SECOND REGULAR SESSION

[PERFECTED WITH AN EFFECTIVE DATE]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 1589 & 2307

98TH GENERAL ASSEMBLY

4452H.04E D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapters 135, 166, and 210, RSMo, by adding thereto fourteen new sections relating to tax credits, 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 fourteen new sections, to be known as sections 135.435, 135.712, 135.713, 135.714, 135.716, 135.719, 135.1910, 135.2000, 166.700, 166.705, 166.710, 166.715, 166.720, and 210.1500, to read as follows:

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

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

(2) "Department", the department of corrections;

(3) "Director", the director of the department of corrections;

(4) "Ex-offender", a person who is paroled, discharged, or otherwise released from any correctional facility of the department of corrections or any mental health institution where such person was confined;

(5) "Qualified organization", an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code including, but not limited to, any faith-based organization, that provides assistance to ex-offenders to promote or encourage healthy reintegration into society and avoid reincarceration that has operated in this capacity for longer than five years and enrolls a minimum of twenty ex-offenders per year;

(6) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 148, and 153, excluding sections

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.

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;

(7) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state under the provisions of chapter 148, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, or an individual subject to the state income tax imposed by the provisions of chapter 143, or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143.

2. For all tax years beginning on or after January 1, 2019, a taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal to fifty percent of the taxpayer's contribution to a qualified organization. The qualified organization shall use the taxpayer's contribution to assist ex-offenders with the goal of reducing recidivism.

3. Tax credits issued under this section are not refundable, however any tax credit that cannot be claimed for the tax year in which the contribution was made may be carried over to the next four succeeding tax years until the full credit has been claimed.

4. Except for any excess credit which is carried over under subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution or contributions to a qualified organization or organizations in such taxpayer's tax year has a value of at least one hundred dollars.

5. The director shall determine, at least annually, which organizations in this state may be classified as qualified organizations. The director may require of an organization seeking to be classified as a qualified organization whatever information which is reasonably necessary to make such a determination. The director shall classify an organization as a qualified organization if such organization meets the definition set forth in subsection 1 of this section.

6. The director shall establish a procedure by which a taxpayer can determine if an organization has been classified as a qualified organization. Qualified organizations shall be permitted to decline a contribution from a taxpayer. Upon receipt of a contribution, the qualified organization shall issue to the taxpayer a statement evidencing receipt of such donation, including the value of such donation.

7. Each qualified organization shall provide information to the director of revenue concerning the identity of each taxpayer making a contribution to the qualified organization who is claiming a tax credit under this section and the amount of the contribution. The director of revenue shall not authorize more than two million dollars in tax credits provided under this section in any calendar year. Contributions shall be processed on a first come, first serve basis. Contributions in excess of the tax credit cap shall be placed in line for tax credits issued the following year, or shall be given the opportunity to complete their donation without the expectation of a tax credit, or shall request to have their donation returned.

8. (1) The department shall develop metrics based on recidivism that show the major factors that increase the probability of an inmate being re-incarcerated. Such factors shall include but not be limited to the number of years since release, types of offenses, and numbers of previous incarceration commitments.

(2) Using this data, the department shall create a practical number of categories with average recidivism percentages, by year, assigned to each category.

(3) The department shall also track the ex-offenders assigned to 501(c)(3) aftercare programs, and for the second through fifth years after release from prison calculate the recidivism rates for former inmates served by these programs.

(4) The recidivism rates for these aftercare programs shall be made available to the public to allow study of best practices and to evaluate the effectiveness of the benevolent tax credit program created by this bill.

9. The provisions of this section shall not be construed to limit or in any way impair the department of revenue's ability to issue tax credits authorized on or before the date the program authorized under this section expires or a taxpayer's ability to redeem such tax credits.

10. Under section 23.253 of the Missouri sunset act:

(1) The program established under this section shall automatically expire on December 31, 2022, unless reauthorized by an act of the general assembly;

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which a program authorized under this section is sunset.

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

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

(4) "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 for educational assistance, except as provided in paragraph (c) of subdivision (4) of subsection 1 of section 135.714 and as provided for in sections 135.712 to 135.719, derived from contributions for which a credit is claimed under this section;

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

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

(7) "Qualified student", the same meaning as used in section 166.700;

(8) "Qualifying contribution", a donation of cash, stock, bonds, or other marketable securities for purposes of claiming a tax credit under sections 135.712 to 135.719;

(9) "Scholarship account", a savings account created by the Missouri empowerment scholarship accounts program authorized by sections 166.700 to 166.720;

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

135.713. 1. For all tax years beginning on or after January 1, 2019, any taxpayer who makes a qualifying contribution to an educational assistance organization may claim a credit against the tax otherwise due under chapter 143, other than taxes withheld under sections 143.191 to 143.265, and chapter 153, in an amount equal to one hundred percent of the amount the taxpayer contributed during the tax year for which the credit is claimed. No taxpayer shall claim a credit under sections 135.712 to 135.719 for any contribution made by the taxpayer, or an agent of the taxpayer, on behalf of the taxpayer's dependent, or in the case of a business taxpayer, on behalf of the business's agent's dependent.

2. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the tax year for which the credit is claimed. The

department shall certify the tax credit amount to the taxpayer and to the department of revenue. A taxpayer may carry the credit forward to any of such taxpayer's four subsequent tax years. All tax credits authorized under the program may be transferred, sold, or assigned.

3. The cumulative amount of tax credits that may be allocated to all taxpayers contributing to educational assistance organizations in any one calendar year shall not exceed twenty-five million dollars, which amount shall annually be adjusted by the department for inflation based on the consumer price index for all urban consumers for the Midwest region, as defined and officially recorded by the United States Department of Labor or its successor. The director shall establish a procedure by which, from the beginning of the calendar year until some point in time later in the calendar 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 calendar 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 calendar year.

135.714. 1. Each educational assistance organization shall:

(1) Notify the department of its intent to provide scholarship accounts to qualified students;

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

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

(4) Ensure that:

(a) One hundred percent of its revenues from interest or investments is spent on scholarship accounts;

(b) At least ninety percent of its revenues from qualifying contributions is spent on scholarship accounts; and

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

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

(5) Distribute scholarship accounts payments either four times per year or in a single lump sum at the beginning of the year as requested by the parent or guardian of a qualified student not to exceed the following:

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

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

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

(7) Demonstrate its financial accountability by:

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

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

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

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

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

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

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

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

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

3. An educational assistance organization may contract with private financial 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 issued by an educational assistance organization to a taxpayer to indicate the value of a contribution received. The department shall require a taxpayer to provide a copy of this receipt if claiming the tax credit authorized by the program.

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

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

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

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

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

2. Under section 23.253 of the Missouri sunset act:

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

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

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

135.1910. 1. As used in this section, the following terms mean:

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

(2) "Director", the director of the department of social services;

(3) "Qualified organization", an organization that provides funding for unmet health, hunger, and hygiene needs for children in school;

(4) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer under the provisions of chapters 143, 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) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed under the provisions of chapter 143; an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state under the provisions of chapter 148; an express company which pays an annual tax on its gross receipts in this state under chapter 153; an individual subject to the state income tax imposed under the provisions of chapter 143; or any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143.

2. For all tax years beginning on or after January 1, 2019, a taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal to fifty percent of the taxpayer's contribution to a qualified organization. The qualified organization shall use the taxpayer's contribution solely for the unmet health, hunger, and hygiene needs of children in school.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year for which the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax credit that cannot be claimed in the taxable year in which

the contribution was made may be carried over to the next four succeeding taxable years until the full credit has been claimed.

4. Except for any excess credit that is carried over under subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution or contributions to a qualified organization or organizations in such taxpayer's taxable year has a value of at least one hundred dollars.

5. The director shall determine, at least annually, which organizations in this state may be classified as qualified organizations. The director may require of an organization seeking to be classified as a qualified organization whatever information that is reasonably necessary to make such a determination. The director shall classify an organization as a qualified organization if such organization meets the definition set forth in subsection 1 of this section.

6. The director shall establish a procedure by which a taxpayer can determine if an organization has been classified as a qualified organization. Qualified organizations shall be permitted to decline a contribution from a taxpayer. To claim the tax credit authorized in this section, a qualified organization may submit to the department an application for the tax credit authorized by this section on behalf of taxpayers. The department shall verify that the qualified organization has submitted the following items accurately and completely:

(1) A valid application in the form and format required by the department;

(2) A statement attesting to the contribution received, which shall include the name and taxpayer identification number of the individual making the contribution, the amount of the contribution, and the date the contribution was received by the provider; and

(3) Payment from the qualified organization equal to the value of the tax credit for which application is made.

If the provider applying for the tax credit meets all criteria required by this subsection, the department shall issue a certificate in the appropriate amount.

7. Each qualified organization shall provide information to the director concerning the identity of each taxpayer making a contribution to the qualified organization who is claiming a tax credit under this section and the amount of the contribution. The director shall provide the information to the director of revenue. The director shall be subject to the confidentiality and penalty provisions of section 32.057 relating to the disclosure of tax information.

8. The provisions of this section shall not be construed to limit or in any way impair the department's ability to issue tax credits authorized on or before the date the program authorized under this section expires or a taxpayer's ability to redeem such tax credits.

9. Under section 23.253 of the Missouri sunset act:

(1) The program established under this section shall automatically expire on December 31, 2022, unless reauthorized by an act of the general assembly;

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which a program authorized under this section is sunset.

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 to a qualified agency as defined in section 210.1500;

(3) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer under the provisions of chapters 143, 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;

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

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

(6) "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 state of Missouri and subject to the state income tax imposed under chapter 143, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state under the provisions of chapter 148, or an express company that pays an annual tax on its gross receipts in this state under chapter 153, or an individual subject to the state income tax under chapter 143, or any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143.

2. (1) Subject to the provisions of subsection 5 of this section, any contribution to a qualified agency made on or after January 1, 2019, shall be eligible for a tax credit as provided by this section.

(2) For all tax years beginning on or after January 1, 2019, a taxpayer shall be entitled to receive a tax credit against the taxpayer's state tax liability in an amount equal to fifty percent of the amount such taxpayer contributed to a qualified agency evidenced by a contribution verification. A contribution verification shall be issued to the taxpayer by the qualified agency receiving the contribution. Such contribution verification shall include the taxpayer's name, Social Security number, amount of tax credit, amount of contribution, the name and address of the agency receiving the credit, and the date the contribution was made. The tax credit provided under this subsection shall be initially filed for the year in which the verified contribution is made.

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

4. Prior to December thirty-first of each year, each qualified agency shall apply to the department of social services in order to verify their qualified agency status. Upon a determination that the agency is eligible to be a qualified agency, the department of social services shall provide a letter of eligibility to such agency. No later than February first of each year, the department of social services shall provide a list of qualified agencies to the department of revenue. A taxpayer shall apply for the tax credit by attaching a copy of the contribution verification provided by a qualified agency to such taxpayer's income tax return.

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

6. The total amount of tax credits authorized under the provisions of this section shall not exceed five million dollars in any fiscal year. The total amount of tax credits

issued but not redeemed shall not exceed fifteen million dollars in any fiscal year. Tax credits shall be issued in the order contributions are received.

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

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

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

(1) "Child with a disability":

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

a. An autism spectrum disorder;

b. Developmental delay;

c. Emotional disability;

d. Hearing impairment;

e. Other health impairments;

f. Specific learning disability;

g. Mild, moderate, or severe intellectual disability;

h. Multiple disabilities;

i. Multiple disabilities with severe sensory impairment;

j. Orthopedic impairment;

k. Preschool severe delay;

l. Speech or language impairment;

m. Traumatic brain injury; or

n. Visual impairment; and

(b) Shall not include a child if the determining factor for the classification is one or more of the following:

a. A lack of appropriate instruction in reading, including essential components of reading instruction;

b. A lack of appropriate instruction in mathematics; or

c. Difficulty in writing, speaking, or understanding the English language due to an environmental background in which a language other than English is primarily or exclusively used;

(2) "Curriculum", a complete course of study for a particular content area or grade level, including any supplemental materials;

(3) "Department", the department of elementary and secondary education;

(4) "Educational assistance organization", the same meaning as used in section 135.712;

(5) "Eligible postsecondary institution", any approved private institution or approved public institution as defined in section 173.1102;

(6) "Parent", the same meaning as used in section 135.712;

(7) "Private school", a school that is not a part of the public school system of the state of Missouri and that charges tuition for the rendering of elementary or secondary educational services;

(8) "Program", the Missouri empowerment scholarship accounts program;

(9) "Qualified school", a home school as defined in section 167.031, a private school as defined in this subsection, or a preschool for children with a disability, that is located in Missouri and that does not discriminate on the basis of race, color, or national origin;

(10) "Qualified student", a resident of this state who:

(a) Is any of the following:

a. Identified as having a disability under Section 504 of the Rehabilitation Act of 1973;

b. Identified by a district as a child with a disability;

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

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

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

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

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

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

(a) Tuition or fees at a qualified school;

(b) Textbooks required by a qualified school;

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

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

(e) Curriculum;

(f) Tuition or fees for a nonpublic online learning program;

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

(h) Contributions to a qualified tuition program established under 26 U.S.C. Section 529 for the benefit of the qualified student;

(i) Tuition or fees at an eligible postsecondary institution;

(j) Textbooks required by an eligible postsecondary institution;

(k) Fees for management of the empowerment scholarship account by firms selected by the educational assistance organization;

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

(m) Insurance or surety bond payments as required by the department; and

(5) Moneys deposited in the qualified student's account shall not be used for consumable educational supplies including, but not limited to, paper, pens, pencils, or markers.

2. Missouri empowerment scholarship accounts are renewable on an annual basis upon request of the parent of a qualified student. Notwithstanding any changes to the qualified student's multidisciplinary evaluation team plan, a student who has previously qualified for a Missouri empowerment scholarship account shall remain eligible to apply for renewal until the student completes high school and submits scores from a nationally standardized norm-referenced achievement test, advanced placement examination, international baccalaureate examination, or any exam related to college or university

admission purchased with Missouri empowerment scholarship account funds to the department.

3. A signed agreement under this section shall satisfy the compulsory school attendance requirements of section 167.031.

4. A qualified school or a provider of services purchased under this section shall not share, refund, or rebate any Missouri empowerment scholarship account moneys with the parent or qualified student in any manner.

5. If a qualified student withdraws from the program by enrolling in a school other than a qualified school, or is disqualified from the program under the provisions of section 166.710, the qualified student's Missouri empowerment scholarship account shall be closed and any remaining funds shall be returned to the educational assistance organization for redistribution to other qualified students. Under such circumstances, the obligation to provide an education for such student shall transfer back to the student's district of residence.

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

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

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

2. A parent or qualified student or vendor may be disqualified from program participation if, after a hearing before the commissioner of education or his or her designee, the party is found to have committed an intentional program violation consisting of any misrepresentation or other act that materially violates any law or rule governing the program. The department may remove any parent or qualified student from eligibility for a Missouri empowerment scholarship program account. A parent may appeal the

department's decision to the state board of education. A parent may appeal the state board of education's decision to the circuit court of the county in which the student resides.

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

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

(1) Rules for conducting examinations of use of account funds;

(2) Rules for conducting random, quarterly, and annual reviews of accounts;

(3) Creating an online anonymous fraud reporting service;

(4) Creating an anonymous telephone hotline for fraud reporting; and

(5) A surety bond requirement for account holders.

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

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

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

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

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

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

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

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

(1) "Eligible recipient", a school-aged child enrolled in kindergarten through twelfth grade who:

(a) Is currently in the protective custody of the state or recently adopted; and

(b) Has been in the protective custody of the state for at least twelve of the last forty-eight months;

(2) "Qualified agency", an entity organized to receive donations, issue contribution verifications for such donations and provide scholarships to eligible recipients in this state with at least ninety percent of its revenues from contributions;

(3) "Qualified school", a nonpublic elementary or secondary school in this state or in the case of an adopted child, a public elementary or secondary school in this state shall be considered a qualified school;

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

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

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

2. Any eligible recipient who receives a scholarship under the provisions of this section shall be reimbursed for any reasonable transportation costs incurred or shall receive the mileage rate prescribed by this subsection for the distance necessarily traveled in going to and returning from a qualified school, the distance to be estimated by the most usually traveled route from the place of departure to a qualified school. Mileage shall be reimbursed at the rate prescribed by the Internal Revenue Service for allowable expenses for motor vehicle use expressed as an amount per mile.

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

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

5. The department of elementary and secondary education shall prepare and maintain an easy-to-search database containing statewide assessment scores of all

recipients of scholarships under this section. Each recipient shall be assigned a random identification number by the department for purposes of the database and no personally identifiable data shall be accessible on the database.

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

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