

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2188
99TH GENERAL ASSEMBLY

4607H.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 135, RSMo, by adding thereto six new sections relating to the show me opportunity scholarship program.

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

Section A. Chapter 135, RSMo, is amended by adding thereto six new sections, to be
2 known as sections 135.740, 135.741, 135.742, 135.743, 135.744, and 135.745, to read as
3 follows:

135.740. 1. Sections 135.740 to 135.745 shall be known and may be cited as the
2 **"Show Me Opportunity Scholarship Program".**

3 **2. As used in the show me opportunity scholarship program, the following terms**
4 **mean:**

5 **(1) "Child with special needs" or "children with special needs", an individual or**
6 **individuals who are at least five years of age but less than twenty-two years of age who**
7 **have been evaluated and found to have at least one of the following disabilities and who,**
8 **because of the disability, need special education and related services:**

- 9 **(a) An autism spectrum disorder;**
10 **(b) Developmental delay;**
11 **(c) Emotional disability;**
12 **(d) Hearing impairment;**
13 **(e) Other health impairments;**
14 **(f) Specific learning disability;**
15 **(g) Mild, moderate, or severe intellectual disability;**
16 **(h) Multiple disabilities;**
17 **(i) Multiple disabilities with severe sensory impairment;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 18 (j) Orthopedic impairment;
- 19 (k) Preschool severe delay;
- 20 (l) Speech or language impairment;
- 21 (m) Traumatic brain injury; or
- 22 (n) Visual impairment.

23

24 "Child with special needs" shall not include a child if the determining factor for the
25 classification is a lack of appropriate instruction in reading, including essential components
26 of reading instruction; a lack of appropriate instruction in mathematics; or difficulty in
27 writing, speaking, or understanding the English language due to an environmental
28 background in which a language other than English is primarily or exclusively used;

29 (2) "Contribution", a donation by a taxpayer of cash, stock, bonds, or other
30 marketable securities for the purpose of claiming a tax credit under the show me
31 opportunity scholarship program;

32 (3) "Education service provider", any accredited school, charter school that has an
33 annual performance report consistent with a classification of accredited, accredited
34 homeschool, or school organization or club;

35 (4) "Eligible expenses", includes the following:

36 (a) Computer hardware or other technological devices that are used to help meet
37 a qualified student's educational needs and that are approved by a qualified nonprofit;

38 (b) Curriculum;

39 (c) Educational therapies or services for the qualified student from a licensed or
40 accredited practitioner or provider, including licensed or accredited paraprofessionals or
41 educational aides;

42 (d) Fees for a nationally standardized norm-referenced achievement test, advanced
43 placement examinations, international baccalaureate examinations, or any exams related
44 to college or university admission;

45 (e) Fees for summer education programs and specialized after school education
46 programs;

47 (f) Insurance or surety bond payments as required by the state treasurer;

48 (g) Services provided by a public school, including individual classes and
49 extracurricular programs;

50 (h) Textbooks required by a education service provider;

51 (i) Tuition or fees at an education service provider;

52 (j) Tuition or fees for a private virtual school; and

53 (k) Tutoring services.

54

55 **"Eligible expenses" shall not include consumable educational supplies including, but not**
56 **limited to, paper, pens, pencils, or markers and shall not include tuition at a private school**
57 **located outside of this state;**

58 **(5) "Parent", a parent, guardian, custodian, or other person with authority to act**
59 **on behalf of the qualified student;**

60 **(6) "Qualified nonprofit", a charitable organization registered in this state that is**
61 **exempt from federal taxation under the Internal Revenue Code of 1986, as amended; that**
62 **is certified by the state treasurer; and that allocates its revenue derived from contributions**
63 **to qualified students as allowed under subdivision (3) of subsection 3 of section 135.744;**

64 **(7) "Qualified student", a resident of this state who is eligible to attend a public**
65 **school under section 160.051;**

66 **(8) "Taxpayer", an individual subject to the state income tax imposed in chapter**
67 **143; an individual, firm, partner in a firm, corporation, or shareholder in an S corporation**
68 **doing business in this state and subject to the state income tax imposed by chapter 143; or**
69 **an express company that pays an annual tax on its gross receipts in this state under chapter**
70 **153 that files a Missouri income tax return and is not a dependent of any other taxpayer.**

71 **3. Under section 23.253 of the Missouri sunset act:**

72 **(1) The program authorized under sections 135.740 to 135.745 shall expire on**
73 **December 31, 2024, unless reauthorized by the general assembly;**

74 **(2) Sections 135.740 to 135.745 shall terminate on September first of the calendar**
75 **year immediately following the calendar year in which the program authorized under this**
76 **section is sunset; and**

77 **(3) The provisions of this subsection shall not be construed to limit or in any way**
78 **impair the department's ability to redeem tax credits authorized on or before the date the**
79 **program authorized under sections 135.740 to 135.745 expires or a taxpayer's ability to**
80 **redeem such tax credits.**

135.741. 1. For all tax years beginning on or after January 1, 2019, any taxpayer
2 **who makes a contribution to a qualified nonprofit may claim a credit against the tax**
3 **otherwise due under chapter 143, other than taxes withheld under sections 143.191 to**
4 **143.265, and chapter 153 in an amount equal to seventy-five percent of the amount the**
5 **taxpayer contributed during the tax year for which the credit is claimed. No taxpayer shall**
6 **claim a credit under the show me opportunity scholarship program for any contribution**
7 **made by the taxpayer, or an agent of the taxpayer, on behalf of a dependent of such**
8 **taxpayer or, in the case of a business taxpayer, on behalf of a dependent of an agent of such**

9 business taxpayer. To claim a credit, the taxpayer shall submit a tax certificate issued
10 under subsection 3 of section 135.742 with the taxpayer's tax return.

11 2. The amount of the tax credit claimed shall not exceed the amount of the
12 taxpayer's state tax liability for the tax year for which the credit is claimed. Any amount
13 of tax credit that exceeds the taxpayer's state tax liability shall not be refundable but may
14 be carried over for one succeeding tax year. No tax credit shall exceed ten thousand dollars
15 for any individual taxpayer or one hundred thousand dollars for any other taxpayer entity.
16 No tax credit authorized under the program shall be transferred, sold, or assigned.

17 3. The cumulative amount of tax credits that may be allocated to all taxpayers
18 making a contribution in any one calendar year shall not exceed twenty-five million
19 dollars. Certificates for tax credits shall be issued on a first-come, first-served basis.

20 4. The following taxpayers shall not be eligible to claim a tax credit under sections
21 135.740 to 135.745 for the tax year in which the following conditions apply:

22 (1) Any taxpayer who is subject to the federal alternative minimum tax imposed
23 under 26 U.S.C. Section 55 and who claims a deduction under 26 U.S.C. Section 170;

24 (2) Any taxpayer or owner of a pass-through entity who claims a deduction under
25 26 U.S.C. Section 170 for a qualifying contribution under sections 135.712 to 135.719. For
26 the purposes of this subsection, the term "pass-through entity" shall mean any entity
27 organized under 26 U.S.C. Subchapter S, or any other entity for which taxable income is
28 passed through to the owners of such entity.

135.742. 1. The state treasurer shall compile and publish a list of all entities it
2 certifies as qualified nonprofits. The list shall be easily accessible by taxpayers who wish
3 to make a contribution so that a taxpayer can verify that an entity is a qualified nonprofit.

4 2. (1) The state treasurer shall create a standardized format and make available
5 to nonprofit entities a form to apply for certification as a qualified nonprofit.

6 (2) The state treasurer shall create a standardized format and make available to
7 taxpayers a form for making contributions to a qualified nonprofit. The form shall require
8 information identifying the taxpayer and the qualified nonprofit, the amount of the
9 donation, and any other information the state treasurer requires.

10 (3) The state treasurer shall create a standardized format and make available to
11 qualified nonprofits a form to report contributions received. The form shall require
12 information identifying the taxpayer and the qualified nonprofit, the amount of the
13 donation, the date the donation was received, and any other information the state treasurer
14 requires.

15 3. Upon receiving a completed form described under subdivision (3) of subsection
16 2 of this section, the state treasurer shall issue a certificate to the taxpayer named in the

17 form for the amount of the contribution stated in the form and certify the tax credit
18 amount to the department of revenue. The state treasurer shall issue certificates on a first-
19 come, first-served basis.

20 4. The state treasurer shall require a qualified nonprofit to be audited by an
21 independent certified public accountant if the state treasurer possesses evidence of fraud
22 committed by the organization.

23 5. (1) The state treasurer may ban a qualified nonprofit or education service
24 provider from participating in the show me opportunity scholarship program if the state
25 treasurer establishes that the qualified nonprofit or education service provider has
26 intentionally and substantially failed to comply with the requirements of the program.

27 (2) The state treasurer shall create a fair process to determine whether a qualified
28 nonprofit or education service provider shall be banned from participating in the program.

29 (3) If the state treasurer bans a qualified nonprofit or education service provider
30 from the program under this subsection, it shall notify affected education service providers
31 and qualified students and their parents of the decision as soon as possible after the
32 determination is made.

33 (4) A qualified nonprofit or education service provider may appeal its ban from the
34 program to the administrative hearing commission for a hearing in accordance with the
35 provisions of chapter 621.

36 6. By March 1, 2024, the state treasurer shall prepare a report regarding the first
37 five years of the show me opportunity scholarship program and submit such report to the
38 general assembly. The report shall include, but not be limited to:

39 (1) The amount of moneys contributed to qualified nonprofits;

40 (2) The number of students who received moneys from qualified nonprofits; and

41 (3) The number of students who received education from a program other than a
42 public school and would have attended a public school but for the moneys received from
43 a qualified nonprofit.

135.743. The state treasurer and the department of revenue may promulgate rules
2 to implement the provisions of the show me opportunity scholarship program. Any rule
3 or portion of a rule, as that term is defined in section 536.010, that is created under the
4 authority delegated in this section shall become effective only if it complies with and is
5 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This
6 section and chapter 536 are nonseverable, and if any of the powers vested with the general
7 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove
8 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking

9 authority and any rule proposed or adopted after August 28, 2018, shall be invalid and
10 void.

135.744. 1. The state treasurer shall evaluate and certify as a qualified nonprofit
2 any nonprofit entity that satisfies the requirements of the show me opportunity scholarship
3 program.

4 2. To be certified as a qualified nonprofit, a nonprofit entity shall apply by
5 submitting a form described under subdivision (1) of subsection 2 of section 135.742 and
6 such other information as the state treasurer requires. At a minimum, a nonprofit entity
7 shall:

8 (1) Notify the state treasurer of its intent to provide funds to qualified students;

9 (2) Demonstrate to the state treasurer that it is exempt from federal income tax
10 under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

11 (3) Provide the state treasurer, upon request, with criminal background checks on
12 all its employees and board members and exclude from employment or governance any
13 individual who might reasonably pose a risk to the appropriate use of contributed funds;

14 (4) Demonstrate its financial accountability by:

15 (a) Submitting to the state treasurer a financial information report for the
16 organization that complies with uniform financial accounting standards established by the
17 state treasurer and is conducted by a certified public accountant; and

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

19 (5) Demonstrate its financial viability if it is to receive contributions of fifty
20 thousand dollars or more during the tax year.

21 3. All qualified nonprofits shall:

22 (1) Provide a state treasurer-approved receipt to taxpayers for contributions made
23 to the organization;

24 (2) Within three business days of receiving a contribution from a taxpayer, notify
25 the state treasurer using a form as described under subdivision (3) of subsection 2 of
26 section 135.742;

27 (3) Ensure that:

28 (a) One hundred percent of revenues from interest or investments of contribution
29 funds are provided to qualified students for eligible expenses;

30 (b) At least ninety percent of its revenues from contributions are provided to
31 qualified students for eligible expenses; and

32 (c) Marketing and administrative expenses do not exceed the following limits of its
33 remaining revenue from contributions: ten percent for the first two hundred fifty thousand

34 dollars, eight percent for the next five hundred thousand dollars, and three percent
35 thereafter; and

36 (4) Distribute contributions in each calendar quarter.

37 4. A qualified nonprofit shall distribute contributions it receives under the show
38 me opportunity scholarship program to qualified students in any amount it deems fit. A
39 qualified nonprofit may create and utilize an application process or other method to
40 determine the recipients of its distributions. Distribution preferences shall be given in the
41 following order:

42 (1) Students who received contributions under the program in the prior year;

43 (2) The siblings of students who received contributions under the program in the
44 prior year;

45 (3) Children with special needs; and

46 (4) All other qualified students.

47 5. A qualified nonprofit shall publicly report to the state treasurer by June first of
48 each year the following information prepared by a certified public accountant regarding
49 its grants in the previous calendar year:

50 (1) The name and address of the qualified nonprofit;

51 (2) The name and address of each qualified student who received contribution
52 funds from the qualified nonprofit;

53 (3) The total number and total dollar amount of contributions received during the
54 previous calendar year; and

55 (4) The total number and total dollar amount of distributions to qualified students.

56 6. A qualified nonprofit may contract with private financial management firms to
57 manage contributions funds with the supervision of the state.

58 7. Any funds collected from contributions that are unused by a qualified nonprofit
59 in a fiscal year shall be distributed as follows:

60 (1) Seventy percent of such unused funds shall revert to the credit of the general
61 revenue fund; and

62 (2) Thirty percent of such unused funds shall be retained by the qualified
63 nonprofit.

135.745. 1. No qualified student shall receive a cumulative amount of funds under
2 the show me opportunity scholarship program in any calendar year in excess of the
3 following amounts if the adjusted gross income of the student's household in the previous
4 year is:

5 **(1) Less than or equal to the income eligibility guidelines of the National School**
6 **Lunch Program administered by the United States Department of Agriculture, eight**
7 **thousand dollars;**

8 **(2) Greater than one hundred percent but less than or equal to one hundred fifty**
9 **percent of the income eligibility guidelines of the National School Lunch Program**
10 **administered by the United States Department of Agriculture, six thousand dollars;**

11 **(3) Greater than one hundred fifty percent but less than or equal to two hundred**
12 **percent of the income eligibility guidelines of the National School Lunch Program**
13 **administered by the United States Department of Agriculture, four thousand dollars;**

14 **(4) Greater than two hundred percent but less than or equal to two hundred fifty**
15 **percent of the income eligibility guidelines of the National School Lunch Program**
16 **administered by the United States Department of Agriculture, two thousand dollars; and**

17 **(5) Greater than two hundred fifty percent of the income eligibility guidelines of**
18 **the National School Lunch Program administered by the United States Department of**
19 **Agriculture, no funds.**

20 **2. Notwithstanding subsection 1 of this section, a qualified student who is a child**
21 **with special needs is eligible to receive up to eight thousand dollars regardless of such**
22 **student's household's adjusted gross income.**

23 **3. Acceptance of moneys under the show me opportunity scholarship program shall**
24 **have the same effect as a parental placement under 20 U.S.C. Section 1412(a)(10)(A) of the**
25 **Individuals with Disabilities Education Act, except that it shall not relieve the student's**
26 **district of residence from the obligation to conduct an evaluation for disabilities.**

27 **4. Moneys received under the show me opportunity scholarship program shall not**
28 **constitute Missouri taxable income to the parent of the qualified student.**

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