

SECOND REGULAR SESSION

SENATE BILL NO. 735

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS STEELMAN AND KINDER.

Pre-filed December 1, 2001, and 1,000 copies ordered printed.

3204S.01I

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to tax credits for donations to 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 known as section 135.825, to read as follows:

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

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

(2) "Qualified school", any elementary or secondary school of a child's parents'

choice which:

(a) Is situated in this state;

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

(c) A child may attend to meet the requirements of section 167.031, RSMo;

(d) Provides educational scholarships to students without limiting availability to students attending a particular school; and

(e) Gives preference to students of families who demonstrate financial need;

(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;

(4) "Taxpayer", a person, individual, firm, a partner in a firm, corporation or shareholder in a corporation.

2. Any taxpayer which makes voluntary cash contributions to a scholarship charity shall receive a credit against the tax otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in an amount equal to fifty percent of all such contributions made during such taxpayer's taxable year; except that no taxpayer shall claim a credit pursuant to this section for any contribution made by the taxpayer or, in the case of a business taxpayer, an agent of the taxpayer, on behalf of the taxpayer's dependent, or in the case of a business taxpayer, on behalf of the agent's dependent.

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

4. The cumulative amount of tax credits allowed pursuant to this section shall not exceed twenty million dollars per fiscal year; provided that no more than ten million dollars of tax credits per fiscal year shall be allowed pursuant to this section for scholarships to public qualified schools and no more than ten million dollars of tax credits per fiscal year shall be allowed pursuant to this section for scholarships to non-public qualified schools.

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 classification as a scholarship charity to provide any information reasonably necessary to make such a determination. The director shall classify a charity as a scholarship charity if such charity meets the criteria provided in subdivision (2) 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 pursuant to this section.

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 available for public qualified schools and non-public qualified schools, each respectively, 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 for either public qualified schools or non-public qualified schools during this

predetermined period of time, the director may reapportion these unused tax credits for the respective category of either public qualified schools or non-public qualified schools to those scholarship charities that have used all, or some percentage to be determined by the director, of their apportioned tax credits for the respective category of either public qualified schools or non-public qualified schools 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 for the respective category of either public qualified schools or non-public qualified schools.

8. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, 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, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, 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, 2002, shall be invalid and void.

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