount of the tax credit claimed shall not exceed the amount of the
53 taxpayer's state tax liability for the tax year that the credit is claimed. Any amount of

54 credit that exceeds the tax due for a taxpayer's taxable year may be carried forward to any
55 of the taxpayer's four subsequent taxable years.

56 **4. The cumulative amount of tax credits allowed pursuant to this section shall not**
57 **exceed twenty million dollars per calendar year. Each calendar year ten million dollars in**
58 **credits shall initially be allocated for contributions to educational charities and ten million**
59 **dollars shall initially be allocated for contributions to scholarship charities.**

60 **5. The director shall determine, at least annually, which charities in this state may**
61 **be classified as educational charities and as scholarship charities. The director may**
62 **require a charity seeking classification as an educational charity or a scholarship charity**
63 **to provide any information reasonably necessary to make such a determination. The**
64 **director shall classify a charity as an educational charity if such charity meets the criteria**
65 **provided in subdivision (2) of subsection 1 of this section and the director shall classify a**
66 **charity as a scholarship charity if such charity meets the criteria provided in subdivision**
67 **(7) of subsection 1 of this section.**

68 **6. The director shall establish a procedure by which a taxpayer can determine if**
69 **a charity has been classified as either an educational charity or a scholarship charity, and**
70 **by which such taxpayer can then contribute to such educational charity or such**
71 **scholarship charity and claim a tax credit pursuant to this section.**

72 **7. The director shall establish a procedure by which, from the beginning of the**
73 **calendar year until September first the ten million dollars of tax credits for educational**
74 **charities are apportioned among all educational charities based on the number of students**
75 **served by each educational charity and the ten million dollars of tax credits for scholarship**
76 **charities are apportioned among all scholarship charities based on the number of students**
77 **served by each scholarship charity. If an educational charity fails to use all, or some**
78 **percentage to be determined by the director, of its apportioned tax credits during this**
79 **predetermined period of time, the director may reapportion these unused credits to those**
80 **educational charities that have used all, or some percentage to be determined by the**
81 **director, of their apportioned tax credits during this predetermining period of time. If a**
82 **scholarship charity fails to use all, or some percentage to be determined by the director,**
83 **of its apportioned tax credits during this predetermined period of time, the director may**
84 **reapportion these unused tax credits to those scholarship charities that have used all, or**
85 **some percentage to be determined by the director, of their apportioned tax credits during**
86 **this predetermined period of time. The director may establish more than one period of**
87 **time and reapportion more than once during each calendar year for both scholarship**
88 **charities and educational charities. If, by September first of any calendar year, credits**
89 **allowed pursuant to this section remain unused by either an educational charity or a**

90 scholarship charity, the director may reallocate credits between the charities. To the
91 maximum extent possible, the director shall establish the procedure described in this
92 subsection in such a manner as to ensure that taxpayers can claim all the tax credits
93 possible up to the cumulative amount of tax credits available for the fiscal year.

94 **8. No rule or portion of a rule promulgated pursuant to the authority of this section**
95 **shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.**