

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 993 & 770

94TH GENERAL ASSEMBLY

Reported from the Committee on Pensions, Veterans' Affairs and General Laws, February 21, 2008, with recommendation that the Senate Committee Substitute do pass.

4227S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 163, RSMo, by adding thereto six new sections relating to the Missouri special needs scholarship tax credit program.

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

Section A. Chapter 163, RSMo, is amended by adding thereto six new sections, to be known as sections 163.403, 163.405, 163.407, 163.409, 163.411, and 163.415, to read as follows:

163.403. Sections 163.403 to 163.415 shall be known and may be cited as the "Missouri Special Needs Scholarship Tax Credit Program".

163.405. 1. As used in sections 163.403 to 163.415, the following terms mean:

(1) "Autism spectrum disorder", pervasive developmental disorder; Asperger's syndrome; childhood disintegrative disorder; Rett's syndrome; and autism;

(2) "Contribution", a donation of cash, stock, bonds, or other marketable securities, or real property;

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

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

(5) "Educational scholarships", grants to students to cover all or part of the tuition and fees at either a qualified non-public school or a qualified public school, including transportation to a public school outside of a student's resident school district;

(6) "Eligible student", any elementary or secondary student attending public school in Missouri with an individualized education program, including but not limited to students who are mentally

18 handicapped, speech and language impaired, deaf or hard of hearing,
19 visually impaired, dual sensory impaired, physically impaired,
20 emotionally handicapped, specific learning disabled, diagnosed with an
21 autism spectrum disorder, or hospitalized or homebound due to illness
22 or disability;

23 (7) "Parent", includes a guardian, custodian or other person with
24 authority to act on behalf of the child;

25 (8) "Program", the Missouri special needs scholarship tax credit
26 program;

27 (9) "Qualified school", either a public elementary or secondary
28 school outside of the district in which a student resides or a non-public
29 elementary or secondary school in Missouri that complies with all of
30 the requirements of the program and complies with all state laws that
31 apply to non-public schools regarding criminal background checks for
32 employees and exclude from employment any person not permitted by
33 state law to work in a non-public school;

34 (10) "Scholarship granting organization", a charitable
35 organization which is exempt from federal income tax that complies
36 with the requirements of this program and provides education
37 scholarships to students attending qualified schools of their parents'
38 choice;

39 (11) "State tax liability", in the case of a business taxpayer, any
40 liability incurred by such taxpayer pursuant to the provisions of
41 chapters 143, 147, 148, and 153, RSMo, excluding sections 143.191 to
42 143.265, RSMo, and related provisions, and in the case of an individual
43 taxpayer, any liability incurred by such taxpayer pursuant to the
44 provisions of chapter 143, RSMo, excluding sections 143.191 to 143.265,
45 RSMo, and related provisions;

46 (12) "Taxpayer", a person, firm, a partner in a firm, corporation,
47 or a shareholder in an S corporation doing business in the state of
48 Missouri and subject to the state income tax imposed by the provisions
49 of chapter 143, RSMo, or a corporation subject to the annual
50 corporation franchise tax imposed by the provisions of chapter 147,
51 RSMo, or an insurance company paying an annual tax on its gross
52 premium receipts in this state, or other financial institution paying
53 taxes to the state of Missouri or any political subdivision of this state
54 pursuant to the provisions of chapter 148, RSMo, or an express

55 company which pays an annual tax on its gross receipts in this state
56 pursuant to chapter 153, RSMo, or an individual subject to the state
57 income tax imposed by the provisions of chapter 143, RSMo, or any
58 charitable organization which is exempt from federal income tax and
59 whose Missouri unrelated business taxable income, if any, would be
60 subject to the state income tax imposed under chapter 143, RSMo.

61 2. For all tax years beginning on or after January 1, 2008, a
62 taxpayer shall be allowed to claim a tax credit against the taxpayer's
63 state tax liability in an amount equal to eighty percent of the amount
64 such taxpayer contributed to a scholarship granting organization. No
65 taxpayer shall be issued more than eight hundred thousand dollars in
66 tax credits authorized under this section per tax year.

67 3. The amount of the tax credit claimed shall not exceed fifty
68 percent of a taxpayer's state tax liability for the taxable year for which
69 the credit is claimed. However, any tax credit that cannot be claimed
70 in the taxable year the contribution was made may be carried over to
71 the next four succeeding taxable years until the full credit has been
72 claimed.

73 4. The director shall determine, at least annually, which
74 organizations in this state may be classified as scholarship granting
75 organizations. The director may require of an organization seeking to
76 be classified as a scholarship granting organization whatever
77 information which is reasonably necessary to make such a
78 determination. The director shall classify an organization as a
79 scholarship granting organization if such organization meets the
80 definition set forth in subsection 1 of this section.

81 5. The director shall establish a procedure by which a taxpayer
82 can determine if an organization has been classified as a scholarship
83 granting organization. Scholarship granting organizations shall be
84 permitted to decline a contribution from a taxpayer.

85 6. Each scholarship granting organization shall provide
86 information to the director concerning the identity of each taxpayer
87 making a contribution to the scholarship granting organization who is
88 claiming a tax credit pursuant to this section and the amount of the
89 contribution. The director shall provide the information to the director
90 of revenue. The director shall be subject to the confidentiality and
91 penalty provisions of section 32.057, RSMo, relating to the disclosure of

92 tax information.

93 7. Notwithstanding any other law to the contrary, any tax credits
94 granted under this section may be assigned, transferred, sold, or
95 otherwise conveyed without consent or approval. Such taxpayer,
96 hereinafter the assignor for purposes of this section, may sell, assign,
97 exchange, or otherwise transfer earned tax credits:

98 (1) For no less than seventy-five percent of the par value of such
99 credits; and

100 (2) In an amount not to exceed one hundred percent of annual
101 earned credits.

163.407. 1. Each scholarship granting organization participating
2 in the program under sections 163.403 to 163.415 shall:

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

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

7 (3) Ensure that at least ninety percent of its revenue from
8 donations is spent on educational scholarships, and that all revenue
9 from interest or investments is spent on educational scholarships;

10 (4) Distribute periodic scholarship payments as checks made out
11 to a student's parent and mailed to the qualified school where the
12 student is enrolled. The parent or guardian must endorse the check
13 before it can be deposited;

14 (5) Cooperate with the department to conduct criminal
15 background checks on all of its employees and board members and
16 exclude from employment or governance any individual who might
17 reasonably pose a risk to the appropriate use of contributed funds;

18 (6) Ensure that scholarships are portable during the school year
19 and can be used at any qualified school that accepts the eligible
20 student according to a parent's wishes. If a student moves to a new
21 qualified school during a school year, the scholarship amount may be
22 prorated;

23 (7) Demonstrate its financial accountability by:

24 (a) Submitting a financial information report for the
25 organization that complies with uniform financial accounting standards
26 established by the department and conducted by a certified public
27 accountant; and

28 (b) Having the auditor certify that the report is free of material
29 misstatements;

30 (8) Demonstrate its financial viability, if the organization is to
31 receive donations of fifty thousand dollars or more during the school
32 year, by filing with the department prior to the start of the school year:

33 (a) A surety bond payable to the state in an amount equal to the
34 aggregate amount of contributions expected to be received during the
35 school year; or

36 (b) Financial information that demonstrates the financial
37 viability of the scholarship granting organization.

38 2. Each scholarship granting organization shall ensure
39 participating schools that accept its scholarship students shall:

40 (1) Comply with all health and safety laws or codes that apply to
41 non-public schools;

42 (2) Hold a valid occupancy permit if required by their
43 municipality;

44 (3) Certify that they shall not discriminate in admissions on the
45 basis of race, color, national origin, or religion; and

46 (4) Provide academic accountability to parents of the students
47 in the program by regularly reporting to the parent on the student's
48 progress.

49 3. Scholarship granting organizations shall not provide
50 educational scholarships for students to attend any school with paid
51 staff or board members who are relatives within the first degree of
52 consanguinity or affinity.

53 4. A scholarship granting organization shall publicly report to
54 the department, by June first of each year, the following information
55 prepared by a certified public accountant regarding their grants in the
56 previous calendar year:

57 (1) The name and address of the scholarship granting
58 organization;

59 (2) The total number and total dollar amount of contributions
60 received during the previous calendar year; and

61 (3) The total number and total dollar amount of educational
62 scholarships awarded during the previous calendar year, and the total
63 number and total dollar amount of educational scholarships awarded
64 during the previous year to students eligible for free and reduced

65 lunch.

163.409. 1. The department shall adopt rules and regulations
2 consistent with sections 163.403 to 163.415 as necessary to implement
3 the program.

4 2. The department shall provide a standardized format for a
5 receipt to be issued by a scholarship granting organization to a
6 taxpayer to indicate the value of a contribution received. The
7 department shall require a taxpayer to provide a copy of this receipt
8 when claiming the Missouri special needs scholarship tax credit.

9 3. The department shall provide a standardized format for
10 scholarship granting organizations to report the information in section
11 163.407.

12 4. The department may conduct either a financial review or
13 audit of a scholarship granting organization.

14 5. If the department believes that a scholarship granting
15 organization has intentionally and substantially failed to comply with
16 the requirements of section 163.407, the department may hold a hearing
17 before the director, or his or her designee, to bar a scholarship
18 granting organization from participating in the program. The director,
19 or his or her designee, shall issue a decision within thirty days. A
20 scholarship granting organization may appeal the director's decision
21 to the administrative hearing commission for a hearing in accordance
22 with the provisions of chapter 621, RSMo.

23 6. If the scholarship granting organization is barred from
24 participating in the program, the department shall notify affected
25 scholarship students and their parents of this decision within fifteen
26 days.

27 7. Any rule or portion of a rule, as that term is defined in section
28 536.010, RSMo, that is created under the authority delegated in this
29 section shall become effective only if it complies with and is subject to
30 all of the provisions of chapter 536, RSMo, and, if applicable, section
31 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
32 and if any of the powers vested with the general assembly pursuant to
33 chapter 536, RSMo, to review, to delay the effective date, or to
34 disapprove and annul a rule are subsequently held unconstitutional,
35 then the grant of rulemaking authority and any rule proposed or
36 adopted after August 28, 2008, shall be invalid and void.

163.411. 1. The department shall conduct a study of the program with funds other than state funds. The department may contract with one or more qualified researchers who have previous experience evaluating similar programs. The department may accept grants to assist in funding this study.

2. The study shall assess:

(1) The level of participating students' satisfaction with the program;

(2) The level of parental satisfaction with the program;

(3) The percentage of participating students who were bullied or harassed because of their special needs status at their resident school district compared to the percentage so bullied or harassed at their qualified school;

(4) The percentage of participating students who exhibited behavioral problems at their resident school district compared to the percentage exhibiting behavioral problems at their qualified school;

(5) The class size experienced by participating students at their resident school district and at their qualified school; and

(6) The fiscal impact to the state and resident school districts of the program.

3. The study shall be completed using appropriate analytical and behavioral sciences methodologies to ensure public confidence in the study.

4. The department shall provide the general assembly with a final copy of the evaluation of the program by December 31, 2009.

5. The public and non-public participating schools from which students transfer to participate in the program shall cooperate with the research effort by providing student assessment instrument scores and any other data necessary to complete this study.

6. The general assembly may require periodic updates on the status of the study from the department. The individuals completing the study shall make their data and methodology available for public review while complying with the requirements of the Family Educational Rights and Privacy Act.

163.415. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under sections

4 163.403 to 163.415 shall sunset automatically six years after the
5 effective date of sections 163.403 to 163.415 unless reauthorized by an
6 act of the general assembly; and

7 (2) If such program is reauthorized, the program authorized
8 under sections 163.403 to 163.415 shall sunset automatically twelve
9 years after the effective date of the reauthorization of sections 163.403
10 to 163.415; and

11 (3) Sections 163.403 to 163.415 shall terminate on September first
12 of the calendar year immediately following the calendar year in which
13 the program authorized under sections 163.403 to 163.415 is sunset.

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Bill

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