AN ACT

To amend chapter 135, RSMo, by adding thereto seven new sections relating to scholarships for eligible students to attend certain nonpublic schools.

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

Section A. Chapter 135, RSMo, is amended by adding thereto seven new sections, to be known as sections 135.712, 135.713, 135.714, 135.715, 135.716, 135.717, and 135.719, to read as follows:

135.712. 1. Sections 135.712 to 135.719 shall be known and may be cited as the "Equal Opportunity Scholarship Program". This program shall grant scholarships to students from unaccredited districts for certain educational costs as provided in sections 135.712 to 135.719.

2. As used in sections 135.712 to 135.719, the following terms mean:

(1) "Department", the department of economic development;

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

(3) "District", or "school district" shall have the same meaning as used in section 160.011;

(4) "Educational assistance organization", a charitable organization registered in this state that is exempt from federal taxation under the Internal Revenue Code of 1986, as amended, is certified by the director, and that allocates all of its annual revenue for educational assistance, with the exception of marketing and administrative expenses in paragraph (c) of subdivision (4) of subsection 1 of section 135.714 and as otherwise directed in sections 135.712 to 135.719, derived from contributions for which a credit is
(5) "Eligible student", a student who resides in any unaccredited district. Any student who receives an educational scholarship under this program shall remain eligible until the student graduates from high school;

(6) "Equal opportunity scholarships", grants to eligible students to cover all or part of the applicable tuition and fees at a qualified school;

(7) "Parent", a parent, guardian, custodian, or other person with authority to act on behalf of the eligible student;

(8) "Program", the equal opportunity scholarship program established under sections 135.712 to 135.719;

(9) "Qualified school", a nonpublic elementary or secondary school in this state that complies with all requirements of the program;

(10) "Qualifying contribution", a donation of cash, stock, bonds, or other marketable securities for purposes of claiming a tax credit under sections 135.712 to 135.719;

(11) "Scholarship amount", the lesser of:

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

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

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

(12) "Taxpayer", an individual subject to the state income tax imposed in chapter 143, an individual, a firm, a partner in a firm, corporation, or a shareholder in an S corporation doing business in this state and subject to the state income tax imposed by chapter 143, a corporation subject to the annual corporation franchise tax imposed by chapter 147, or an express company which pays an annual tax on its gross receipts in this state under chapter 153, which files a Missouri income tax return and is not a dependent of any other taxpayer;

(13) "Unaccredited district", a school district classified as unaccredited by the state board of education pursuant to the authority of the state board of education to classify schools as established in
section 161.092.

135.713. 1. For all tax years beginning on or after January 1, 2015, any taxpayer who makes a qualifying contribution to an educational assistance organization may claim a credit against the tax otherwise due under chapter 143, other than taxes withheld under sections 143.191 to 143.265, and chapters 147 and 153, in an amount equal to seventy-five percent of the amount the taxpayer contributed during the tax year for which the credit is claimed. No taxpayer shall claim a credit under sections 135.712 to 135.719 for any contribution made by the taxpayer, or an agent of the taxpayer, on behalf of the taxpayer's dependent, or in the case of a business taxpayer, on behalf of the business's agent's dependent.

2. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the tax year for which the credit is claimed. The department shall certify the tax credit amount to the taxpayer and to the department of revenue. A taxpayer may carry the credit forward to any of such taxpayer's four subsequent taxable years. All tax credits authorized under the program may be transferred, sold, or assigned.

3. The cumulative amount of tax credits which may be allocated to all taxpayers contributing to educational assistance organizations in any one fiscal year shall not exceed fifty million dollars, which amount shall annually be adjusted by the department for inflation based on the consumer price index for all urban consumers for the Midwest region, as defined and officially recorded by the United States Department of Labor, or its successor. The director shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director, the cumulative amount of tax credits are equally apportioned among all educational assistance organizations. If an educational assistance organization fails to use all, or some percentage to be determined by the director, of its apportioned tax credits during this predetermined period of time, the director may reapportion these unused tax credits to those educational assistance organizations that have used all, or some percentage to be determined by the director, of their apportioned tax credits during this predetermined period of time. The director may establish more than one period of time and reapportion more than once
during each fiscal year. To the maximum extent possible, the director shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

135.714. 1. Each educational assistance organization shall:

(1) Notify the department of its intent to provide educational scholarships to eligible students attending qualified schools;

(2) Demonstrate to the department that it is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

(3) Provide a department-approved receipt to taxpayers for contributions made to the organization;

(4) Ensure that:

(a) One hundred percent of its revenues from interest or investments is spent on educational scholarships;

(b) At least ninety percent of its revenues from qualifying contributions is spent on educational scholarships; and

(c) Marketing and administrative expenses shall not exceed the following limits of its remaining revenue from contributions: ten percent for the first one hundred thousand dollars; eight percent for the next four hundred thousand dollars; six percent for the next five hundred thousand dollars; and three percent thereafter;

(5) Distribute educational scholarship payments four times per year in the form of checks made out to an eligible student's parent and mailed to the qualified school where the student is enrolled. The parent shall endorse the check before it can be deposited;

(6) Provide the department, upon request, with criminal background checks on all of its employees and board members, and exclude from employment or governance any individual that might reasonably pose a risk to the appropriate use of contributed funds;

(7) Ensure that equal opportunity scholarships are portable during the school year and can be used at any qualified school that accepts the eligible student according to a parent's wishes. If an eligible student moves to a new qualified school during a school year, the equal opportunity scholarship amount may be prorated;

(8) Demonstrate its financial accountability by:
(a) Submitting to the department a financial information report
for the organization that complies with uniform financial accounting
standards established by the department and is conducted by a
certified public accountant; and
(b) Having an auditor certify that the report is free of material
misstatements; and
(9) Demonstrate its financial viability, if it is to receive
donations of fifty thousand dollars or more during the school year, by
filing with the department before the start of the school year a surety
bond payable to the state in an amount equal to the aggregate amount
of contributions expected to be received during the school year.
2. Each educational assistance organization shall ensure that any
qualified school to which it grants a scholarship meets the
requirements of section 135.715.
3. Educational assistance organizations shall not provide equal
opportunity scholarships for eligible students to attend any school with
paid staff or board members, or relatives within the first or second
degree of consanguinity thereof, in common with the educational
assistance organization. Educational assistance organizations shall not
limit scholarships to only one qualified school or to students from only
one district or school or other educational venue.
4. An educational assistance organization shall publicly report
to the department by June first of each year the following information
prepared by a certified public accountant regarding its grants in the
previous calendar year:
(1) The name and address of the educational assistance
organization;
(2) The name and address of each eligible student who received
an equal opportunity scholarship from the organization;
(3) The total number and total dollar amount of contributions
received during the previous calendar year;
(4) The total number and total dollar amount of equal
opportunity scholarships awarded during the previous calendar year;
(5) The total number and total dollar amount of equal
opportunity scholarships awarded during the previous year to eligible
students qualifying for the federal free and reduced price school lunch
program.
5. Before educational assistance organizations may raise contributions under the program, they shall have received or demonstrated ability to receive applications from eligible students, and shall have identified potential vacancies in qualified schools as determined by the director.

135.715. 1. A qualified school shall comply with all state laws that apply to public schools regarding criminal background checks for employees and shall exclude from employment any person prohibited by state law from working in a public school.

2. A qualified school shall:
   (1) Comply with all health and safety laws or codes that apply to nonpublic schools;
   (2) Hold a valid occupancy permit if required by its municipality; and
   (3) Accept the application of any eligible student who applies and of any student who satisfies the conditions of subsection 6 of section 167.020;
   (4) Certify that it will not discriminate in admissions on the basis of race, color, religion, national origin, or disability. However, a qualified school that does not provide special education services shall not be required to provide such services for an eligible student but a qualified school may negotiate arrangements for the provision of services for an eligible student who has an individualized education program that requires speech, occupational, or physical therapy, or other services that are delivered outside the main classroom;
   (5) File a statement of intent to participate that includes the information listed in this subsection;
   (6) For initial applicants, file a list of the information required under this subsection, and for requalifying schools, annual reporting of the information required under this subsection. No public reporting of information required under this subsection shall be personally identifiable to an individual student;
   (7) Be fiscally sound as evidenced by three years in existence, a surety bond, or letter of credit covering the amount of funds received on behalf of scholarship recipients;
   (8) Be accredited by a regional or national accrediting agency or for a school that is not currently accredited, provisional approval
pending the achievement of accreditation no later than the fourth school year of participation;

(9) Annually administer a parental satisfaction survey; and

(10) Demonstrate evidence of the annual transmittal of the information required by this section to parents and evidence of its availability to applicants.

3. A qualified school whose tuition is higher than an eligible student's scholarship amount may allow a work-study program at the level of a ninth grade or higher student with the approval of the student's parent.

4. A qualified school shall have on record a form signed by the parent of the scholarship recipient agreeing to the release of the student's participation as a scholarship recipient under sections 135.712 to 135.719 to the director.

5. As a condition of participation, the parents and scholarship recipients under sections 135.712 to 135.719 shall agree to abide by the school's code of conduct and any parental involvement requirements unless the qualifying school agrees to a waiver of any requirements.

135.716. 1. The department shall provide a standardized format for a receipt to be issued by an educational assistance organization to a taxpayer to indicate the value of a contribution received. The department shall require a taxpayer to provide a copy of this receipt when claiming the tax credit authorized by the program.

2. The department shall provide a standardized format for educational assistance organizations to report the information required in subsection 1 of this section.

3. The department may conduct either a financial review or an audit of an educational assistance organization if the department possesses evidence of fraud committed by the organization.

4. The department may bar an educational assistance organization from participating in the program if the department establishes that the educational assistance organization has intentionally and substantially failed to comply with the requirements in section 135.714. If the department bars an educational assistance organization from the program under this subsection, it shall notify affected eligible students and their parents of the decision as soon as possible after the determination is made.
5. The department shall receive no more than two percent of the qualifying contributions for marketing and administrative expenses or the costs incurred in administering the program, whichever is less. The director shall establish procedures to ensure the percentage of funds for administration of the program is directed to the department of economic development in a timely manner with the necessary information to verify the correct amount has been transmitted. The remaining funds shall be distributed to the educational assistance organizations.

135.717. 1. Subject to appropriations, the joint committee on education shall conduct a study of the program. The joint committee may contract with one or more qualified researchers if assistance is needed and if funds are available.

2. The study shall assess the following areas:

   (1) The impact of the program on public and private school capacity, availability, and quality of service; and
   
   (2) Student performance on statewide assessment instruments before and after entering the program if any students took the statewide assessment instruments at their qualified school, provided that no participating student shall be individually identified.

3. The study shall be conducted during the first five years of the program for the period of those five years. If the committee deems it necessary, an interim report or reports may be issued based on available data.

4. The joint committee shall provide the general assembly with a final report of the evaluation of the program.

5. The public and nonpublic participating schools to and from which students transfer as part of the program shall cooperate with the research effort by providing student assessment instrument scores and any other data necessary to complete this study. Scores and data shall be provided in such a manner that no participating student, or participating student's scores, can be individually identified.

135.719. 1. The department and the department of revenue may promulgate rules to implement the provisions of sections 135.712 to 135.719. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of
the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.

2. Under section 23.253 of the Missouri sunset act:

   (1) The provisions of the new program authorized under sections 135.712 to 135.719 shall automatically sunset six years after the effective date of sections 135.712 to 135.719 unless reauthorized by an act of the general assembly; and

   (2) If such program is reauthorized, the program authorized under sections 135.712 to 135.719 shall automatically sunset twelve years after the effective date of the reauthorization of sections 135.712 to 135.719; and

   (3) Sections 135.712 to 135.719 shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under sections 135.712 to 135.719 is sunset.