

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 1589 & 2307
98TH GENERAL ASSEMBLY

4452H.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapters 135, 166, and 210, RSMo, by adding thereto twelve new sections relating to educational scholarships, with a penalty provision.

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

Section A. Chapters 135, 166, and 210, RSMo, are amended by adding thereto twelve
2 new sections, to be known as sections 135.712, 135.713, 135.714, 135.716, 135.719, 135.2000,
3 166.700, 166.705, 166.710, 166.715, 166.720, and 210.1500, to read as follows:

135.712. 1. Sections 135.712 to 135.719 and sections 166.700 to 166.720 establish
2 **the "Missouri Empowerment Scholarship Accounts Program" to provide options toward**
3 **ensuring the education of students in this state.**

4 **2. As used in sections 135.712 to 135.719, the following terms mean:**

5 **(1) "Department", the department of economic development;**

6 **(2) "Director", the director of the department of economic development;**

7 **(3) "District" or "school district", the same meaning as used in section 160.011;**

8 **(4) "Educational assistance organization", a charitable organization registered in**
9 **this state that is exempt from federal taxation under the Internal Revenue Code of 1986,**
10 **as amended, is certified by the director, and that allocates all of its annual revenue for**
11 **educational assistance, except as provided in paragraph (c) of subdivision (4) of subsection**
12 **1 of section 135.714 and as provided for in sections 135.712 to 135.719, derived from**
13 **contributions for which a credit is claimed under this section;**

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

16 **(6) "Program", the Missouri empowerment scholarship accounts program**
17 **established under sections 135.712 to 135.719 and sections 166.700 to 166.720;**

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 (7) "Qualified student", the same meaning as used in section 166.700;
- 19 (8) "Qualifying contribution", a donation of cash, stock, bonds, or other
20 marketable securities for purposes of claiming a tax credit under sections 135.712 to
21 135.719;
- 22 (9) "Scholarship account", a savings account created by the Missouri
23 empowerment scholarship accounts program authorized by sections 166.700 to 166.720;
- 24 (10) "Taxpayer", an individual subject to the state income tax imposed in chapter
25 143; an individual, a firm, a partner in a firm, corporation, or a shareholder in an S
26 corporation doing business in this state and subject to the state income tax imposed by
27 chapter 143; or an express company that pays an annual tax on its gross receipts in this
28 state under chapter 153, which files a Missouri income tax return and is not a dependent
29 of any other taxpayer.

135.713. 1. For all tax years beginning on or after January 1, 2016, any taxpayer
2 who makes a qualifying contribution to an educational assistance organization may claim
3 a credit against the tax otherwise due under chapter 143, other than taxes withheld under
4 sections 143.191 to 143.265, and chapter 153, in an amount equal to one hundred percent
5 of the amount the taxpayer contributed during the tax year for which the credit is claimed.
6 No taxpayer shall claim a credit under sections 135.712 to 135.719 for any contribution
7 made by the taxpayer, or an agent of the taxpayer, on behalf of the taxpayer's dependent,
8 or in the case of a business taxpayer, on behalf of the business's agent's dependent.

9 2. The amount of the tax credit claimed shall not exceed the amount of the
10 taxpayer's state tax liability for the tax year for which the credit is claimed. The
11 department shall certify the tax credit amount to the taxpayer and to the department of
12 revenue. A taxpayer may carry the credit forward to any of such taxpayer's four
13 subsequent tax years. All tax credits authorized under the program may be transferred,
14 sold, or assigned.

15 3. The cumulative amount of tax credits that may be allocated to all taxpayers
16 contributing to educational assistance organizations in any one calendar year shall not
17 exceed twenty-five million dollars, which amount shall annually be adjusted by the
18 department for inflation based on the consumer price index for all urban consumers for
19 the Midwest region, as defined and officially recorded by the United States Department of
20 Labor or its successor. The director shall establish a procedure by which, from the
21 beginning of the calendar year until some point in time later in the calendar year to be
22 determined by the director, the cumulative amount of tax credits are equally apportioned
23 among all educational assistance organizations. If an educational assistance organization
24 fails to use all, or some percentage to be determined by the director, of its apportioned tax

25 credits during this predetermined period of time, the director may reapportion these
26 unused tax credits to those educational assistance organizations that have used all, or some
27 percentage to be determined by the director, of their apportioned tax credits during this
28 predetermined period of time. The director may establish more than one period of time
29 and reapportion more than once during each calendar year. To the maximum extent
30 possible, the director shall establish the procedure described in this subsection in such a
31 manner as to ensure that taxpayers can claim all the tax credits possible up to the
32 cumulative amount of tax credits available for the calendar year.

135.714. 1. Each educational assistance organization shall:

- 2 (1) Notify the department of its intent to provide scholarship accounts to qualified
3 students;
- 4 (2) Demonstrate to the department that it is exempt from federal income tax under
5 Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;
- 6 (3) Provide a department-approved receipt to taxpayers for contributions made to
7 the organization;
- 8 (4) Ensure that:
 - 9 (a) One hundred percent of its revenues from interest or investments is spent on
10 scholarship accounts;
 - 11 (b) At least ninety percent of its revenues from qualifying contributions is spent on
12 scholarship accounts; and
 - 13 (c) Marketing and administrative expenses shall not exceed the following limits of
14 its remaining revenue from contributions: ten percent for the first two hundred fifty
15 thousand dollars, eight percent for the next five hundred thousand dollars, and three
16 percent thereafter;
- 17 (5) Distribute scholarship accounts payments either four times per year or in a
18 single lump sum at the beginning of the year as requested by the parent or guardian of a
19 qualified student, not to exceed a total grant amount equal to the state adequacy target as
20 defined in section 163.011 and calculated by the department of elementary and secondary
21 education, in the form of a deposit into the scholarship account of the qualified student;
- 22 (6) Provide the department, upon request, with criminal background checks on all
23 its employees and board members, and exclude from employment or governance any
24 individual that might reasonably pose a risk to the appropriate use of contributed funds;
- 25 (7) Demonstrate its financial accountability by:
 - 26 (a) Submitting to the department a financial information report for the
27 organization that complies with uniform financial accounting standards established by the
28 department and is conducted by a certified public accountant; and

29 (b) Having an auditor certify that the report is free of material misstatements; and
30 (8) Demonstrate its financial viability, if it is to receive donations of fifty thousand
31 dollars or more during the school year, by filing with the department before the start of
32 the school year a surety bond payable to the state in an amount equal to the aggregate
33 amount of contributions expected to be received during the school year.

34 2. An educational assistance organization shall publicly report to the department
35 by June first of each year the following information prepared by a certified public
36 accountant regarding its grants in the previous calendar year:

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

38 (2) The name and address of each qualified student who opened a scholarship
39 account with the organization;

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

42 (4) The total number and total dollar amount of scholarship accounts opened
43 during the previous calendar year; and

44 (5) The total number and total dollar amount of scholarship accounts opened
45 during the previous year to qualified students qualifying for the federal free and reduced
46 price school lunch program.

47 3. An educational assistance organization may contract with private financial
48 management firms to manage scholarship accounts with the supervision of the state.

135.716. 1. The department shall provide a standardized format for a receipt to be
2 issued by an educational assistance organization to a taxpayer to indicate the value of a
3 contribution received. The department shall require a taxpayer to provide a copy of this
4 receipt if claiming the tax credit authorized by the program.

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

7 3. The department may conduct either a financial review or an audit of an
8 educational assistance organization if the department possesses evidence of fraud
9 committed by the organization.

10 4. The department may bar an educational assistance organization from
11 participating in the program if the department establishes that the educational assistance
12 organization has intentionally and substantially failed to comply with the requirements in
13 section 135.714. If the department bars an educational assistance organization from the
14 program under this subsection, it shall notify affected qualified students and their parents
15 of the decision as soon as possible after the determination is made.

16 **5. The department shall receive no more than two percent of the qualifying**
17 **contributions for marketing and administrative expenses or the costs incurred in**
18 **administering the program, whichever is less. The director shall establish procedures to**
19 **ensure the percentage of funds for administration of the program is directed to the**
20 **department of economic development in a timely manner with the necessary information**
21 **to verify the correct amount has been transmitted. The remaining funds shall be**
22 **distributed to the educational assistance organizations.**

135.719. 1. The department and the department of revenue may promulgate rules
2 **to implement the provisions of sections 135.712 to 135.719. Any rule or portion of a rule,**
3 **as that term is defined in section 536.010, that is created under the authority delegated in**
4 **this section shall become effective only if it complies with and is subject to all of the**
5 **provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536**
6 **are nonseverable, and if any of the powers vested with the general assembly pursuant to**
7 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**
8 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
9 **proposed or adopted after August 28, 2016, shall be invalid and void.**

10 **2. Under section 23.253 of the Missouri sunset act:**

11 **(1) The provisions of the new program authorized under sections 135.712 to**
12 **135.719 shall automatically sunset on December thirty-first six years after the effective date**
13 **of sections 135.712 to 135.719 unless reauthorized by an act of the general assembly; and**

14 **(2) If such program is reauthorized, the program authorized under sections 135.712**
15 **to 135.719 shall automatically sunset on December thirty-first twelve years after the**
16 **effective date of the reauthorization of sections 135.712 to 135.719; and**

17 **(3) Sections 135.712 to 135.719 shall terminate on September first of the calendar**
18 **year immediately following the calendar year in which the program authorized under**
19 **sections 135.712 to 135.719 is sunset.**

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

2 **(1) "Commissioner", the commissioner of education for the department of**
3 **elementary and secondary education;**

4 **(2) "Contribution", a donation of cash to a qualified agency as defined in section**
5 **210.1500;**

6 **(3) "State tax liability", in the case of a business taxpayer, any liability incurred by**
7 **such taxpayer under the provisions of chapters 143, 148, and 153, excluding sections**
8 **143.191 to 143.265 and related provisions and, in the case of an individual taxpayer, any**
9 **liability incurred by such taxpayer under the provisions of chapter 143, excluding sections**
10 **143.191 to 143.265 and related provisions;**

11 (4) "Tax credit", a credit against the taxpayer's state tax liability;

12 (5) "Tax credit certificate", a certificate evidencing a taxpayer's right to receive a
13 tax credit;

14 (6) "Taxpayer", a person, firm, partner in a partnership, member in a limited
15 liability company, shareholder in an S corporation, or a corporation doing business in the
16 state of Missouri and subject to the state income tax imposed under chapter 143, or an
17 insurance company paying an annual tax on its gross premium receipts in this state, or
18 other financial institution paying taxes to the state of Missouri or any political subdivision
19 of this state under the provisions of chapter 148, or an express company that pays an
20 annual tax on its gross receipts in this state under chapter 153, or an individual subject to
21 the state income tax under chapter 143, or any charitable organization that is exempt from
22 federal income tax and whose Missouri unrelated business taxable income, if any, would
23 be subject to the state income tax imposed under chapter 143.

24 2. (1) Subject to the provisions of subsection 5 of this section, any contribution to
25 a qualified agency made on or after January 1, 2017, shall be eligible for a tax credit as
26 provided by this section.

27 (2) For all tax years beginning on or after January 1, 2017, a taxpayer shall be
28 entitled to receive a tax credit against the taxpayer's state tax liability in an amount equal
29 to fifty percent of the amount such taxpayer contributed to a qualified agency evidenced
30 by a contribution verification. A contribution verification shall be issued to the taxpayer
31 by the qualified agency receiving the contribution. Such contribution verification shall
32 include the taxpayer's name, Social Security number, amount of tax credit, amount of
33 contribution, the name and address of the agency receiving the credit, and the date the
34 contribution was made. The tax credit provided under this subsection shall be initially
35 filed for the year in which the verified contribution is made.

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

43 4. Prior to December thirty-first of each year, each qualified agency shall apply to
44 the department of social services in order to verify their qualified agency status. Upon a
45 determination that the agency is eligible to be a qualified agency, the department of social
46 services shall provide a letter of eligibility to such agency. No later than February first of

47 each year, the department of social services shall provide a list of qualified agencies to the
48 department of revenue. A taxpayer shall apply for the tax credit by attaching a copy of the
49 contribution verification provided by a qualified agency to such taxpayer's income tax
50 return.

51 5. Except for any excess credit which is carried over under subsection 3 of this
52 section, a taxpayer shall not be allowed to claim a tax credit unless the amount of such
53 taxpayer's contribution to a qualified agency in such taxpayer's tax year has a value of one
54 hundred dollars or more, up to a maximum of fifty thousand dollars. Any excess of a
55 contribution above fifty thousand dollars or contribution less than one hundred dollars
56 shall be ineligible to receive a tax credit under this section.

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

61 7. Tax credits issued under this section shall not be transferred, sold, or assigned.

62 8. The department of elementary and secondary education may promulgate rules
63 to implement the provisions of this section. Any rule or portion of a rule, as that term is
64 defined in section 536.010, that is created under the authority delegated in this section shall
65 become effective only if it complies with and is subject to all of the provisions of chapter
66 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and
67 if any of the powers vested with the general assembly pursuant to chapter 536 to review,
68 to delay the effective date, or to disapprove and annul a rule are subsequently held
69 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
70 after August 28, 2016 shall be invalid and void.

166.700. As used in sections 166.700 to 166.720, the following terms mean:

2 (1) "Child with a disability":

3 (a) A child who is at least three years of age but less than twenty-two years of age
4 who has been evaluated and found to have at least one of the following disabilities and who,
5 because of the disability, needs special education and related services:

6 a. An autism spectrum disorder;

7 b. Developmental delay;

8 c. Emotional disability;

9 d. Hearing impairment;

10 e. Other health impairments;

11 f. Specific learning disability;

12 g. Mild, moderate, or severe intellectual disability;

- 13 **h. Multiple disabilities;**
- 14 **i. Multiple disabilities with severe sensory impairment;**
- 15 **j. Orthopedic impairment;**
- 16 **k. Preschool severe delay;**
- 17 **l. Speech or language impairment;**
- 18 **m. Traumatic brain injury; or**
- 19 **n. Visual impairment; and**
- 20 **(b) Shall not include a child if the determining factor for the classification is one**
- 21 **or more of the following:**
- 22 **a. A lack of appropriate instruction in reading, including essential components of**
- 23 **reading instruction;**
- 24 **b. A lack of appropriate instruction in mathematics; or**
- 25 **c. Difficulty in writing, speaking, or understanding the English language due to an**
- 26 **environmental background in which a language other than English is primarily or**
- 27 **exclusively used;**
- 28 **(2) "Curriculum", a complete course of study for a particular content area or grade**
- 29 **level, including any supplemental materials;**
- 30 **(3) "Department", the department of elementary and secondary education;**
- 31 **(4) "Educational assistance organization", the same meaning as used in section**
- 32 **135.712;**
- 33 **(5) "Eligible postsecondary institution", any approved private institution or**
- 34 **approved public institution as defined in section 173.1102;**
- 35 **(6) "Parent", the same meaning as used in section 135.712;**
- 36 **(7) "Private school", a school that is not a part of the public school system of the**
- 37 **state of Missouri and that charges tuition for the rendering of elementary or secondary**
- 38 **educational services;**
- 39 **(8) "Program", the Missouri empowerment scholarship accounts program;**
- 40 **(9) "Qualified school", a home school as defined in section 167.031, a private school**
- 41 **as defined in this subsection, or a preschool for children with a disability, that is located**
- 42 **in Missouri and that does not discriminate on the basis of race, color, or national origin;**
- 43 **(10) "Qualified student", a resident of this state who:**
- 44 **(a) Is any of the following:**
- 45 **a. Identified as having a disability under Section 504 of the Rehabilitation Act of**
- 46 **1973;**
- 47 **b. Identified by a district as a child with a disability;**

48 c. A child with a disability who is eligible to receive services from a school district
49 under the Individuals with Disabilities Education Act;

50 d. A child who is a ward of the juvenile court and who is residing with a
51 prospective permanent placement and for whom the case plan is adoption or permanent
52 guardianship; or

53 e. A child who was a ward of the juvenile court and who achieved permanency
54 through adoption or permanent guardianship;

55 (b) Who did any of the following:

56 a. Attended a public school as a full-time student for at least the first one hundred
57 days of the prior school year and who transferred from a public school under a contract
58 to participate in the Missouri empowerment scholarship account program; or

59 b. Previously participated in the Missouri empowerment scholarship account
60 program; or

61 (c) Is a child who is eligible to begin kindergarten under sections 160.051 to
62 160.055.

 166.705. 1. A parent of a qualified student may establish a Missouri empowerment
2 scholarship account for the student by entering into a written agreement with an
3 educational assistance organization. The agreement shall provide that:

4 (1) The qualified student shall enroll in a qualified school and receive an education
5 in at least the subjects of reading, grammar, mathematics, social studies, and science;

6 (2) The qualified student shall not be enrolled in a school operated by a district or
7 a charter school and shall release the district of residence from all obligations to educate
8 the qualified student; except that, this subdivision shall not relieve the student's district of
9 residence from the obligation to conduct an evaluation for disabilities;

10 (3) The qualified student shall receive a grant, in the form of money deposited
11 pursuant to section 135.714, in the qualified student's Missouri empowerment scholarship
12 account;

13 (4) The money deposited in the qualified student's Missouri empowerment
14 scholarship account shall be used only for the following expenses of the qualified student:

15 (a) Tuition or fees at a qualified school;

16 (b) Textbooks required by a qualified school;

17 (c) Educational therapies or services for the qualified student from a licensed or
18 accredited practitioner or provider, including licensed or accredited paraprofessionals or
19 educational aides;

20 (d) Tutoring services provided by a tutor accredited by a state, regional, or national
21 accrediting organization;

- 22 (e) Curriculum;
- 23 (f) Tuition or fees for a nonpublic online learning program;
- 24 (g) Fees for a nationally standardized norm-referenced achievement test, advanced
25 placement examinations, international baccalaureate examinations, or any exams related
26 to college or university admission;
- 27 (h) Contributions to a qualified tuition program established under 26 U.S.C.
28 Section 529 for the benefit of the qualified student;
- 29 (i) Tuition or fees at an eligible postsecondary institution;
- 30 (j) Textbooks required by an eligible postsecondary institution;
- 31 (k) Fees for management of the empowerment scholarship account by firms
32 selected by the educational assistance organization;
- 33 (l) Services provided by a public school, including individual classes and
34 extracurricular programs; and
- 35 (m) Insurance or surety bond payments as required by the department; and
- 36 (5) Moneys deposited in the qualified student's account shall not be used for any
37 of the following:
- 38 (a) Computer hardware or other technological devices;
- 39 (b) Transportation of the pupil; or
- 40 (c) Consumable educational supplies including, but not limited to, paper, pens,
41 pencils, or markers.
- 42 2. Missouri empowerment scholarship accounts are renewable on an annual basis
43 upon request of the parent of a qualified student. Notwithstanding any changes to the
44 qualified student's multidisciplinary evaluation team plan, a student who has previously
45 qualified for a Missouri empowerment scholarship account shall remain eligible to apply
46 for renewal until the student completes high school and submits scores from a nationally
47 standardized norm-referenced achievement test, advanced placement examination,
48 international baccalaureate examination, or any exam related to college or university
49 admission purchased with Missouri empowerment scholarship account funds to the
50 department.
- 51 3. A signed agreement under this section shall satisfy the compulsory school
52 attendance requirements of section 167.031.
- 53 4. A qualified school or a provider of services purchased under this section shall
54 not share, refund, or rebate any Missouri empowerment scholarship account moneys with
55 the parent or qualified student in any manner.
- 56 5. If a qualified student withdraws from the program by enrolling in a school other
57 than a qualified school, or is disqualified from the program under the provisions of section

58 **166.710, the qualified student's Missouri empowerment scholarship account shall be closed**
59 **and any remaining funds shall be returned to the educational assistance organization for**
60 **redistribution to other qualified students. Under such circumstances, the obligation to**
61 **provide an education for such student shall transfer back to the student's district of**
62 **residence.**

63 **6. Any funds remaining in a qualified student's scholarship account at the end of**
64 **a school year shall remain in the account and shall not be returned to the educational**
65 **assistance organization. Any funds remaining in a qualified student's scholarship account**
66 **upon graduation from a qualified school may be used for the purposes of postsecondary**
67 **education as specified in subdivision (4) of subsection 1 of this section. Any funds**
68 **remaining in a qualified student's account after graduation from an eligible postsecondary**
69 **institution, or after a period of four years following graduation from a qualified school,**
70 **whichever occurs first, shall be returned to the educational assistance organization for**
71 **redistribution to other qualified students.**

72 **7. Moneys received under sections 166.700 to 166.720 shall not constitute Missouri**
73 **taxable income to the parent of the qualified student.**

166.710. 1. The department shall conduct or contract for annual audits of
2 **empowerment scholarship accounts to ensure compliance with the requirements of**
3 **subsection 1 of section 166.705. The department shall also conduct or contract for random,**
4 **quarterly, and annual audits of empowerment scholarship accounts as needed to ensure**
5 **compliance with the requirements of subsection 1 of section 166.705.**

6 **2. A parent or qualified student or vendor may be disqualified from program**
7 **participation if, after a hearing before the commissioner of education or his or her**
8 **designee, the party is found to have committed an intentional program violation consisting**
9 **of any misrepresentation or other act that materially violates any law or rule governing the**
10 **program. The department may remove any parent or qualified student from eligibility for**
11 **a Missouri empowerment scholarship program account. A parent may appeal the**
12 **department's decision to the state board of education. A parent may appeal the state board**
13 **of education's decision to the circuit court of the county in which the student resides.**

14 **3. The department may refer cases of substantial misuse of moneys to the attorney**
15 **general for investigation if the department obtains evidence of fraudulent use of an**
16 **account.**

17 **4. The department shall promulgate rules to implement and administer the**
18 **Missouri empowerment scholarship accounts program including, but not limited to:**

- 19 **(1) Rules for conducting examinations of use of account funds;**
20 **(2) Rules for conducting random, quarterly, and annual reviews of accounts;**

- 21 **(3) Creating an online anonymous fraud reporting service;**
22 **(4) Creating an anonymous telephone hotline for fraud reporting; and**
23 **(5) A surety bond requirement for account holders.**

24 **5. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
25 **created under the authority delegated in this section shall become effective only if it**
26 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
27 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
28 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
29 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
30 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2016,**
31 **shall be invalid and void.**

166.715. 1. A person commits a class A misdemeanor if they are found to have
2 **knowingly used moneys granted under section 135.714 for purposes other than those**
3 **provided for in sections 166.700 to 166.720.**

4 **2. No financial institution shall be liable in any civil action for providing a savings**
5 **account's financial information to the department unless the information provided is false**
6 **and the financial institution providing the false information does so knowingly and with**
7 **malice.**

166.720. 1. Sections 166.700 to 166.720 do not permit any governmental agency to
2 **exercise control or supervision over any qualified school in which a qualified student**
3 **enrolls.**

4 **2. A qualified school that accepts a payment from a parent under sections 166.700**
5 **to 166.720 shall not be an agent of the state or federal government.**

6 **3. A qualified school shall not be required to alter its creed, practices, admissions**
7 **policy, or curriculum in order to accept students whose parents pay tuition or fees from**
8 **an empowerment scholarship account to participate as a qualified school.**

9 **4. In any legal proceeding challenging the application of sections 166.700 to 166.720**
10 **to a qualified school, the state shall bear the burden of establishing that the law is**
11 **necessary and does not impose any undue burden on qualified schools.**

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 twelve of the last**
6 **forty-eight months;**

7 (2) "Qualified agency", an entity organized to receive donations, issue contribution
8 verifications for such donations and provide scholarships to eligible recipients in this state;

9 (3) "Qualified school", a nonpublic elementary or secondary school in this state;

10 (4) "Scholarship", an annual grant to eligible recipients to cover all or part of the
11 applicable tuition and fees at a qualified school, the amount of which shall be the lesser of:

12 (a) The previous school year's tuition and fees for nonscholarship students at the
13 qualified school;

14 (b) Ninety percent of the previous school year's average current expenditure per
15 average daily attendance for the student's district of residence; or

16 (c) The tuition amount set by the voluntary interdistrict coordinating council for
17 the student's district of residence, if applicable.

18 2. Any eligible recipient who receives a scholarship under the provisions of this
19 section shall continue to be eligible to receive his or her scholarship upon a legal adoption.

20 3. In the event an eligible recipient who receives a scholarship under the provisions
21 of this section graduates from the qualified school to which he or she first received a
22 scholarship, the eligible recipient shall remain eligible to receive a scholarship under this
23 section to a new qualified school.

24 4. The department of elementary and secondary education shall prepare and
25 maintain an easy-to-search database containing statewide assessment scores of all
26 recipients of scholarships under this section. Each recipient shall be assigned a random
27 identification number by the department for purposes of the database and no personally
28 identifiable data shall be accessible on the database.

29 5. The department of elementary and secondary education may promulgate rules
30 to implement the provisions of this section. Any rule or portion of a rule, as that term is
31 defined in section 536.010, that is created under the authority delegated in this section shall
32 become effective only if it complies with and is subject to all of the provisions of chapter
33 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and
34 if any of the powers vested with the general assembly pursuant to chapter 536 to review,
35 to delay the effective date, or to disapprove and annul a rule are subsequently held
36 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
37 after August 28, 2016 shall be invalid and void.

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