

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SS/SCS/House Bill No. 1490, Page 1, Section A, Line 5

on said page, by inserting after all of said line the following:

"135.712. 1. Sections 135.712 to 135.719 shall be known and may be cited as the "Passport Scholarship Program". This program shall grant scholarships to students who reside in an unaccredited school district for certain educational costs as defined 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) "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 derived from contributions for which a credit is claimed under this section for educational assistance with the exception of marketing and administrative expenses in paragraph (c) of subdivision (4) of subsection 1 of section 135.714;

(4) "Eligible student", a student who resides in any

1 unaccredited district. Any student who receives an educational  
2 scholarship under this program shall remain eligible until the  
3 student graduates from high school or reaches twenty-one years of  
4 age, whichever occurs earlier even if his or her school district  
5 of residence experiences a change in boundary lines or change in  
6 composition or accreditation classification because of an  
7 annexation, consolidation, reorganization, or dissolution;

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

10 (6) "Passport scholarships", grants to eligible students to  
11 cover all or part of the applicable expenditure per student and  
12 fees at a qualified school, or other approved educational  
13 expenses, including computers for participation in a virtual  
14 school and transportation to a nonpublic school. If the  
15 qualified school of enrollment includes a boarding program, such  
16 grants shall include boarding costs;

17 (7) "Program", the passport scholarship program established  
18 under sections 135.712 to 135.719;

19 (8) "Qualified school", a nonpublic preschool, elementary,  
20 or secondary school in the state that complies with all  
21 requirements of the program;

22 (9) "Qualifying contribution", a donation of cash, stock,  
23 bonds, or other marketable securities for purposes of claiming a  
24 tax credit under this section;

25 (10) "Taxpayer", an individual subject to the state income  
26 tax imposed in chapter 143, an individual, a firm, a partner in a  
27 firm, corporation, or a shareholder in an S corporation doing  
28 business in this state and subject to the state income tax  
29 imposed by chapter 143, a corporation subject to the annual

1 corporation franchise tax imposed by chapter 147, or an express  
2 company which pays an annual tax on its gross receipts in this  
3 state under chapter 153, which files a Missouri income tax return  
4 and is not a dependent of any other taxpayer.

5 135.713. 1. For all tax years beginning on or after  
6 January 1, 2014, any taxpayer who makes a qualifying contribution  
7 to an approved or qualified educational assistance organization  
8 may claim a credit against the tax otherwise due under chapter  
9 143, other than taxes withheld under sections 143.191 to 143.265,  
10 and chapters 147 and 153, in an amount equal to sixty percent of  
11 the amount the taxpayer contributed to such educational  
12 assistance organization during the tax year for which the credit  
13 is claimed.

14 2. The amount of the tax credit claimed shall not exceed  
15 the amount of the taxpayer's state tax liability for the tax year  
16 for which the credit is claimed. The department shall certify  
17 the tax credit amount to the taxpayer and to the department of  
18 revenue. Any amount of credit that a taxpayer cannot claim in a  
19 tax year may be carried forward to any of such taxpayer's four  
20 subsequent taxable years. All tax credits authorized under the  
21 program may be transferred, sold, or assigned.

22 3. The cumulative amount of tax credits which may be  
23 allocated to all taxpayers contributing to educational assistance  
24 organizations in any one fiscal year shall not exceed forty  
25 million dollars, which amount shall annually be adjusted by the  
26 department for inflation based on the consumer price index for  
27 the Midwest, as defined and officially recorded by the United  
28 States department of labor, or its successor. The director shall  
29 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. The director may add to the annual cumulative amount of tax credits in the second and subsequent years of the program a total equal to the cumulative amount by which the current expenditure per average daily attendance for each student in the unaccredited district receiving a scholarship exceeds the cumulative amount of scholarship checks written the previous year.

135.714. 1. Each educational assistance organization that desires to participate or provide scholarships through the passport scholarship program shall:

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

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

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

6           (4) Ensure that:

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

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

11           (c) Of its remaining revenue from contributions, its  
12 marketing and administrative expenses shall not exceed the  
13 following limits: ten percent for the first one hundred thousand  
14 dollars; eight percent for the next four hundred thousand  
15 dollars; six percent for the next five hundred thousand dollars;  
16 and three percent thereafter;

17           (5) Distribute educational scholarship payments no more  
18 than four times per year in the form of checks made out to an  
19 eligible student's parent and mailed to the qualified school  
20 where the student is enrolled. The first payment shall be  
21 distributed prior to the start of the school year. The parent  
22 shall endorse the check before it can be deposited. If a student  
23 withdraws from a qualified school prior to the end of the school  
24 year, the qualified school shall prorate the scholarship funds  
25 and return the prorated amount to the educational assistance  
26 organization. If the educational scholarship payments are  
27 insufficient to cover the cost of tuition, the school may charge  
28 the parent or guardian the difference between the cost of tuition  
29 and the amount of educational scholarship payments;

1           (6) Provide the department, upon request, with criminal  
2 background checks, pursuant to section 43.543, on all of its  
3 employees and board members, and exclude from employment or  
4 governance any individual that might reasonably pose a risk to  
5 the appropriate use of contributed funds;

6           (7) Demonstrate its financial accountability by:

7           (a) Submitting to the department a financial information  
8 report for the organization that complies with uniform financial  
9 accounting standards established by the department and is  
10 conducted by a certified public accountant; and

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

13           (8) Demonstrate its financial viability, if it is to  
14 receive donations of fifty thousand dollars or more during the  
15 school year, by filing with the department before the start of  
16 the school year a surety bond payable to the state in an amount  
17 equal to the aggregate amount of contributions expected to be  
18 received during the school year.

19           2. Each educational assistance organization shall ensure  
20 that qualified schools that accept eligible students receiving  
21 passport scholarships from the organization shall:

22           (1) Comply with all health and safety laws or codes that  
23 apply to nonpublic schools;

24           (2) Hold a valid occupancy permit if required by the  
25 municipality where such schools are located;

26           (3) Certify that the qualified schools shall not  
27 discriminate in admissions of eligible students on the basis of  
28 race, color, or national origin;

29           (4) Provide academic accountability to parents or guardians

1 of the eligible students in the program by regularly reporting to  
2 them on the student's progress.

3 3. An educational assistance organization shall publicly  
4 report to the department by June first of each year the following  
5 information prepared by a certified public accountant regarding  
6 its grants in the previous calendar year:

7 (1) The name and address of the educational assistance  
8 organization;

9 (2) The name and address of each eligible student who  
10 received a passport scholarship from the organization;

11 (3) The total number and total dollar amount of  
12 contributions received by the organization during the previous  
13 calendar year;

14 (4) The total number and total dollar amount of passport  
15 scholarships awarded by the organization during the previous  
16 calendar year.

17 4. Before educational assistance organizations may raise  
18 contributions under the program, they shall have received or  
19 demonstrated ability to receive applications from eligible  
20 students.

21 5. An educational assistance organization shall require  
22 each qualified school to report the attendance rates, graduation  
23 rates, and rate of entry into institutions of higher education  
24 for each student who receives scholarship funds. An educational  
25 assistance organization shall annually report this information to  
26 the department.

27 135.715. 1. All qualified schools shall comply with all  
28 state laws that apply to public schools regarding criminal  
29 background checks for employees and shall exclude from employment

1 any person prohibited by state law from working in a public  
2 school.

3 2. All qualified schools shall administer to their  
4 scholarship students one of the following assessments, except for  
5 those students with an individualized education program that  
6 specifies that such an assessment would not be appropriate: the  
7 statewide assessments under section 160.518, a nationally  
8 recognized norm-referenced assessment, or an assessment of  
9 educational functioning level for adult basic education that  
10 meets the guidelines for the national reporting system for adult  
11 education and literacy. A qualified school shall use scholarship  
12 funds to administer the assessments. Results of the assessments  
13 shall be provided to parents of each passport scholarship  
14 recipient. The assessment results of the scholarship recipients  
15 shall not be considered for purposes of school accreditation  
16 under the Missouri school improvement program or for purposes of  
17 the federal No Child Left Behind Act.

18 3. All qualified schools shall:

19 (1) Comply with all health and safety laws or codes that  
20 apply to nonpublic schools;

21 (2) Hold a valid occupancy permit if required by their  
22 municipality;

23 (3) Certify that they will not discriminate in admissions  
24 on the basis of race, color, or national origin;

25 (4) File a statement of intent to participate that includes  
26 the information listed in this subdivision;

27 (5) For initial applicants, file a list of the information  
28 required under this subsection, and for requalifying schools,  
29 annual reporting of the information required under this

1 subsection. No public reporting of information required under  
2 this subsection shall be personally identifiable to an individual  
3 student;

4 (6) Be fiscally sound as evidenced by three years in  
5 existence, a surety bond, or letter of credit covering the amount  
6 of funds received on behalf of scholarship recipients;

7 (7) Be accredited by a regional or national accrediting  
8 agency or for a school that is not currently accredited,  
9 provisional approval pending the achievement of accreditation no  
10 later than the fourth school year of participation. No qualified  
11 school shall have been declared unaccredited by its accrediting  
12 agency;

13 (8) Annually administer a parental satisfaction survey; and

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

17 4. Qualified schools shall have on record a form signed by  
18 the parent or guardian of each scholarship recipient agreeing to  
19 the release of the following information to the director of the  
20 department of economic development:

21 (1) The student's participation as a scholarship recipient  
22 under sections 135.712 to 135.719; and

23 (2) Testing results for statewide assessment under section  
24 160.518 or other assessment administered by the school.

25 5. As a condition of participation, the parents, guardians,  
26 and scholarship recipients under sections 135.712 to 135.719  
27 shall agree to abide by the code of conduct and any parental  
28 involvement requirements of the qualified school unless the  
29 qualified school agrees to a waiver of any requirements.

1           6. A qualified school shall not accept a scholarship check  
2 that exceeds its standard expenditure per pupil, including fees  
3 and transportation if provided by the receiving school.

4           135.716. 1. The department shall provide a standardized  
5 format for a receipt to be issued by an educational assistance  
6 organization to a taxpayer to indicate the value of a  
7 contribution received from the taxpayer. The department shall  
8 require the taxpayer to provide a copy of this receipt when  
9 claiming the tax credit authorized by the program.

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

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

17           4. The director of the department may bar an educational  
18 assistance organization from participating in the program if the  
19 department establishes that the educational assistance  
20 organization has intentionally and substantially failed to comply  
21 with the requirements of section 135.714. If the director of the  
22 department bars an educational assistance organization from the  
23 program under this subsection, he or she shall notify any  
24 affected school and affected eligible students and their parents  
25 of the decision as soon as possible after the determination is  
26 made.

27           5. The department of economic development shall be entitled  
28 to charge and receive no more than two percent of the qualifying  
29 contributions received by any educational assistance organization

1 for the department's marketing and administrative expenses or the  
2 costs incurred in administering the program, whichever is less.  
3 The director shall establish procedures to ensure the percentage  
4 of funds for administration of the program is directed to the  
5 department of economic development in a timely manner with the  
6 necessary information to verify the correct amount has been  
7 transmitted. Any remaining funds shall be distributed to the  
8 educational assistance organizations.

9 135.717. 1. Subject to appropriations, the joint committee  
10 on education shall conduct a study of the program. The joint  
11 committee may contract with one or more qualified researchers if  
12 assistance is needed and if funds are available.

13 2. The study shall assess the following areas:

14 (1) The impact of the program on public and private school  
15 capacity, availability, and quality of service; and

16 (2) Student performance on annual assessment instruments  
17 before and after entering the program, provided that no  
18 participating student shall be individually identified.

19 3. The study shall be conducted during the first five years  
20 of commencement of the program and shall cover that five year  
21 period.

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

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

1 scores, shall be individually identified.

2 135.719. 1. The department and the department of revenue  
3 may promulgate rules to implement the provisions of sections  
4 135.712 to 135.719. Any rule or portion of a rule, as that term  
5 is defined in section 536.010, that is created under the  
6 authority delegated in this section shall become effective only  
7 if it complies with and is subject to all of the provisions of  
8 chapter 536, and, if applicable, section 536.028. This section  
9 and chapter 536, are nonseverable and if any of the powers vested  
10 with the general assembly pursuant to chapter 536, to review, to  
11 delay the effective date, or to disapprove and annul a rule are  
12 subsequently held unconstitutional, then the grant of rulemaking  
13 authority and any rule proposed or adopted after August 28, 2014,  
14 shall be invalid and void.

15 2. The provisions of section 23.253, of the Missouri  
16 Sunset Act shall not apply to sections 135.712 to 135.719."; and

17 Further amend the title and enacting clause accordingly.