

FIRST REGULAR SESSION
[PERFECTED]
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 306
101ST GENERAL ASSEMBLY

0675H.03P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 160.545, 162.720, 166.400, 166.410, 166.415, 166.420, 166.425, 166.435, 166.440, 166.456, 166.502, and 209.610, RSMo, and to enact in lieu thereof twelve new sections relating to expanding choices for educational opportunities, with an emergency clause for a certain section.

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

Section A. Sections 160.545, 162.720, 166.400, 166.410, 166.415, 166.420, 166.425, 2 166.435, 166.440, 166.456, 166.502, and 209.610, RSMo, are repealed and twelve new sections 3 enacted in lieu thereof, to be known as sections 160.545, 162.720, 166.400, 166.410, 166.415, 4 166.420, 166.425, 166.435, 166.440, 166.456, 166.502, and 209.610, to read as follows:

160.545. 1. There is hereby established within the department of elementary and 2 secondary education the "A+ Schools Program" to be administered by the commissioner of 3 education. The program shall consist of grant awards made to public secondary schools that 4 demonstrate a commitment to ensure that:

5 (1) All students be graduated from school;

6 (2) All students complete a selection of high school studies that is challenging and for 7 which there are identified learning expectations; and

8 (3) All students:

9 (a) Earn credits toward any type of college degree while in high school; or

10 (b) Proceed from high school graduation to a college or postsecondary vocational or 11 technical school or high-wage job with work place skill development opportunities.

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.

12 2. The state board of education shall promulgate rules and regulations for the approval
13 of grants made under the program to schools that:

14 (1) Establish measurable districtwide performance standards for the goals of the program
15 outlined in subsection 1 of this section; and

16 (2) Specify the knowledge, skills and competencies, in measurable terms, that students
17 must demonstrate to successfully complete any individual course offered by the school, and any
18 course of studies [~~which~~] **that** will qualify a student for graduation from the school; and

19 (3) Do not offer a general track of courses that, upon completion, can lead to a high
20 school diploma; and

21 (4) Require rigorous coursework with standards of competency in basic academic
22 subjects for students pursuing vocational and technical education as prescribed by rule and
23 regulation of the state board of education; and

24 (5) Have a partnership plan developed in cooperation and with the advice of local
25 business persons, labor leaders, parents, and representatives of college and postsecondary
26 vocational and technical school representatives, with the plan then approved by the local board
27 of education. The plan shall specify a mechanism to receive information on an annual basis from
28 those who developed the plan in addition to senior citizens, community leaders, and teachers to
29 update the plan in order to best meet the goals of the program as provided in subsection 1 of this
30 section. Further, the plan shall detail the procedures used in the school to identify students that
31 may drop out of school and the intervention services to be used to meet the needs of such
32 students. The plan shall outline counseling and mentoring services provided to students who will
33 enter the work force upon graduation from high school, address apprenticeship and intern
34 programs, and shall contain procedures for the recruitment of volunteers from the community
35 of the school to serve in schools receiving program grants.

36 3. Any nonpublic school in this state may apply to the state board of education for
37 certification that it meets the requirements of this section subject to the same criteria as public
38 high schools. Every nonpublic school that applies and has met the requirements of this section
39 shall have its students eligible for reimbursement of postsecondary education under subsection
40 8 of this section on an equal basis to students who graduate from public schools that meet the
41 requirements of this section. Any nonpublic school that applies shall not be eligible for any
42 grants under this section. Students of certified nonpublic schools shall be eligible for
43 reimbursement of postsecondary education under subsection 8 of this section so long as they
44 meet the other requirements of such subsection. For purposes of subdivision (5) of subsection
45 2 of this section, the nonpublic school shall be included in the partnership plan developed by the
46 public school district in which the nonpublic school is located. For purposes of subdivision (1)
47 of subsection 2 of this section, the nonpublic school shall establish measurable performance

48 standards for the goals of the program for every school and grade level over which the nonpublic
49 school maintains control.

50 4. A school district may participate in the program irrespective of its accreditation
51 classification by the state board of education, provided it meets all other requirements.

52 5. By rule and regulation, the state board of education may determine a local school
53 district variable fund match requirement in order for a school or schools in the district to receive
54 a grant under the program. However, no school in any district shall receive a grant under the
55 program unless the district designates a salaried employee to serve as the program coordinator,
56 with the district assuming a minimum of one-half the cost of the salary and other benefits
57 provided to the coordinator. Further, no school in any district shall receive a grant under the
58 program unless the district makes available facilities and services for adult literacy training as
59 specified by rule of the state board of education.

60 6. For any school that meets the requirements for the approval of the grants authorized
61 by this section and specified in subsection 2 of this section for three successive school years, by
62 August first following the third such school year, the commissioner of education shall present
63 a plan to the superintendent of the school district in which such school is located for the waiver
64 of rules and regulations to promote flexibility in the operations of the school and to enhance and
65 encourage efficiency in the delivery of instructional services in the school. The provisions of
66 other law to the contrary notwithstanding, the plan presented to the superintendent shall provide
67 a summary waiver, with no conditions, for the pupil testing requirements pursuant to section
68 160.257 in the school. Further, the provisions of other law to the contrary notwithstanding, the
69 plan shall detail a means for the waiver of requirements otherwise imposed on the school related
70 to the authority of the state board of education to classify school districts pursuant to subdivision
71 (9) of section 161.092 and such other rules and regulations as determined by the commissioner
72 of education, except such waivers shall be confined to the school and not other schools in the
73 school district unless such other schools meet the requirements of this subsection. However, any
74 waiver provided to any school as outlined in this subsection shall be void on June thirtieth of any
75 school year in which the school fails to meet the requirements for the approval of the grants
76 authorized by this section as specified in subsection 2 of this section.

77 7. For any school year, grants authorized by subsections 1, 2, and 5 of this section shall
78 be funded with the amount appropriated for this program, less those funds necessary to reimburse
79 eligible students pursuant to subsection 8 or 9 of this section.

80 8. The department of higher education and workforce development shall, by rule,
81 establish a procedure for the reimbursement of the cost of tuition, books and fees to any public
82 community college or vocational or technical school or within the limits established in

83 subsection 11 of this section for any two-year private vocational or technical school for any
84 student:

85 (1) Who has attended a high school in the state for at least two years that meets the
86 requirements of subsection 2 of this section and who has graduated from such a school; except
87 that, students who are active duty military dependents, and students who are dependents of
88 retired military who relocate to Missouri within one year of the date of the parent's retirement
89 from active duty who meet all other requirements of this subsection and are attending a school
90 that meets the requirements of subsection 2 of this section shall be exempt from the two-year
91 attendance requirement of this subdivision; and

92 (2) Who has made a good faith effort to first secure all available federal sources of
93 funding that could be applied to the reimbursement described in this subsection; and

94 (3) Who has earned a minimal grade average while in high school or through the
95 semester immediately before taking the course for which reimbursement is sought as determined
96 by rule of the department of higher education and workforce development, and other
97 requirements for the reimbursement authorized by this subsection as determined by rule and
98 regulation of the department. **When determining whether a student has earned a minimal
99 grade average in the 2019-20 or 2020-21 school years for purposes of this subdivision, the
100 department shall apply the student's highest available high school grade average so that
101 the student is not adversely affected by any negative change in the student's academic
102 performance directly caused by the coronavirus named SARS-CoV-2, the international
103 outbreak of respiratory disease named "coronavirus disease 2019" and abbreviated as
104 "COVID-19", or any changes in methods of instruction implemented by the student's
105 school district because of COVID-19. Any rule establishing a requirement that a student
106 obtain a certain algebra end-of-course examination score or other applicable standardized
107 test score, as determined by the department, shall not apply to a high school senior
108 graduating in the 2020-21 school year; and**

109 (4) Who is a citizen or permanent resident of the United States.

110 9. The department of higher education and workforce development shall, by rule,
111 establish a procedure for the reimbursement of the cost of tuition, and fees for any dual-credit
112 or dual-enrollment course offered to a student in high school in association with an institution
113 of higher education or vocational or technical school, subject to the requirements of subsection
114 11 of this section, for any student who meets the requirements established in subsection 8 of this
115 section immediately before taking the course for which reimbursement is sought.

116 10. The commissioner of education shall develop a procedure for evaluating the
117 effectiveness of the program described in this section. Such evaluation shall be conducted

118 annually with the results of the evaluation provided to the governor, speaker of the house, and
119 president pro tempore of the senate.

120 11. For a two-year private vocational or technical school to obtain reimbursements under
121 subsection 8 or 9 of this section, the following requirements shall be satisfied:

122 (1) Such two-year private vocational or technical school shall be a member of the North
123 Central Association and be accredited by the Higher Learning Commission as of July 1, 2008,
124 and maintain such accreditation;

125 (2) Such two-year private vocational or technical school shall be designated as a
126 501(c)(3) nonprofit organization under the Internal Revenue Code of 1986, as amended;

127 (3) No two-year private vocational or technical school shall receive tuition
128 reimbursements in excess of the tuition rate charged by a public community college for course
129 work offered by the private vocational or technical school within the service area of such college;
130 and

131 (4) The reimbursements provided to any two-year private vocational or technical school
132 shall not violate the provisions of Article IX, Section 8, or Article I, Section 7, of the Missouri
133 Constitution or the first amendment of the United States Constitution.

134 12. The department of higher education and workforce development shall distribute
135 reimbursements in the following manner:

136 (1) To community college or vocational or technical school students;

137 (2) After all students from subdivision (1) of this subsection have been reimbursed, to
138 any dual-credit or dual-enrollment student on the basis of financial need.

162.720. 1. **(1) This subdivision shall apply to all school years ending on or before
2 June 30, 2023.** Where a sufficient number of children are determined to be gifted and their
3 development requires programs or services beyond the level of those ordinarily provided in
4 regular public school programs, districts may establish special programs for such gifted children.

5 **(2) For all school years beginning on or after July 1, 2023, if three percent or more
6 of students enrolled in a school district are determined to be gifted and their development
7 requires programs or services beyond the level of those ordinarily provided in regular
8 public school programs, the district shall establish a state-approved gifted program for
9 gifted children.**

10 2. **For all school years beginning on or after July 1, 2023, any teacher providing
11 gifted services to students in districts with an average daily attendance of more than three
12 hundred fifty students shall be certificated in gifted education. In districts with an average
13 daily attendance of three hundred fifty students or fewer, any teacher providing gifted
14 services shall not be required to be certificated to teach gifted education but such teacher**

15 **shall annually participate in at least six clock hours of professional development paid for**
 16 **by the school district focused on gifted services.**

17 **3.** The state board of education shall determine standards for such **gifted programs and**
 18 **gifted services.** Approval of [~~such~~] **gifted** programs shall be made by the state department of
 19 elementary and secondary education based upon project applications submitted [~~by July fifteenth~~
 20 ~~of each year~~] **at a time and in a form determined by the department of elementary and**
 21 **secondary education.**

22 [~~3-~~] **4.** No district shall make a determination as to whether a child is gifted based on the
 23 child's participation in an advanced placement course or international baccalaureate course.
 24 Districts shall determine a child is gifted only if the child meets the definition of gifted children
 25 as provided in section 162.675.

26 [~~4-~~] **5.** Any district with a gifted education program approved under subsection [~~2-~~] **3** of
 27 this section shall have a policy, approved by the board of education of the district, that
 28 establishes a process that outlines the procedures and conditions under which parents or
 29 guardians may request a review of the decision that determined that their child did not qualify
 30 to receive services through the district's gifted education program.

31 [~~5-~~] **6.** School districts and school district employees shall be immune from liability for
 32 any and all acts or omissions relating to the decision that a child did not qualify to receive
 33 services through the district's gifted education program.

34 **7. The department of elementary and secondary education may promulgate rules**
 35 **to implement the provisions of this section. Any rule or portion of a rule, as that term is**
 36 **defined in section 536.010, that is created under the authority delegated in this section shall**
 37 **become effective only if it complies with and is subject to all of the provisions of chapter**
 38 **536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and**
 39 **if any of the powers vested with the general assembly pursuant to chapter 536 to review,**
 40 **to delay the effective date, or to disapprove and annul a rule are subsequently held**
 41 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
 42 **after August 28, 2021, shall be invalid and void.**

166.400. Sections 166.400 to 166.455 shall be known and may be cited as the "Missouri
 2 Education [~~Savings~~] Program".

166.410. [~~Definitions.~~] As used in sections 166.400 to 166.455, except where the
 2 context clearly requires another interpretation, the following terms mean:

3 (1) "Beneficiary", any individual designated by a participation agreement to benefit from
 4 payments for qualified education expenses at an eligible educational institution;

5 (2) "Benefits", the payment of qualified education expenses on behalf of a beneficiary
 6 from a savings account during the beneficiary's attendance at an eligible educational institution;

7 (3) "Board", the Missouri education [~~savings~~] program board established in section
8 166.415;

9 (4) "Eligible educational institution", an [~~institution of postsecondary education~~] **eligible**
10 **educational institution** as defined in Section [~~529(e)(5)~~] **529** of the Internal Revenue Code, [~~and~~
11 ~~institutions of elementary and secondary education as provided in Sections 529(c)(7) and~~
12 ~~529(e)(3) of the Internal Revenue Code,~~] as amended;

13 (5) "Financial institution", a bank, insurance company or registered investment company;

14 (6) "Internal Revenue Code", the Internal Revenue Code of 1986, as amended;

15 (7) "Missouri education [~~savings~~] program" or "[~~savings~~] program", the program created
16 pursuant to sections 166.400 to 166.455;

17 (8) "Participant", a person who has entered into a participation agreement pursuant to
18 sections 166.400 to 166.455 for the advance payment of qualified education expenses on behalf
19 of a beneficiary;

20 (9) "Participation agreement", an agreement between a participant and the board pursuant
21 to and conforming with the requirements of sections 166.400 to 166.455; and

22 (10) "Qualified higher education expenses" or "qualified education expenses", the
23 qualified costs of tuition and fees and other expenses for attendance at an eligible educational
24 institution, as defined in Section [~~529(e)(3)~~] **529** of the Internal Revenue Code, as amended.

166.415. 1. There is hereby created the "Missouri Education [~~Savings~~] Program". The
2 program shall be administered by the Missouri education [~~savings~~] program board which shall
3 consist of the Missouri state treasurer who shall serve as chairman, the commissioner of the
4 department of higher education and workforce development, the commissioner of education, the
5 commissioner of the office of administration, the director of the department of economic
6 development, two persons having demonstrable experience and knowledge in the areas of
7 finance or the investment and management of public funds, one of whom is selected by the
8 president pro tem of the senate and one of whom is selected by the speaker of the house of
9 representatives, and one person having demonstrable experience and knowledge in the area of
10 banking or deposit rate determination and placement of depository certificates of deposit or other
11 deposit investments. Such member shall be appointed by the governor with the advice and
12 consent of the senate. The three appointed members shall be appointed to serve for terms of four
13 years from the date of appointment, or until their successors shall have been appointed and shall
14 have qualified. The members of the board shall be subject to the conflict of interest provisions
15 of section 105.452. Any member who violates the conflict of interest provisions shall be
16 removed from the board. In order to establish and administer the [~~savings~~] program, the board,
17 in addition to its other powers and authority, shall have the power and authority to:

18 (1) Develop and implement the Missouri education [savings] program and,
19 notwithstanding any provision of sections 166.400 to 166.455 to the contrary, the [savings]
20 programs and services consistent with the purposes and objectives of sections 166.400 to
21 166.455;

22 (2) Promulgate reasonable rules and regulations and establish policies and procedures
23 to implement sections 166.400 to 166.455, to permit the [savings] program to qualify as a
24 "qualified state tuition program" pursuant to Section 529 of the Internal Revenue Code and to
25 ensure the [savings] program's compliance with all applicable laws;

26 (3) Develop and implement educational programs and related informational materials
27 for participants, either directly or through a contractual arrangement with a financial institution
28 for investment services, and their families, including special programs and materials to inform
29 families with young children regarding methods for financing education and training;

30 (4) Enter into agreements with any financial institution, the state or any federal or other
31 agency or entity as required for the operation of the [savings] program pursuant to sections
32 166.400 to 166.455;

33 (5) Enter into participation agreements with participants;

34 (6) Accept any grants, gifts, legislative appropriations, and other moneys from the state,
35 any unit of federal, state, or local government or any other person, firm, partnership, or
36 corporation for deposit to the account of the [savings] program;

37 (7) Invest the funds received from participants in appropriate investment instruments to
38 achieve long-term total return through a combination of capital appreciation and current income;

39 (8) Make appropriate payments and distributions on behalf of beneficiaries pursuant to
40 participation agreements;

41 (9) Make refunds to participants upon the termination of participation agreements
42 pursuant to the provisions, limitations, and restrictions set forth in sections 166.400 to 166.455
43 and the rules adopted by the board;

44 (10) Make provision for the payment of costs of administration and operation of the
45 [savings] program;

46 (11) Effectuate and carry out all the powers granted by sections 166.400 to 166.455, and
47 have all other powers necessary to carry out and effectuate the purposes, objectives and
48 provisions of sections 166.400 to 166.455 pertaining to the [savings] program; and

49 (12) Procure insurance, guarantees or other protections against any loss in connection
50 with the assets or activities of the [savings] program.

51 2. Any member of the board may designate a proxy for that member who will enjoy the
52 full voting privileges of that member for the one meeting so specified by that member. No more

53 than three proxies shall be considered members of the board for the purpose of establishing a quorum.

54 3. Four members of the board shall constitute a quorum. No vacancy in the membership
55 of the board shall impair the right of a quorum to exercise all the rights and perform all the duties
56 of the board. No action shall be taken by the board except upon the affirmative vote of a
57 majority of the members present.

58 4. The board shall meet within the state of Missouri at the time set at a previously
59 scheduled meeting or by the request of any four members of the board. Notice of the meeting
60 shall be delivered to all other trustees in person or by depositing notice in a United States post
61 office in a properly stamped and addressed envelope not less than six days prior to the date fixed
62 for the meeting. The board may meet at any time by unanimous mutual consent. There shall be
63 at least one meeting in each quarter.

64 5. The funds shall be invested only in those investments which a prudent person acting
65 in a like capacity and familiar with these matters would use in the conduct of an enterprise of a
66 like character and with like aims, as provided in section 105.688. For new contracts entered into
67 after August 28, 2012, board members shall study investment plans of other states and contract
68 with or negotiate to provide benefit options the same as or similar to other states' qualified plans
69 for the purpose of offering additional options for members of the plan. The board may delegate
70 to duly appointed investment counselors authority to act in place of the board in the investment
71 and reinvestment of all or part of the moneys and may also delegate to such counselors the
72 authority to act in place of the board in the holding, purchasing, selling, assigning, transferring
73 or disposing of any or all of the securities and investments in which such moneys shall have been
74 invested, as well as the proceeds of such investments and such moneys. Such investment
75 counselors shall be registered as investment advisors with the United States Securities and
76 Exchange Commission. In exercising or delegating its investment powers and authority,
77 members of the board shall exercise ordinary business care and prudence under the facts and
78 circumstances prevailing at the time of the action or decision. No member of the board shall be
79 liable for any action taken or omitted with respect to the exercise of, or delegation of, these
80 powers and authority if such member shall have discharged the duties of ~~his or her~~ **the**
81 **member's** position in good faith and with that degree of diligence, care and skill which a prudent
82 person acting in a like capacity and familiar with these matters would use in the conduct of an
83 enterprise of a like character and with like aims.

84 6. No investment transaction authorized by the board shall be handled by any company
85 or firm in which a member of the board has a substantial interest, nor shall any member of the
86 board profit directly or indirectly from any such investment.

87 7. No trustee or employee of the ~~savings~~ program shall receive any gain or profit from
88 any funds or transaction of the ~~savings~~ program. Any trustee, employee or agent of the

89 [savings] program accepting any gratuity or compensation for the purpose of influencing such
90 trustee's, employee's or agent's action with respect to the investment or management of the funds
91 of the [savings] program shall thereby forfeit the office and in addition thereto be subject to the
92 penalties prescribed for bribery.

166.420. 1. The board may enter into [savings] program participation agreements with
2 participants on behalf of beneficiaries pursuant to the provisions of sections 166.400 to 166.455,
3 including the following terms and conditions:

4 (1) A participation agreement shall stipulate the terms and conditions of the [savings]
5 program in which the participant makes contributions;

6 (2) A participation agreement shall specify the method for calculating the return on the
7 contribution made by the participant;

8 (3) The execution of a participation agreement by the board shall not guarantee that the
9 beneficiary named in any participation agreement will be admitted to an eligible educational
10 institution, be allowed to continue to attend an eligible educational institution after having been
11 admitted or will graduate from an eligible educational institution;

12 (4) A participation agreement shall clearly and prominently disclose to participants the
13 risk associated with depositing moneys with the board;

14 (5) Participation agreements shall be organized and presented in a way and with
15 language that is easily understandable by the general public; and

16 (6) A participation agreement shall clearly and prominently disclose to participants the
17 existence of any load charge or similar charge assessed against the accounts of the participants
18 for administration or services.

19 2. The board shall establish the maximum amount ~~[which]~~ **that** may be contributed
20 annually ~~[by a participant]~~ with respect to a beneficiary.

21 3. The board shall establish a total contribution limit for savings accounts established
22 under the [savings] program with respect to a beneficiary to permit the [savings] program to
23 qualify as a "qualified state tuition program" pursuant to Section 529 of the Internal Revenue
24 Code. No contribution may be made to a savings account for a beneficiary if it would cause the
25 balance of all savings accounts of the beneficiary to exceed the total contribution limit
26 established by the board. The board may establish other requirements that it deems appropriate
27 to provide adequate safeguards to prevent contributions on behalf of a beneficiary from
28 exceeding what is necessary to provide for the qualified education expenses of the beneficiary.

29 4. The board shall establish the minimum length of time that contributions and earnings
30 must be held by the [savings] program to qualify pursuant to section 166.435. Any contributions
31 or earnings that are withdrawn or distributed from a savings account prior to the expiration of

32 the minimum length of time, as established by the board, shall be subject to a penalty pursuant
33 to section 166.430.

166.425. All money paid by a participant in connection with participation agreements
2 shall be deposited as received and shall be promptly invested by the board. Contributions and
3 earnings thereon accumulated on behalf of participants in the [savings] program may be used,
4 as provided in the participation agreement, for qualified education expenses. Such contributions
5 and earnings shall not be considered income for purposes of determining a participant's eligibility
6 for financial assistance under any state student aid program.

166.435. 1. Notwithstanding any law to the contrary, the assets of the [savings] program
2 held by the board, the assets of any deposit program authorized in section 166.500, and the assets
3 of any qualified tuition [savings] program established pursuant to Section 529 of the Internal
4 Revenue Code and any income therefrom shall be exempt from all taxation by the state or any
5 of its political subdivisions. Income earned or received from the [savings] program, deposit, or
6 other qualified tuition [savings] programs established under Section 529 of the Internal Revenue
7 Code, or refunds of qualified education expenses received by a beneficiary from an eligible
8 educational institution in connection with withdrawal from enrollment at such institution which
9 are contributed within sixty days of withdrawal to a qualified tuition [savings] program of which
10 such individual is a beneficiary shall not be subject to state income tax imposed pursuant to
11 chapter 143 and shall be eligible for any benefits provided in accordance with Section 529 of the
12 Internal Revenue Code. The exemption from taxation pursuant to this section shall apply only
13 to assets and income maintained, accrued, or expended pursuant to the requirements of the
14 [savings] program established pursuant to sections 166.400 to 166.455, the deposit program
15 established pursuant to sections 166.500 to 166.529, and other qualified tuition [savings]
16 programs established under Section 529 of the Internal Revenue Code, and no exemption shall
17 apply to assets and income expended for any other purposes. Annual contributions made to the
18 [savings] program held by the board, the deposit program, and any qualified tuition [savings]
19 program established under Section 529 of the Internal Revenue Code up to and including eight
20 thousand dollars per [participating] taxpayer, and up to sixteen thousand dollars for married
21 individuals filing a joint tax return, shall be subtracted in determining Missouri adjusted gross
22 income pursuant to section 143.121.

23 2. If any deductible contributions to or earnings from any such program referred to in this
24 section are distributed and not used to pay qualified education expenses, not transferred as
25 allowed by 26 U.S.C. Section 529(c)(3)(C)(i), as amended, and any Internal Revenue Service
26 regulations or guidance issued in relation thereto, or are not held for the minimum length of time
27 established by the appropriate Missouri board, then the amount so distributed shall be included

28 in the Missouri adjusted gross income of the participant, or, if the participant is not living, the
29 beneficiary.

30 3. The provisions of this section shall apply to tax years beginning on or after January
31 1, 2008, and the provisions of this section with regard to sections 166.500 to 166.529 shall apply
32 to tax years beginning on or after January 1, 2004.

166.440. The assets of the ~~[savings]~~ program shall at all times be preserved, invested and
2 expended only for the purposes set forth in this section and in accordance with the participation
3 agreements, and no property rights therein shall exist in favor of the state.

166.456. All personally identifiable information concerning participants and
2 beneficiaries of accounts established within the Missouri education ~~[savings]~~ program pursuant
3 to sections 166.400 to 166.456 shall be confidential, and any disclosure of such information shall
4 be restricted to purposes directly connected with the administration of the program.

166.502. As used in sections 166.500 to 166.529, except where the context clearly
2 requires another interpretation, the following terms mean:

3 (1) "Beneficiary", any individual designated by a participation agreement to benefit from
4 payments for qualified higher education expenses at an eligible educational institution;

5 (2) "Benefits", the payment of qualified higher education expenses on behalf of a
6 beneficiary from a deposit account during the beneficiary's attendance at an eligible educational
7 institution;

8 (3) "Board", the Missouri education ~~[savings]~~ program board established in section
9 166.415;

10 (4) "Eligible educational institution", an institution of postsecondary education as
11 defined in Section 529(e)(5) of the Internal Revenue Code;

12 (5) "Financial institution", a depository institution and any intermediary that brokers
13 certificates of deposits;

14 (6) "Internal Revenue Code", the Internal Revenue Code of 1986, as amended;

15 (7) "Missouri higher education deposit program" or "deposit program", the program
16 created pursuant to sections 166.500 to 166.529;

17 (8) "Participant", a person who has entered into a participation agreement pursuant to
18 sections 166.500 to 166.529 for the advance payment of qualified higher education expenses on
19 behalf of a beneficiary;

20 (9) "Participation agreement", an agreement between a participant and the board pursuant
21 to and conforming with the requirements of sections 166.500 to 166.529;

22 (10) "Qualified higher education expenses", the qualified costs of tuition and fees and
23 other expenses for attendance at an eligible educational institution, as defined in Section
24 529(e)(3) of the Internal Revenue Code of 1986, as amended.

209.610. 1. The board may enter into ABLE program participation agreements with participants on behalf of designated beneficiaries pursuant to the provisions of sections 209.600 to 209.645, including the following terms and conditions:

(1) A participation agreement shall stipulate the terms and conditions of the ABLE program in which the participant makes contributions;

(2) A participation agreement shall specify the method for calculating the return on the contribution made by the participant;

(3) A participation agreement shall clearly and prominently disclose to participants the risk associated with depositing moneys with the board;

(4) Participation agreements shall be organized and presented in a way and with language that is easily understandable by the general public; and

(5) A participation agreement shall clearly and prominently disclose to participants the existence of any load charge or similar charge assessed against the accounts of the participants for administration or services.

2. The board shall establish the maximum amount of contributions which may be made annually to an ABLE account, which shall be the same as the amount allowed by 26 U.S.C. Section 529A of the Internal Revenue Code of 1986, as amended.

3. The board shall establish a total contribution limit for savings accounts established under the ABLE program with respect to a designated beneficiary which shall in no event be less than the amount established as the contribution limit by the Missouri education [savings] program board for qualified tuition [savings] programs established under sections 166.400 to 166.450. No contribution shall be made to an ABLE account for a designated beneficiary if it would cause the balance of the ABLE account of the designated beneficiary to exceed the total contribution limit established by the board. The board may establish other requirements that it deems appropriate to provide adequate safeguards to prevent contributions on behalf of a designated beneficiary from exceeding what is necessary to provide for the qualified disability expenses of the designated beneficiary.

4. The board shall establish the minimum length of time that contributions and earnings must be held by the ABLE program to qualify as tax exempt pursuant to section 209.625. Any contributions or earnings that are withdrawn or distributed from an ABLE account prior to the expiration of the minimum length of time, as established by the board, shall be subject to a penalty pursuant to section 209.620.

Section B. Because immediate action is necessary to protect students from adverse impacts to student success in educational and career endeavors caused by COVID-19 and related disruptions in school routines, the repeal and reenactment of section 160.545 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and

5 safety, and is hereby declared to be an emergency act within the meaning of the constitution, and
6 the repeal and reenactment of section 160.545 of section A of this act shall be in full force and
7 effect upon its passage and approval.

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