

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 735

91ST GENERAL ASSEMBLY

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Reported from the Committee on Ways and Means, April 4, 2002, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

3204S.03C

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## AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to a tax credit for scholarship charity contributions.

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*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 135.344, to read as follows:

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

**(1) "Contribution", a donation of cash, stock, bonds, or other marketable securities;**

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

**(3) "Scholarship charity", a charitable organization in this state that is exempt from federal taxation pursuant to section 501(c)(3) of the Internal Revenue Code, as amended, and that allocates at least ninety percent of its annual revenue for educational scholarships to children to allow them to attend a qualified school. For purposes of this section, the phrase "qualified school" means any elementary or secondary school of a child's parents' choice which is situated in this state and does not discriminate on the basis of race, color, handicap, national origin, or ancestry which a child may attend to meet the requirements of section 167.031, RSMo. To qualify as a scholarship charity the charitable organization shall provide educational scholarships to students without limiting availability to students attending a particular school and shall give preference to students of families who demonstrate financial need;**

**(4) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, chapter 147, RSMo,**

chapter 148, RSMo, and chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo;

(5) "Taxpayer", a person, firm, a partner in a firm, corporation or shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo.

2. In order to promote economic development through the expansion of educational opportunities, for all taxable years beginning on or after January 1, 2003, a taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal to fifty percent of the amount such taxpayer contributed to a scholarship charity. However, the tax credit shall not be allowed if the taxpayer designates the taxpayer's donation for the direct benefit of any dependent of the taxpayer.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year that the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any amount of credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next four succeeding taxable years until the full credit has been claimed.

4. Except for any excess credit which is carried over pursuant to subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution to a scholarship charity in such taxpayer's taxable year has a value of at least one hundred dollars.

5. The director shall determine, at least annually, which charities in this state may be classified as scholarship charities. The director may require a charity seeking to be classified as a scholarship charity to provide whatever information is reasonably necessary to make such a determination. The director shall classify a charity as a scholarship charity if such charity meets the definition set forth in subdivision (3) of

**subsection 1 of this section.**

**6. The director shall establish a procedure by which a taxpayer can determine if a charity has been classified as a scholarship charity, and by which such taxpayer can then contribute to such scholarship charity and claim a tax credit. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to scholarship charities in any one fiscal year shall not exceed two million dollars.**

**7. 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 charities classified as scholarship charities. If a scholarship charity 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 scholarship charities 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.**

**8. The provisions of this section shall only apply to schools in unaccredited or provisionally accredited school districts or any school in a district where at least one school has been determined to be academically deficient, as such term is defined pursuant to section 160.538, RSMo.**

**9. The scholarships made available pursuant to the provisions of this section shall be limited to students who receive free or reduced lunches as determined by the department of elementary and secondary education.**