

FIRST REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 411

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE KELLEY (127).

0880H.01P

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapters 135, 143, and 210, RSMo, by adding thereto three new sections relating to taxation.

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

Section A. Chapters 135, 143, and 210, RSMo, are amended by adding thereto three new sections, to be known as sections 135.2000, 143.115, and 210.1500, to read as follows:

**135.2000. 1. As used in this section, the following terms mean:**

- (1) "Commissioner", the commissioner of education for the department of elementary and secondary education;**
- (2) "Contribution", a donation of cash;**
- (3) "Fund", the foster child education fund established in section 210.1500;**
- (4) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer under the provisions of chapters 143, 147, 148, and 153, excluding sections 143.191 to 143.265 and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer under the provisions of chapter 143, excluding sections 143.191 to 143.265 and related provisions;**
- (5) "Tax credit", a credit against the taxpayer's state tax liability;**
- (6) "Tax credit certificate", a certificate evidencing a taxpayer's right to receive a tax credit;**
- (7) "Taxpayer", a person, firm, partner in a partnership, member in a limited liability company, shareholder in an S corporation, or a corporation doing business in the**

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.

16 state of Missouri and subject to the state income tax imposed by the provisions of chapter  
17 143, or a corporation subject to the annual corporation franchise tax imposed by the  
18 provisions of chapter 147, or an insurance company paying an annual tax on its gross  
19 premium receipts in this state, or other financial institution paying taxes to the state of  
20 Missouri or any political subdivision of this state under the provisions of chapter 148, or  
21 an express company which pays an annual tax on its gross receipts in this state under  
22 chapter 153, or an individual subject to the state income tax imposed by the provisions of  
23 chapter 143, or any charitable organization which is exempt from federal income tax and  
24 whose Missouri unrelated business taxable income, if any, would be subject to the state  
25 income tax imposed under chapter 143.

26       2. (1) Subject to the provisions of subsection 5 of this section, any contribution to  
27 the fund made on or after January 1, 2016, shall be eligible for a tax credit as provided by  
28 this section.

29       (2) For all tax years beginning on or after January 1, 2016, a taxpayer shall be  
30 entitled to receive a tax credit against the taxpayer's state tax liability in an amount equal  
31 to sixty-five percent of the amount such taxpayer contributed to the fund evidenced by a  
32 tax credit certificate.

33       3. The commissioner shall be responsible for the administration and issuance of tax  
34 credit certificates authorized by this section.

35       4. The amount of the tax credit claimed shall not exceed fifty percent of the  
36 taxpayer's state tax liability for the taxable year for which the credit is claimed, and such  
37 taxpayer shall not be allowed to claim a tax credit in excess of twenty-five thousand dollars  
38 per taxable year. Any amount of credit that the taxpayer is prohibited by this section from  
39 claiming in a taxable year shall not be refundable. However, any tax credit that cannot be  
40 claimed in the taxable year in which the contribution was made may be carried over to the  
41 next three succeeding taxable years until the full credit has been claimed.

42       5. Except for any excess credit which is carried over under subsection 4 of this  
43 section, a taxpayer shall not be allowed to claim a tax credit unless the amount of such  
44 taxpayer's contribution to the fund in such taxpayer's taxable year has a value of one  
45 hundred dollars or more, up to a maximum of fifty thousand dollars. Any excess of a  
46 contribution above fifty thousand dollars or contribution less than one hundred dollars  
47 shall be ineligible to receive a tax credit under this section.

48       6. The total amount of tax credits authorized under the provisions of this section  
49 shall not exceed five million dollars in any fiscal year. The total amount of tax credits  
50 issued but not redeemed shall not exceed fifteen million dollars in any fiscal year. Tax  
51 credits shall be issued in the order contributions are received.

52           7. Tax credits issued under this section may not be transferred, sold, or assigned.

53           8. The department of elementary and secondary education may promulgate rules  
54 to implement the provisions of this section. Any rule or portion of a rule, as that term is  
55 defined in section 536.010, that is created under the authority delegated in this section shall  
56 become effective only if it complies with and is subject to all of the provisions of chapter  
57 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and  
58 if any of the powers vested with the general assembly pursuant to chapter 536 to review,  
59 to delay the effective date, or to disapprove and annul a rule are subsequently held  
60 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
61 after August 28, 2015, shall be invalid and void.

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

2           (1) "Deduction", an amount subtracted from the taxpayer's Missouri adjusted  
3 gross income to determine Missouri taxable income for the tax year in which such  
4 deduction is claimed;

5           (2) "Made in Missouri", manufactured or produced within Missouri or, if  
6 premanufactured, having a fair market value at least seventy percent of which results from  
7 domestic labor and materials;

8           (3) "Storm shelter", an above-ground safe room or an in-ground shelter in or near  
9 the taxpayer's primary residence that protects from injury or death caused by dangerous  
10 and extreme windstorms, that is in compliance with the requirements established in the  
11 Federal Emergency Management Agency's Publication 320 or its successor publication in  
12 effect at the time the storm shelter was completed, and that is made in Missouri;

13           (4) "Taxpayer", any individual subject to the income tax imposed in this chapter.

14           2. In addition to all deductions listed in this chapter, for all taxable years beginning  
15 on or after January 1, 2015, a taxpayer shall be allowed a deduction for the costs incurred  
16 in constructing a storm shelter. The deduction amount shall be equal to the lesser of the  
17 full amount of the costs incurred in constructing the storm shelter or five thousand dollars.  
18 No taxpayer shall claim a tax deduction more than once under this section.

19           3. The aggregate amount of tax deductions which may be issued under this section  
20 in any one fiscal year shall not exceed two million dollars. The tax deductions issued under  
21 this section shall be issued on a first-come, first-served filing basis.

22           4. The department of revenue shall establish the procedure by which the deduction  
23 provided in this section may be claimed, and may promulgate rules to implement the  
24 provisions of this section. Any rule or portion of a rule, as that term is defined in section  
25 536.010, that is created under the authority delegated in this section shall become effective  
26 only if it complies with and is subject to all of the provisions of chapter 536 and, if

27 applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of  
28 the powers vested with the general assembly pursuant to chapter 536 to review, to delay  
29 the effective date, or to disapprove and annul a rule are subsequently held  
30 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
31 after August 28, 2015, shall be invalid and void.

32 **5. Under section 23.253 of the Missouri sunset act:**

33 **(1) The provisions of the new program authorized under this section shall**  
34 **automatically sunset on December thirty-first six years after the effective date of this**  
35 **section unless reauthorized by an act of the general assembly; and**

36 **(2) If such program is reauthorized, the program authorized under this section**  
37 **shall automatically sunset on December thirty-first twelve years after the effective date of**  
38 **the reauthorization of this section; and**

39 **(3) This section shall terminate on December thirty-first of the calendar year**  
40 **immediately following the calendar year in which the program authorized under this**  
41 **section is sunset. The termination of the program as described in this subsection shall not**  
42 **be construed to preclude any taxpayer who claims any benefit under any program that is**  
43 **sunset under this subsection from claiming such benefit for all allowable activities related**  
44 **to such claim that were completed before the program was sunset, or to eliminate any**  
45 **responsibility of the administering agency to verify the continued eligibility of projects**  
46 **receiving tax credits and to enforce other requirements of law that applied before the**  
47 **program was sunset.**

**210.1500. 1. As used in this section, the following terms shall mean:**

2 **(1) “Eligible recipient”, a school-aged child enrolled in kindergarten through**  
3 **twelfth grade who:**

4 **(a) Is currently in the protective custody of the state; and**

5 **(b) Has been in the protective custody of the state for at least six of the last thirty-**  
6 **six months;**

7 **(2) “Qualified school”, a nonpublic elementary or secondary school in this state;**

8 **(3) “Scholarship”, an annual grant to eligible recipients to cover all or part of the**  
9 **applicable tuition and fees at a qualified school, the amount of which shall be the lesser of:**

10 **(a) The previous year’s tuition and fees for nonscholarship students at the qualified**  
11 **school;**

12 **(b) Ninety percent of the previous year’s average current expenditure per average**  
13 **daily attendance for the student’s district of residence; or**

14 **(c) The tuition amount set by the voluntary interdistrict coordinating council for**  
15 **the student’s district of residence, if applicable.**

16           **2. There is hereby created in the state treasury the “Foster Child Education Fund”,**  
17 **which shall consist of moneys collected from donations made under section 135.2000. The**  
18 **state treasurer shall be custodian of the fund. In accordance with sections 30.170 and**  
19 **30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund**  
20 **and, upon appropriation, moneys in the fund shall be used solely for the purposes of**  
21 **providing scholarships to eligible recipients to attend a qualified school. Notwithstanding**  
22 **the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the**  
23 **end of the biennium shall not revert to the credit of the general revenue fund. The state**  
24 **treasurer shall invest moneys in the fund in the same manner as other funds are invested.**  
25 **Any interest and moneys earned on such investments shall be credited to the fund.**

26           **3. Any eligible recipient who receives a scholarship under the provisions of this**  
27 **section shall continue to be eligible to receive his or her scholarship upon a legal adoption.**

28           **4. In the event an eligible recipient who receives a scholarship under the provisions**  
29 **of this section graduates from the qualified school to which he or she first received a**  
30 **scholarship, the eligible recipient shall remain eligible to receive a scholarship under this**  
31 **section to a new qualified school.**

32           **5. The department of elementary and secondary education shall prepare and**  
33 **maintain an easy-to-search database containing statewide assessment scores of all**  
34 **recipients of scholarships under this section. Each recipient shall be assigned a random**  
35 **identification number by the department for purposes of the database and no personally**  
36 **identifiable data shall be accessible on the database.**

37           **6. The department of elementary and secondary education may promulgate rules**  
38 **to implement the provisions of this section. Any rule or portion of a rule, as that term is**  
39 **defined in section 536.010, that is created under the authority delegated in this section shall**  
40 **become effective only if it complies with and is subject to all of the provisions of chapter**  
41 **536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and**  
42 **if any of the powers vested with the general assembly pursuant to chapter 536 to review,**  
43 **to delay the effective date, or to disapprove and annul a rule are subsequently held**  
44 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**  
45 **after August 28, 2015, shall be invalid and void.**

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