

SECOND REGULAR SESSION

HOUSE BILL NO. 2188

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MATTHIESEN.

4607H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 135, RSMo, by adding thereto six new sections relating to the show me opportunity 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 six new sections, to be known as sections 135.740, 135.741, 135.742, 135.743, 135.744, and 135.745, to read as follows:

135.740. 1. Sections 135.740 to 135.746 shall be known and may be cited as the "Show Me Opportunity Scholarship Program".

2. As used in the show me opportunity scholarship program, the following terms mean:

(1) "Child with special needs" or "children with special needs", an individual or individuals who require particular educational requirements as a result of learning difficulties, physical disability, or emotional and behavioral difficulties;

(2) "Contribution", a donation by a taxpayer of cash, stock, bonds, or other marketable securities for the purpose of claiming a tax credit under the show me opportunity scholarship program;

(3) "Education service provider", any accredited school, accredited homeschool, or school organization or club;

(4) "Eligible expenses", tuition and fees for any education service provider; fees for a summer education program; fees for an after-school program, excluding after-school child care; fees for a transportation service used to transport the student between home and an education service provider; course-related expenses that are required for a course

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.

17 including, but not limited to, books, equipment, fees, and supplies; tutoring by a teacher
18 licensed in any state, an individual with experience teaching higher education, a state-
19 licensed tutoring facility, or an individual approved by the department of elementary and
20 secondary education to tutor; educational services and therapies including, but not limited
21 to, occupational, behavioral, physical, speech-language, or audiology therapy; computer
22 hardware or other technological device used to meet a student's educational needs;
23 educational software and applications used to meet a student's educational needs; and
24 virtual education programs;

25 (5) "Parent", a parent, guardian, custodian, or other person with authority to act
26 on behalf of the qualified student;

27 (6) "Qualified nonprofit", a charitable organization registered in this state that is
28 exempt from federal taxation under the Internal Revenue Code of 1986, as amended; that
29 is certified by the state treasurer; and that allocates all of its annual revenue derived from
30 contributions to qualified students;

31 (7) "Qualified student", the same meaning as used under section 166.700;

32 (8) "Taxpayer", an individual subject to the state income tax imposed in chapter
33 143; an individual, firm, partner in a firm, corporation, or shareholder in an S corporation
34 doing business in this state and subject to the state income tax imposed by chapter 143; or
35 an express company that pays an annual tax on its gross receipts in this state under chapter
36 153 that files a Missouri income tax return and is not a dependent of any other taxpayer.

135.741. 1. For all tax years beginning on or after January 1, 2019, any taxpayer
2 who makes a contribution to a qualified nonprofit may claim a credit against the tax
3 otherwise due under chapter 143, other than taxes withheld under sections 143.191 to
4 143.265, and chapter 153 in an amount equal to one hundred percent of the amount the
5 taxpayer contributed during the tax year for which the credit is claimed. No taxpayer shall
6 claim a credit under the show me opportunity scholarship program for any contribution
7 made by the taxpayer, or an agent of the taxpayer, on behalf of a dependent of such
8 taxpayer or, in the case of a business taxpayer, on behalf of a dependent of an agent of such
9 business taxpayer. To claim a credit, the taxpayer shall submit a tax certificate issued
10 under subsection 3 of section 135.742 with the taxpayer's tax return.

11 2. The amount of the tax credit claimed shall not exceed the amount of the
12 taxpayer's state tax liability for the tax year for which the credit is claimed. Any amount
13 of tax credit that exceeds the taxpayer's state tax liability shall not be refundable but may
14 be carried over for one succeeding tax year. No tax credit shall exceed ten thousand dollars
15 for any individual taxpayer or one hundred thousand dollars for any other taxpayer entity.

16 **The state treasurer shall certify the tax credit amount to the taxpayer. No tax credit**
17 **authorized under the program shall be transferred, sold, or assigned.**

18 **3. The cumulative amount of tax credits that may be allocated to all taxpayers**
19 **making a contribution in any one calendar year shall not exceed fifty million dollars.**
20 **Certificates for tax credits shall be issued on a first-come, first-served basis.**

135.742. 1. The state treasurer shall compile and publish a list of all entities it
2 **certifies as qualified nonprofits. The list shall be easily accessible by taxpayers who wish**
3 **to make a contribution so that a taxpayer can verify that an entity is a qualified nonprofit.**

4 **2. (1) The state treasurer shall create a standardized format and make available**
5 **to nonprofit entities a form to apply for certification as a qualified nonprofit.**

6 **(2) The state treasurer shall create a standardized format and make available to**
7 **taxpayers a form for making contributions. The form shall require information identifying**
8 **the taxpayer and the qualified nonprofit, the amount of the donation, and any other**
9 **information the state treasurer requires.**

10 **(3) The state treasurer shall create a standardized format and make available to**
11 **qualified nonprofits a form to report contributions received. The form shall require**
12 **information identifying the taxpayer and the qualified nonprofit, the amount of the**
13 **donation, the date the donation was received, and any other information the state treasurer**
14 **requires.**

15 **3. Upon receiving a completed form described under subdivision (3) of subsection**
16 **2 of this section, the state treasurer shall issue a certificate to the taxpayer named in the**
17 **form for the amount of the contribution stated in the form. The state treasurer shall issue**
18 **certificates on a first-come, first-served basis.**

19 **4. The state treasurer shall require a qualified nonprofit to be audited by an**
20 **independent certified public accountant if the state treasurer possesses evidence of fraud**
21 **committed by the organization.**

22 **5. The state treasurer may ban a qualified nonprofit or education service provider**
23 **from participating in the show me opportunity scholarship program if the state treasurer**
24 **establishes that the qualified nonprofit or education service provider has intentionally and**
25 **substantially failed to comply with the requirements of the program. The state treasurer**
26 **shall create a fair process to determine whether a qualified nonprofit or education service**
27 **provider shall be banned from participating in the program. If the state treasurer bans**
28 **a qualified nonprofit or education service provider from the program under this**
29 **subsection, it shall notify affected education service providers and qualified students and**
30 **their parents of the decision as soon as possible after the determination is made.**

31 **6. A qualified nonprofit or education service providers may appeal its ban from the**
32 **program to the administrative hearing commission for a hearing in accordance with the**
33 **provisions of chapter 621.**

135.743. The state treasurer and the department of revenue may promulgate rules
2 **to implement the provisions of the show me opportunity scholarship program. Any rule**
3 **or portion of a rule, as that term is defined in section 536.010, that is created under the**
4 **authority delegated in this section shall become effective only if it complies with and is**
5 **subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This**
6 **section and chapter 536 are nonseverable, and if any of the powers vested with the general**
7 **assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove**
8 **and annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
9 **authority and any rule proposed or adopted after August 28, 2018, shall be invalid and**
10 **void.**

135.744. 1. The state treasurer shall evaluate and certify as a qualified nonprofit
2 **any nonprofit entity that satisfies the requirements of the show me opportunity scholarship**
3 **program.**

4 **2. To be certified as a qualified nonprofit, a nonprofit entity shall apply by**
5 **submitting a form described under subdivision (1) of subsection 2 of section 135.742 and**
6 **such other information as the state treasurer requires. At the minimum, a nonprofit entity**
7 **shall:**

8 **(1) Notify the state treasurer of its intent to provide funds to qualified students;**

9 **(2) Demonstrate to the state treasurer that it is exempt from federal income tax**
10 **under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;**

11 **(3) Provide the state treasurer, upon request, with criminal background checks on**
12 **all its employees and board members and exclude from employment or governance any**
13 **individual who might reasonably pose a risk to the appropriate use of contributed funds;**

14 **(4) Demonstrate its financial accountability by:**

15 **(a) Submitting to the state treasurer a financial information report for the**
16 **organization that complies with uniform financial accounting standards established by the**
17 **state treasurer and is conducted by a certified public accountant; and**

18 **(b) Having an auditor certify that the report is free of material misstatements; and**

19 **(5) Demonstrate its financial viability if it is to receive contributions of fifty**
20 **thousand dollars or more during the tax year.**

21 **3. All qualified nonprofits shall:**

22 **(1) Provide a state treasurer-approved receipt to taxpayers for contributions made**
23 **to the organization;**

24 **(2) Within three business days of receiving a contribution from a taxpayer, notify**
25 **the state treasurer using a form as described under subdivision (3) of subsection 2 of**
26 **section 135.742;**

27 **(3) Ensure that:**

28 **(a) One hundred percent of revenues from interest or investments of contribution**
29 **funds are provided to qualified students for eligible expenses;**

30 **(b) At least ninety percent of its revenues from contributions are provided to**
31 **qualified students for eligible expenses; and**

32 **(c) Marketing and administrative expenses do not exceed the following limits of its**
33 **remaining revenue from contributions: ten percent for the first two hundred fifty thousand**
34 **dollars, eight percent for the next five hundred thousand dollars, and three percent**
35 **thereafter; and**

36 **(4) Distribute contributions in each calendar quarter.**

37 **4. A qualified nonprofit shall distribute contributions it receives under the show**
38 **me opportunity scholarship program to qualified students in any amount it deems fit. A**
39 **qualified nonprofit may create and utilize an application process or other method to**
40 **determine the recipients of its distributions. Contributions that are not distributed may**
41 **be carried over to subsequent calendar years. Distribution preferences shall be given in**
42 **the following order:**

43 **(1) Students who received contributions under the program in the prior year;**

44 **(2) The siblings of students who received contributions under the program in the**
45 **prior year;**

46 **(3) Children with special needs; and**

47 **(4) All other qualified students.**

48 **5. A qualified nonprofit shall publicly report to the state treasurer by June first of**
49 **each year the following information prepared by a certified public accountant regarding**
50 **its grants in the previous calendar year:**

51 **(1) The name and address of the qualified nonprofit;**

52 **(2) The name and address of each qualified student who received contribution**
53 **funds from the qualified nonprofit;**

54 **(3) The total number and total dollar amount of contributions received during the**
55 **previous calendar year; and**

56 **(4) The total number of and total dollar amount given to qualified students.**

57 **6. A qualified educational nonprofit may contract with private financial**
58 **management firms to manage contributions funds with the supervision of the state.**

135.745. 1. No qualified student shall receive a cumulative amount of funds under
2 the show me opportunity scholarship program in any calendar year in excess of the
3 following amounts if the adjusted gross income of the student's household in the previous
4 year is:

5 (1) Less than or equal to the income eligibility guidelines of the National School
6 Lunch Program administered by the United States Department of Agriculture, eight
7 thousand dollars;

8 (2) Greater than one hundred percent but less than or equal to one hundred fifty
9 percent of the income eligibility guidelines of the National School Lunch Program
10 administered by the United States Department of Agriculture, six thousand dollars;

11 (3) Greater than one hundred fifty percent but less than or equal to two hundred
12 percent of the income eligibility guidelines of the National School Lunch Program
13 administered by the United States Department of Agriculture, four thousand dollars; and

14 (4) Greater than two hundred percent of the income eligibility guidelines of the
15 National School Lunch Program administered by the United States Department of
16 Agriculture, two thousand dollars.

17

18 A qualified student who is a child with special needs is eligible to receive up to eight
19 thousand dollars regardless of such student's household's adjusted gross income.

20 2. Acceptance of funds under the show me opportunity scholarship account shall
21 have the same effect as a parental placement under 20 U.S.C. Section 1412(a)(10)(A) of the
22 Individuals with Disabilities Education Act, except that it shall not relieve the student's
23 district of residence from the obligation to conduct an evaluation for disabilities.

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