

SECOND REGULAR SESSION

[CORRECTED]

# HOUSE BILL NO. 1888

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE DOGAN.

5465H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 163.031, RSMo, and to enact in lieu thereof sixteen new sections relating to education savings accounts.

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

Section A. Section 163.031, RSMo, is repealed and sixteen new sections enacted in lieu thereof, to be known as sections 160.430, 162.1500, 162.1505, 162.1510, 163.031, 166.800, 166.802, 166.804, 166.806, 166.808, 166.810, 166.812, 166.814, 166.816, 166.818, and 167.785, to read as follows:

**160.430. 1. Except as otherwise provided in this section, upon the request of a parent or legal guardian of an opt-in child, the governing body of the charter school shall authorize the child to participate in a class that is not otherwise available to the child from his or her participating entity, as defined in section 166.800, or participate in an extracurricular activity at the charter school if:**

**(1) Space for the child in the class or extracurricular activity is available;**

**(2) The parent or legal guardian demonstrates to the satisfaction of the governing body that the child is qualified to participate in the class or extracurricular activity; and**

**(3) A notice of intent of an opt-in child to participate in programs and activities is filed for the child with the school district in which the child resides for the current school year under section 162.1505.**

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.

2. If the governing body of a charter school authorizes a child to participate in a class or extracurricular activity under this section, the governing body is not required to provide transportation for the child to attend the class or activity.

3. The governing body of a charter school may revoke its approval for a child to participate in a class or extracurricular activity at a charter school under this section if the governing body determines that the child has failed to comply with applicable statutes or applicable rules and regulations. If the governing body so revokes its approval, neither the governing body nor the charter school is liable for any damages relating to the denial of services to the child.

4. The governing body of a charter school may, before authorizing an opt-in child to participate in a class or extracurricular activity under this section, require proof of the identity of the child, including the birth certificate of the child or other documentation sufficient to establish the identity of the child.

5. For purposes of this section, "opt-in child" means a child for whom an education savings account has been established under section 166.802 who is not enrolled full-time in a public or private school and who receives all or a portion of his or her instruction from a participating entity, as defined in section 166.800.

162.1500. 1. (1) For purposes of sections 162.1500 to 162.1510, "parent" means the parent, custodial parent, legal guardian, or other person in this state who has control or charge of a child and the legal right to direct the education of the child.

(2) For purposes of sections 162.1500 to 162.1510, "opt-in child" has the same meaning such term is given in section 160.430.

2. The parent of an opt-in child shall provide notice to the school district where the child would otherwise attend or the charter school in which the child was previously enrolled, as applicable, that the child is an opt-in child as soon as practicable after entering into an agreement to establish an education savings account under section 166.802. Such notice shall also include:

(1) The full name, age, and gender of the child; and

(2) The name and address of each parent of the child.

3. The school district or the charter school, as applicable, shall provide to a parent who files a notice under subsection 1 of this section a written acknowledgment that clearly indicates that the parent has provided the notification required by law and that the child is an opt-in child. The written acknowledgment shall be deemed proof of compliance with section 167.031.

4. The superintendent of schools of a school district or the governing body of a charter school, as applicable, shall process a written request for a copy of the records of

20 the school district or charter school, as applicable, or any information contained therein,  
21 relating to an opt-in child not later than five days after receiving the request. The  
22 superintendent of schools or governing body of a charter school may only release such  
23 records or information:

24 (1) To the office of administration and house budget committee for use in preparing  
25 the budget;

26 (2) To a person or entity specified by the parent of the child, or by the child if the  
27 child is at least eighteen years of age, upon suitable proof of identity of the parent or child;  
28 or

29 (3) If required by specific statute.

30 5. If an opt-in child seeks admittance or entrance to any public school in this state,  
31 the school may use only commonly used practices in determining the academic ability,  
32 placement, or eligibility of the child. If the child enrolls in a charter school, the charter  
33 school shall, to the extent practicable, notify the school board of the resident school district  
34 of the child's enrollment in the charter school. Regardless of whether the charter school  
35 provides such notification to the school board, the charter school may count the child who  
36 is enrolled for purposes of any state funding.

37 6. A school shall not discriminate in any manner against an opt-in child or a child  
38 who was formerly an opt-in child.

39 7. Each school district shall allow an opt-in child to participate in all college  
40 entrance examinations offered in this state. Each school district shall, upon request,  
41 provide to the parent of an opt-in child who resides in the school district information  
42 regarding the availability of such examinations.

162.1505. 1. The department of elementary and secondary education shall develop  
2 a standard form for the notice of intent of an opt-in child to participate in programs and  
3 activities. The school board of each school district shall, in a timely manner, make only the  
4 form developed by the department available to parents of opt-in children.

5 2. If an opt-in child wishes to participate in classes, activities, programs, sports, or  
6 interscholastic activities and events at a public school or through a school district, or  
7 through the Missouri State High School Activities Association or any successor  
8 organization, the parent of the child shall file a current notice of intent to participate with  
9 the resident school district.

162.1510. 1. Except as otherwise provided in this section, upon the request of a  
2 parent or legal guardian of an opt-in child, the school board of the school district in which  
3 the child resides shall authorize the child to participate in any classes and extracurricular  
4 activities, excluding sports, at a public school within the school district if:

5           (1) Space for the child in the class or extracurricular activity is available;

6           (2) The parent or legal guardian demonstrates to the satisfaction of the school  
7 board that the child is qualified to participate in the class or extracurricular activity; and

8           (3) A notice of intent of an opt-in child to participate in programs and activities is  
9 filed for the child with the school district for the current school year under section  
10 162.1505.

11           2. If the governing body of a charter school authorizes a child to participate in a  
12 class or extracurricular activity under this section, the school board is not required to  
13 provide transportation for the child to attend the class or activity. An opt-in child shall be  
14 allowed to participate in interscholastic activities and events governed by the Missouri  
15 State High School Activities Association or any successor organization and interscholastic  
16 activities and events, including sports, under subsection 4 of this section.

17           3. The school board may revoke its approval for a child to participate in a class or  
18 extracurricular activity at a public school under this section if the board determines that  
19 the child has failed to comply with applicable statutes or applicable rules and regulations.  
20 If the board so revokes its approval, neither the board nor the charter school is liable for  
21 any damages relating to the denial of services to the child.

22           4. In addition to those interscholastic activities and events governed by the Missouri  
23 State High School Activities Association or any successor organization, an opt-in child shall  
24 be allowed to participate in interscholastic activities and events, including sports, if a notice  
25 of intent of an opt-in child to participate in programs and activities is filed for the child  
26 with the school district for the current school year under section 162.1505. An opt-in child  
27 who participates in interscholastic activities and events at a public school under this  
28 subsection shall participate within the school district of the child's residence through the  
29 public school that the child is otherwise zoned to attend. Any rules or regulations that  
30 apply to pupils enrolled in public schools who participate in interscholastic activities and  
31 events, including sports, apply in the same manner to opt-in children who participate in  
32 interscholastic activities and events including, but not limited to, provisions governing:

33           (1) Eligibility and qualifications for participation;

34           (2) Fees for participation;

35           (3) Insurance;

36           (4) Transportation;

37           (5) Requirements of physical examination;

38           (6) Responsibilities of participants;

39           (7) Schedules of events;

40           (8) Safety and welfare of participants;

41           **(9) Eligibility for awards, trophies, and medals;**

42           **(10) Conduct of behavior and performance of participants; and**

43           **(11) Disciplinary procedures.**

44           **5. If an opt-in child participates in interscholastic activities and events under**  
45 **subsection 4 of this section:**

46           **(1) No challenge may be brought by the Missouri State High School Activities**  
47 **Association or any successor organization, a school district, a public school or private**  
48 **school, a parent or guardian of a pupil enrolled in a public school or a private school, a**  
49 **pupil enrolled in a public school or private school, or any other entity or person claiming**  
50 **that an interscholastic activity or event is invalid because an opt-in child is allowed to**  
51 **participate; and**

52           **(2) Neither the school district nor a public school may prescribe any regulations,**  
53 **rules, policies, procedures, or requirements governing the eligibility or participation of the**  
54 **opt-in child that are more restrictive than the provisions governing the eligibility and**  
55 **participation of pupils enrolled in public schools.**

56           **6. The school board of a school district:**

57           **(1) May, before authorizing an opt-in child to participate in a class or**  
58 **extracurricular activity, excluding sports, under this section, require proof of the identity**  
59 **of the child including, but not limited to, the birth certificate of the child or other**  
60 **documentation sufficient to establish the identity of the child; and**

61           **(2) Shall, before allowing an opt-in child to participate in interscholastic activities**  
62 **and events governed by the Missouri State High School Activities Association or any**  
63 **successor organization, and interscholastic activities and events under subsection 4 of this**  
64 **section, require proof of the identity of the child including, but not limited to, the birth**  
65 **certificate of the child or other documentation sufficient to establish the identity of the**  
66 **child.**

163.031. 1. The department of elementary and secondary education shall calculate and  
2 distribute to each school district qualified to receive state aid under section 163.021 an amount  
3 determined by multiplying the district's weighted average daily attendance by the state adequacy  
4 target, multiplying this product by the dollar value modifier for the district, and subtracting from  
5 this product the district's local effort and subtracting payments from the classroom trust fund  
6 under section 163.043 and subtracting all the funds deposited in education savings accounts,  
7 as defined in section 166.800, established on behalf of children who reside in the district.

8           2. Other provisions of law to the contrary notwithstanding:

9           (1) For districts with an average daily attendance of more than three hundred fifty in the  
10 school year preceding the payment year:

11 (a) For the 2008-09 school year, the state revenue per weighted average daily attendance  
12 received by a district from the state aid calculation under subsections 1 and 4 of [this] section  
13 **163.031 as it existed on July 1, 2015**, as applicable, and the classroom trust fund under section  
14 163.043 shall not be less than the state revenue received by a district in the 2005-06 school year  
15 from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share,  
16 and free textbook payment amounts multiplied by the dollar value modifier, and dividing this  
17 product by the weighted average daily attendance computed for the 2005-06 school year;

18 (b) For each year subsequent to the 2008-09 school year, the amount shall be no less than  
19 that computed in paragraph (a) of this subdivision, multiplied by the weighted average daily  
20 attendance pursuant to section 163.036, less any increase in revenue received from the classroom  
21 trust fund under section 163.043;

22 (2) For districts with an average daily attendance of three hundred fifty or less in the  
23 school year preceding the payment year:

24 (a) For the 2008-09 school year, the state revenue received by a district from the state  
25 aid calculation under subsections 1 and 4 of [this] section **163.031 as it existed on July 1, 2015**,  
26 as applicable, and the classroom trust fund under section 163.043 shall not be less than the  
27 greater of state revenue received by a district in the 2004-05 or 2005-06 school year from the  
28 foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free  
29 textbook payment amounts multiplied by the dollar value modifier;

30 (b) For each year subsequent to the 2008-09 school year, the amount shall be no less than  
31 that computed in paragraph (a) of this subdivision;

32 (3) The department of elementary and secondary education shall make an addition in the  
33 payment amount specified in subsection 1 of this section to assure compliance with the  
34 provisions contained in this subsection.

35 3. School districts that meet the requirements of section 163.021 shall receive categorical  
36 add-on revenue as provided in this subsection. The categorical add-on for the district shall be  
37 the sum of: seventy-five percent of the district allowable transportation costs under section  
38 163.161; the career ladder entitlement for the district, as provided for in sections 168.500 to  
39 168.515; the vocational education entitlement for the district, as provided for in section 167.332;  
40 and the district educational and screening program entitlements as provided for in sections  
41 178.691 to 178.699. The categorical add-on revenue amounts may be adjusted to accommodate  
42 available appropriations.

43 4. For any school district meeting the eligibility criteria for state aid as established in  
44 section 163.021, but which is considered an option district under section 163.042 and therefore  
45 receives no state aid, the commissioner of education shall present a plan to the superintendent  
46 of the school district for the waiver of rules and the duration of said waivers, in order to promote

47 flexibility in the operations of the district and to enhance and encourage efficiency in the delivery  
48 of instructional services as provided in section 163.042.

49         5. (1) No less than seventy-five percent of the state revenue received under the  
50 provisions of subsections 1 and 2 of this section shall be placed in the teachers' fund, and the  
51 remaining percent of such moneys shall be placed in the incidental fund. No less than  
52 seventy-five percent of one-half of the funds received from the school district trust fund  
53 distributed under section 163.087 shall be placed in the teachers' fund. One hundred percent of  
54 revenue received under the provisions of section 163.161 shall be placed in the incidental fund.  
55 One hundred percent of revenue received under the provisions of sections 168.500 to 168.515  
56 shall be placed in the teachers' fund.

57         (2) A school district shall spend for certificated compensation and tuition expenditures  
58 each year:

59         (a) An amount equal to at least seventy-five percent of the state revenue received under  
60 the provisions of subsections 1 and 2 of this section;

61         (b) An amount equal to at least seventy-five percent of one-half of the funds received  
62 from the school district trust fund distributed under section 163.087 during the preceding school  
63 year; and

64         (c) Beginning in fiscal year 2008, as much as was spent per the second preceding year's  
65 weighted average daily attendance for certificated compensation and tuition expenditures the  
66 previous year from revenue produced by local and county tax sources in the teachers' fund, plus  
67 the amount of the incidental fund to teachers' fund transfer calculated to be local and county tax  
68 sources by dividing local and county tax sources in the incidental fund by total revenue in the  
69 incidental fund.

70

71 In the event a district fails to comply with this provision, the amount by which the district fails  
72 to spend funds as provided herein shall be deducted from the district's state revenue received  
73 under the provisions of subsections 1 and 2 of this section for the following year, provided that  
74 the state board of education may exempt a school district from this provision if the state board  
75 of education determines that circumstances warrant such exemption.

76         6. If a school district's annual audit discloses that students were inappropriately identified  
77 as eligible for free and reduced lunch, special education, or limited English proficiency and the  
78 district does not resolve the audit finding, the department of elementary and secondary education  
79 shall require that the amount of aid paid pursuant to the weighting for free and reduced lunch,  
80 special education, or limited English proficiency in the weighted average daily attendance on the  
81 inappropriately identified pupils be repaid by the district in the next school year and shall  
82 additionally impose a penalty of one hundred percent of such aid paid on such pupils, which

83 penalty shall also be paid within the next school year. Such amounts may be repaid by the  
84 district through the withholding of the amount of state aid.

85 7. Notwithstanding any provision of law to the contrary, in any fiscal year during which  
86 the total formula appropriation is insufficient to fully fund the entitlement calculation of this  
87 section, the department of elementary and secondary education shall adjust the state adequacy  
88 target in order to accommodate the appropriation level for the given fiscal year. In no manner  
89 shall any payment modification be rendered for any district qualified to receive payments under  
90 subsection 2 of this section based on insufficient appropriations.

**166.800. For purposes of sections 166.800 to 166.818, the following terms mean:**

2 (1) "Education savings account", an account established for a child under section  
3 166.802;

4 (2) "Eligible institution", any public community college, public college, or public  
5 university located in the state of Missouri;

6 (3) "Parent", the parent, custodial parent, legal guardian, or other person in this  
7 state who has control or charge of a child and the legal right to direct the education of the  
8 child;

9 (4) "Participating entity", an accredited nonpublic school in Missouri that complies  
10 with all state laws that apply to nonpublic schools, an eligible institution, a tutor or  
11 tutoring agency, or a parent that has provided to the state treasurer the application  
12 described under section 166.810;

13 (5) "Resident school district", the school district in which a child would be enrolled  
14 based on his or her residence.

**166.802. 1. Except as otherwise provided in subsection 10 of this section, the parent**  
2 **of any child to whom section 167.031 applies who has been enrolled in a public school in**  
3 **this state during the period immediately preceding the establishment of an education**  
4 **savings account under this section for not less than one hundred school days without**  
5 **interruption may establish an education savings account for the child by entering into a**  
6 **written agreement with the state treasurer, in a manner and on a form provided by the**  
7 **state treasurer. The agreement shall provide that:**

8 (1) The child shall receive instruction in this state from a participating entity for  
9 the school year for which the agreement applies;

10 (2) The child shall receive a grant, in the form of moneys deposited pursuant to  
11 section 166.804 in the education savings account established for the child under subsection  
12 2 of this section;

13 (3) The moneys in the education savings account established for the child shall be  
14 expended only as authorized under section 166.806; and



15           **(4) The state treasurer shall freeze moneys in the education savings account during**  
16 **any break in the school year, including any break between school years.**

17           **2. If an agreement is entered into under subsection 1 of this section, an education**  
18 **savings account shall be established by the parent on behalf of the child. The account shall**  
19 **be maintained with a financial management firm qualified by the state treasurer under**  
20 **section 166.808.**

21           **3. The failure to enter into an agreement under subsection 1 of this section for any**  
22 **school year for which a child is subject to the requirements of section 167.031 shall not**  
23 **preclude the parent of the child from entering into an agreement for a subsequent school**  
24 **year.**

25           **4. An agreement entered into under subsection 1 of this section shall be valid for**  
26 **one school year but may be terminated early. If the agreement is terminated early, the**  
27 **child shall not receive instruction from a public school in this state until the end of the**  
28 **period for which the last deposit was made into the education savings account under**  
29 **section 166.804, except to the extent the pupil was allowed to receive instruction from a**  
30 **public school under an agreement.**

31           **5. An agreement terminates automatically if the child no longer resides in the state.**  
32 **In such a case, any moneys remaining in the education savings account of the child reverts**  
33 **to the credit of the general revenue fund.**

34           **6. An agreement may be renewed for any school year for which a child is subject**  
35 **to the requirements of section 167.031. The failure to renew an agreement for any school**  
36 **year shall not preclude the parent of the child from renewing the agreement for any**  
37 **subsequent school year.**

38           **7. A parent may enter into a separate agreement under subsection 1 of this section**  
39 **for each child of the parent. Not more than one education savings account may be**  
40 **established for a child.**

41           **8. Except as otherwise provided in subsection 10 of this section, the state treasurer**  
42 **shall enter into or renew an agreement under this section with any parent of a child subject**  
43 **to the requirements of section 167.031 who applies to the state treasurer in the manner**  
44 **provided by the state treasurer. The state treasurer shall make the application available**  
45 **on the website of the state treasurer.**

46           **9. Upon entering into or renewing an agreement under this section, the state**  
47 **treasurer shall provide to the parent who enters into or renews the agreement a written**  
48 **explanation of the authorized uses, under section 166.806, of the moneys in an education**  
49 **savings account and the responsibilities of the parent and the state treasurer under the**  
50 **agreement and sections 166.800 to 166.818.**

51           **10. A parent shall not establish an education savings account for a child who will**  
52 **be homeschooled, who will receive instruction outside this state, or who will remain**  
53 **enrolled full-time in a public school, regardless of whether such a child receives instruction**  
54 **from a participating entity. A parent may establish an education savings account for a**  
55 **child who receives a portion of his or her instruction from a public school and a portion**  
56 **of his or her instruction from a participating entity.**

**166.804. 1. If a parent enters into or renews an agreement under section 166.802,**  
2 **a grant of money on behalf of the child shall be deposited in the education savings account**  
3 **of the child.**

4           **2. Except as otherwise provided in subsections 3 and 4 of this section, the grant**  
5 **required by subsection 1 of this section shall, for the school year for which the grant is**  
6 **made, be in an amount equal to:**

7           **(1) For a child who is a pupil with a disability, as identified under state eligibility**  
8 **criteria, or a child with a household income that is less than one hundred eighty-five**  
9 **percent of the federally designated level signifying poverty, one hundred percent of the**  
10 **state adequacy target, as defined in section 163.011; and**

11           **(2) For all other children, ninety percent of the state adequacy target, as defined**  
12 **in section 163.011.**

13           **3. If a child receives a portion of his or her instruction from a participating entity**  
14 **and a portion of his or her instruction from a public school, for the school year for which**  
15 **the grant is made, the grant required by subsection 1 of this section shall be on a pro rata**  
16 **basis based on the percentage of the total instruction provided to the child by the**  
17 **participating entity in proportion to the total instruction provided to the child.**

18           **4. The state treasurer shall deduct not more than three percent of each grant for**  
19 **the administrative costs of implementing the provisions of sections 166.800 to 166.818.**

20           **5. The state treasurer shall deposit the moneys for each grant in quarterly**  
21 **installments under a schedule determined by the state treasurer.**

22           **6. Any moneys remaining in an education savings account:**

23           **(1) At the end of a school year may be carried forward to the next school year if the**  
24 **agreement entered into under section 166.802 is renewed;**

25           **(2) If an agreement entered into under section 166.802 is not renewed or is**  
26 **terminated because the child for whom the account was established graduates from high**  
27 **school, or for any other reason, reverts to the credit of the general revenue fund at the end**  
28 **of the last day of the agreement.**

**166.806. 1. Moneys deposited in an education savings account shall be used only**  
2 **to pay for:**

3           (1) Tuition and fees at a school that is a participating entity in which the child is  
4 enrolled;

5           (2) Textbooks required for a child who enrolls in a school that is a participating  
6 entity;

7           (3) Tutoring or other teaching services provided by a tutor or tutoring facility that  
8 is a participating entity;

9           (4) Fees for any national norm-referenced achievement examination, advanced  
10 placement or similar examination, or standardized examination required for admission to  
11 a college or university;

12           (5) If the child is a pupil with a disability, as identified under state eligibility  
13 criteria, fees for any special instruction or special services provided to the child;

14           (6) Tuition and fees at an eligible institution that is a participating entity;

15           (7) Textbooks required for the child at an eligible institution that is a participating  
16 entity or to receive instruction from any other participating entity;

17           (8) Fees for the management of the education savings account, as described in  
18 subsection 4 of section 166.804;

19           (9) Transportation required for the child to travel to and from a participating  
20 entity or any combination of participating entities up to but not to exceed seven hundred  
21 fifty dollars per school year; or

22           (10) Purchasing a curriculum or any supplemental materials required to administer  
23 the curriculum.

24           2. A participating entity that receives a payment authorized by subsection 1 of this  
25 section shall not:

26           (1) Refund any portion of the payment to a parent who made the payment, unless  
27 the refund is for an item that is being returned or an item or service that has not been  
28 provided; or

29           (2) Rebate or otherwise share any portion of the payment with the parent who  
30 made the payment.

31           3. A parent who receives a refund under subsection 2 of this section shall deposit  
32 the refund in the education savings account from which the money refunded was paid.

33           4. Nothing in this section shall be deemed to prohibit a parent or child from making  
34 a payment for any tuition, fee, service, or product described in subsection 1 of this section  
35 from a source other than the education savings account of the child.

166.808. 1. The state treasurer shall qualify one or more private financial  
2 management firms to manage education savings accounts and shall establish reasonable  
3 fees, based on market rates, for the management of education savings accounts.

4           **2. An education savings account shall be audited randomly each year by a certified**  
5 **or licensed public accountant. The state treasurer may provide for additional audits of an**  
6 **education savings account as it determines necessary.**

7           **3. If the state treasurer determines that there has been substantial misuse of the**  
8 **moneys in an education savings account, the state treasurer may:**

9           **(1) Freeze or dissolve the account, subject to any regulations adopted by the state**  
10 **treasurer providing for notice of such action and opportunity to respond to the notice; and**

11           **(2) Give notice of his or her determination to the attorney general or the**  
12 **prosecuting attorney of the county in which the parent resides.**

**166.810. 1. The following persons may become a participating entity by submitting**  
2 **an application demonstrating that the person is:**

3           **(1) An accredited nonpublic school in Missouri that complies with all state laws that**  
4 **apply to nonpublic schools;**

5           **(2) An eligible institution;**

6           **(3) A tutor or tutoring facility that is accredited by a state, regional, or national**  
7 **accrediting organization; or**

8           **(4) The parent of a child.**

9           **2. The state treasurer shall approve an application submitted under subsection 1**  
10 **of this section or request additional information to demonstrate that the person meets the**  
11 **criteria to serve as a participating entity. If the applicant is unable to provide such**  
12 **additional information, the state treasurer may deny the application.**

13           **3. If it is reasonably expected that a participating entity will receive, from payments**  
14 **made from education savings accounts, more than fifty thousand dollars during any school**  
15 **year, the participating entity shall annually, on or before the date prescribed by the state**  
16 **treasurer by regulation:**

17           **(1) Post a surety bond in an amount equal to the amount reasonably expected to be**  
18 **paid to the participating entity from education savings accounts during the school year;**  
19 **or**

20           **(2) Provide evidence satisfactory to the state treasurer that the participating entity**  
21 **otherwise has unencumbered assets sufficient to pay to the state treasurer an amount equal**  
22 **to the amount described in subdivision (1) of this subsection.**

23           **4. Each participating entity that accepts payments made from education savings**  
24 **accounts shall provide a receipt for each such payment to the parent who makes the**  
25 **payment.**

26           **5. The state treasurer may refuse to allow an entity described in subsection 1 of this**  
27 **section to continue to participate in the grant program provided for in sections 166.800 to**  
28 **166.818 if the state treasurer determines that the entity:**

29           **(1) Has routinely failed to comply with the provisions of sections 166.800 to**  
30 **166.818; or**

31           **(2) Has failed to provide any educational services required by law to a child**  
32 **receiving instruction from the entity if the entity is accepting payments made from the**  
33 **education savings account of the child.**

34           **6. If the state treasurer takes an action described in subsection 5 of this section**  
35 **against an entity described in subsection 1 of this section, the state treasurer shall provide**  
36 **immediate notice of the action to each parent of a child receiving instruction from the**  
37 **entity who has entered into or renewed an agreement under section 166.802 and on behalf**  
38 **of whose child a grant of money has been deposited under section 166.804.**

**166.812. 1. Each participating entity that accepts payments for tuition and fees**  
2 **made from education savings accounts shall:**

3           **(1) Ensure that each child on whose behalf a grant of moneys has been deposited**  
4 **under section 166.804 and who is receiving instruction from the participating entity takes:**

5           **(a) Any examinations required for public school pupils in the same grade under**  
6 **section 160.518; or**

7           **(b) Norm-referenced achievement examinations in mathematics and English**  
8 **language arts each school year;**

9           **(2) Provide for value-added assessments of the results of the examinations**  
10 **described in subdivision (1) of this subsection; and**

11           **(3) Subject to the Family Educational Rights and Privacy Act of 1974 (FERPA), 20**  
12 **U.S.C. Section 1232g, and any corresponding regulations, provide the results of the**  
13 **examinations described in subdivision (1) of this subsection to the department of**  
14 **elementary and secondary education or an organization designated by the department of**  
15 **elementary and secondary education under subsection 4 of this section.**

16           **2. The department shall:**

17           **(1) Aggregate the examination results provided under subsection 1 of this section**  
18 **according to the grade level, gender, race, and family income level of each child whose**  
19 **examination results are provided; and**

20           **(2) Subject to FERPA, and any corresponding regulations, make available on the**  
21 **website of the department of elementary and secondary education:**

22           **(a) The aggregated results and any associated learning gains; and**

23           (b) After three school years for which examination data has been collected, the  
24 graduation rates, as applicable, of children whose examination results are provided.

25           3. The state treasurer shall administer an annual survey of parents who enter into  
26 or renew an agreement under section 166.802. The survey shall ask each parent to indicate  
27 the number of years the parent has entered into or renewed such an agreement and to  
28 express:

29           (1) The relative satisfaction of the parent with the grant program established under  
30 sections 166.800 to 166.818; and

31           (2) The opinions of the parent regarding any topics, items, or issues that the state  
32 treasurer determines may aid the state treasurer in evaluating and improving the  
33 effectiveness of the grant program established under sections 166.800 to 166.818.

34           4. The department of elementary and secondary education may arrange for a third-  
35 party organization to perform the duties of the department described in this section.

          166.814. 1. The state treasurer shall annually make available a list of participating  
2 entities, other than any parent of a child.

3           2. Subject to the Family Educational Rights and Privacy Act of 1974, and any  
4 corresponding regulations, the department of elementary and secondary education shall  
5 annually require the resident school district of each child on whose behalf a grant of  
6 moneys is made under section 166.804 to provide to the participating entity any  
7 educational records of the child.

          166.816. Nothing in the provisions of sections 166.800 to 166.818 shall be deemed  
2 to limit the independence or autonomy of a participating entity or to make the actions of  
3 a participating entity the actions of the state government.

          166.818. The state treasurer shall promulgate rules to implement the provisions of  
2 sections 166.800 to 166.818. Any rule or portion of a rule, as that term is defined in section  
3 536.010, that is created under the authority delegated in this section shall become effective  
4 only if it complies with and is subject to all of the provisions of chapter 536 and, if  
5 applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of  
6 the powers vested with the general assembly pursuant to chapter 536 to review, to delay  
7 the effective date, or to disapprove and annul a rule are subsequently held  
8 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
9 after August 28, 2016, shall be invalid and void.

          167.785. 1. For purposes of this section, "opt-in child" means a child for whom an  
2 education savings account has been established under section 166.802, who is not enrolled  
3 full-time in a public or private school, and who receives all or a portion of his or her  
4 instruction from a participating entity, as defined in section 166.800.

2. The Missouri State High School Activities Association, or any successor organization, shall promulgate rules, in the same manner as allowed by state agencies, to implement the provisions of this section including, but not limited to, requirements governing eligibility and participation of opt-in children in interscholastic activities and events. 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.

3. An opt-in child who wishes to participate shall have on file with the school district in which the child resides a current notice of intent of an opt-in child to participate in programs and activities under section 162.1505.

4. An opt-in child shall be allowed to participate in interscholastic activities and events in accordance with the rules promulgated by the Missouri State High School Activities Association, or any successor organization, if a notice of intent of an opt-in child to participate in programs and activities is filed for the child with the school district in which the child resides for the current school year under section 162.1505.

5. Any rules that apply to pupils enrolled in public schools who participate in interscholastic activities and events apply in the same manner to opt-in children who participate in interscholastic activities and events including, without limitation, provisions governing:

- (1) Eligibility and qualifications for participation;
- (2) Fees for participation;
- (3) Insurance;
- (4) Transportation;
- (5) Requirements of physical examinations;
- (6) Responsibilities of participants;
- (7) Schedules of events;
- (8) Safety and welfare of participants;
- (9) Eligibility for awards, trophies, and medals;
- (10) Conduct of behavior and performance of participants; and
- (11) Disciplinary procedures.

40           **6. No challenge may be brought by the Missouri State High School Activities**  
41 **Association or any successor organization, a school district, a public school or private**  
42 **school, a parent or guardian of a pupil enrolled in a public school or a private school, a**  
43 **pupil enrolled in a public school or private school, or any other entity or person claiming**  
44 **that an interscholastic activity or event is invalid because opt-in children are allowed to**  
45 **participate in the interscholastic activity or event.**

46           **7. A school district, public school, or private school shall not prescribe any**  
47 **regulations, rules, policies, procedures, or requirements governing the eligibility of opt-in**  
48 **children to participate in interscholastic activities and events or participation of opt-in**  
49 **children in interscholastic activities and events that are more restrictive than the provisions**  
50 **governing eligibility and participation promulgated by the Missouri State High School**  
51 **Activities Association or any successor organization.**

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