

# HOUSE BILL NO. 1535

## 99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BUTLER.

4106H.011

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

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

*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 may include, but are not limited to, cash, stock, bonds, or other marketable securities, or real property;**

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

**(4) "Director", the director of the department;**

**(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":**

**(a) For a business taxpayer, any liability incurred by such taxpayer under the provisions of chapter 143, 148, or 153, excluding withholding tax imposed by sections 143.191 to 143.265; or**

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           **(b) For an individual taxpayer, any liability incurred by such taxpayer under the**  
19 **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 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) An insurance company paying an annual tax on its gross premium receipts in**  
29 **this state;**

30           **(c) Any other financial institution that pays taxes to the state of Missouri or any**  
31 **political subdivision of this state under chapter 148;**

32           **(d) An express company that pays an annual tax on its gross receipts in this state**  
33 **under chapter 153;**

34           **(e) Any charitable organization exempt from federal income tax whose Missouri**  
35 **unrelated business taxable income, if any, would be subject to the state income tax imposed**  
36 **in chapter 143; or**

37           **(f) An individual subject to the state income tax imposed in chapter 143.**

38           **2. For all tax years beginning on or after January 1, 2019, a taxpayer shall be**  
39 **allowed a tax credit against the taxpayer's state tax liability in an amount equal to sixty-**  
40 **five percent of the taxpayer's contributions.**

41           **3. The director shall establish a procedure by which a taxpayer is able to verify**  
42 **whether an organization is classified as a qualified public school foundation.**

43           **4. To make a contribution, a taxpayer shall submit to a foundation the amount of**  
44 **the contribution, an application form available from the department, and any application**  
45 **fee imposed by the receiving foundation. Within ten days, the foundation shall provide**  
46 **information to the director as the director may require, including the identity of each**  
47 **taxpayer and the amount of the contribution. After the end of each calendar year, the**  
48 **director shall issue a certificate to each taxpayer who made a contribution during the year**  
49 **and shall provide to the director of revenue information identifying such taxpayers. A**  
50 **taxpayer shall claim a tax credit by submitting the certificate and other required**  
51 **information with the taxpayer's income tax filing.**

52           **5. The amount of the tax credit claimed shall not exceed the taxpayer's state tax**  
53 **liability for the tax year for which the credit is claimed, and such taxpayer shall not be**

54 allowed to claim a tax credit in excess of fifty thousand dollars per tax year. However, any  
55 portion of a tax credit that cannot be claimed in the tax year the contribution was made  
56 may be carried over to the next three subsequent tax years.

57       6. The cumulative amount of tax credits that may be claimed under this section in  
58 a tax year shall not exceed two million five hundred thousand dollars. Tax credits shall be  
59 issued on a first-come, first-served basis in the order tax returns claiming a tax credit are  
60 filed.

61       7. Information obtained by a foundation shall be confidential and not disclosed  
62 except by court order, subpoena, or as otherwise provided by law and this subsection.  
63 Each foundation and the director shall be subject to the confidentiality and penalty  
64 provisions of section 32.057 relating to the disclosure of tax information.

65       8. Tax credit certificates issued under this section may be assigned, transferred,  
66 sold, or otherwise conveyed, and the new owner of the tax credit certificate shall have the  
67 same rights in the tax credit as the original taxpayer. If a tax credit certificate is assigned,  
68 transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed with the  
69 foundation specifying the name and address of the new owner of the tax credit certificate  
70 or the value of the tax credit.

71       9. Qualified public school foundations may decline a contribution from a taxpayer.

72       10. The department and the department of revenue may promulgate rules to  
73 implement the provisions of this section. Any rule or portion of a rule, as that term is  
74 defined in section 536.010, that is created under the authority delegated in this section shall  
75 become effective only if it complies with and is subject to all of the provisions of chapter  
76 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and  
77 if any of the powers vested with the general assembly under chapter 536 to review, to delay  
78 the effective date, or to disapprove and annul a rule are subsequently held  
79 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
80 after August 28, 2018, shall be invalid and void.

81       11. Under section 23.253 of the Missouri sunset act:

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

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

88           **(3) This section shall terminate on September first of the calendar year immediately**  
89 **following the calendar year in which the program authorized under this section is sunset;**  
90 **and**

91           **(4) The termination of the program shall not preclude a taxpayer from claiming a**  
92 **benefit issued before the program was sunset.**

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