

SECOND REGULAR SESSION

HOUSE BILL NO. 2104

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CHRISTOFANELLI.

4137H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 135.713, 135.714, 135.715, and 166.700, RSMo, and to enact in lieu thereof four new sections relating to educational scholarships.

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

Section A. Sections 135.713, 135.714, 135.715, and 166.700, RSMo, are repealed
2 and four new sections enacted in lieu thereof, to be known as sections 135.713, 135.714,
3 135.715, and 166.700, to read as follows:

135.713. 1. Any taxpayer who makes a qualifying contribution to an educational
2 assistance organization after August 28, 2021, may claim a credit against the tax otherwise
3 due under chapter 143, other than taxes withheld under sections 143.191 to 143.265, and
4 chapter 153 in an amount equal to one hundred percent of the amount the taxpayer
5 contributed during the tax year for which the credit is claimed. No taxpayer shall claim a
6 credit under sections 135.712 to 135.719 for any contribution made by the taxpayer, or an
7 agent of the taxpayer, on behalf of the taxpayer's dependent or, in the case of a business
8 taxpayer, on behalf of the business's agent's dependent.

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

14 3. The cumulative amount of tax credits that may be allocated to all taxpayers
15 contributing to educational assistance organizations in any one calendar year shall not exceed
16 **a maximum of ~~fifty~~ seventy-five million dollars~~, which~~**. **Such maximum** amount shall

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.

17 be annually adjusted **from the 2021 maximum amount** by the state treasurer for inflation
18 based on the Consumer Price Index for All Urban Consumers for the Midwest region, as
19 defined and officially recorded by the United States Department of Labor or its successor,
20 ~~[such annual increase will cease when the amount of tax credits reach seventy five million~~
21 ~~dollars]~~ **and shall additionally be annually adjusted by any percentage increase in the**
22 **amount appropriated for pupil transportation under section 163.161 above the**
23 **threshold of ninety percent of the projected amount necessary to fully fund**
24 **transportation aid funding for the current fiscal year.** The state treasurer shall
25 establish a procedure by which, from the beginning of the calendar year until August first, the
26 cumulative amount of tax credits shall be allocated on a first-come, first-served basis among
27 all educational assistance organizations. If an educational assistance organization fails to use
28 all, or some percentage to be determined by the state treasurer, of its allocated tax credits
29 during this period, the state treasurer may reallocate these unused tax credits to those
30 educational assistance organizations that have used all, or some percentage to be determined
31 by the state treasurer, of their allocated tax credits during this period. The state treasurer may
32 establish more than one period and reallocate more than once during each calendar year. The
33 state treasurer shall establish the procedure described in this subsection in such a manner as to
34 ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax
35 credits available for the calendar year.

36 4. A taxpayer who makes a contribution to an education assistance organization shall
37 not designate the student who will receive a scholarship grant.

38 ~~[5. The provisions of sections 135.712 to 135.719 and sections 166.700 to 166.720~~
39 ~~shall be effective in any fiscal year immediately subsequent to any fiscal year in which the~~
40 ~~amount appropriated for pupil transportation under section 163.161 equals or exceeds forty~~
41 ~~percent of the projected amount necessary to fully fund transportation aid funding for fiscal~~
42 ~~year 2021. If the amount appropriated for transportation under section 163.161 in any~~
43 ~~succeeding year falls below such amount, no additional scholarships for newly qualified~~
44 ~~students shall be awarded.]~~

135.714. 1. Each educational assistance organization shall:

2 (1) Notify the state treasurer of ~~[its]~~ **such organization's** intent to provide scholarship
3 accounts to qualified students;

4 (2) Demonstrate to the state treasurer that ~~[it]~~ **such organization** is exempt from
5 federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as
6 amended;

7 (3) Provide a state treasurer-approved receipt to taxpayers for contributions made to
8 the organization;

9 (4) Ensure that grants are distributed to scholarship accounts of qualified students in
10 the following order:

11 (a) Qualified students that have an approved "individualized education plan" (IEP)
12 developed under the federal Individuals with Disabilities Education Act (IDEA), 20 U.S.C.
13 Section 1400[~~7~~] et seq., as amended, or qualified students living in a household whose total
14 annual income does not exceed an amount equal to one hundred percent of the income
15 standard used to qualify for free and reduced price lunches;

16 (b) Qualified students living in a household whose total annual income does not
17 exceed an amount equal to two hundred percent of the income standard used to qualify for
18 free and reduced price lunches; and

19 (c) All other qualified students;

20 (5) Ensure that:

21 (a) One hundred percent of ~~[its]~~ **such organization's** revenues from interest or
22 investments is spent on scholarship accounts;

23 (b) At least ninety percent of ~~[its]~~ **such organization's** revenues from qualifying
24 contributions is spent on scholarship accounts; and

25 (c) Marketing and administrative expenses do not exceed the following limits of ~~[its]~~
26 **such organization's** remaining revenue from contributions:

27 a. Ten percent for the first two hundred fifty thousand dollars;

28 b. Eight percent for the next five hundred thousand dollars; and

29 c. Three percent thereafter;

30 (6) **(a)** Distribute scholarship account payments either four times per year or in a
31 single lump sum at the beginning of the year as requested by the parent of a qualified student,
32 ~~[not to exceed a total grant amount equal to]~~ **based on** the state adequacy target as defined in
33 section 163.011 and calculated by the department of elementary and secondary education,
34 **subject to the following total grant amount limits:**

35 a. **For a qualified student who meets the criteria to be included in a school**
36 **district's limited English proficiency pupil count as set forth in subdivision (8) of section**
37 **163.011, not more than one hundred sixty percent of the state adequacy target;**

38 b. **For a qualified student who is eligible for free or reduced price lunch as**
39 **approved by the department of elementary and secondary education in accordance with**
40 **federal regulations, not more than one hundred twenty-five percent of the state**
41 **adequacy target;**

42 c. **For a qualified student who has an approved individualized education**
43 **program developed under the federal Individuals with Disabilities Education Act**
44 **(IDEA), 20 U.S.C. Section 1400 et seq., as amended, not more than one hundred seventy-**
45 **five percent of the state adequacy target; and**

46 **d. For all other qualified students, not more than the state adequacy target;**

47 **(b) Scholarship account payments distributed under this subdivision shall be in**
48 the form of a deposit into the scholarship account of the qualified student;

49 (7) Provide the state treasurer, upon request, with criminal background checks on all
50 ~~its~~ **such organization's** employees and board members and exclude from employment or
51 governance any individual who might reasonably pose a risk to the appropriate use of
52 contributed funds, **provided that no background check shall be required by the**
53 **educational assistance organization or the state treasurer for a parent who educates**
54 **their child at a home school as defined in section 167.031;**

55 (8) Demonstrate ~~its~~ **such organization's** financial accountability by:

56 (a) Submitting to the state treasurer annual audit financial statements by a certified
57 public accountant within six months of the end of the educational assistance organization's
58 fiscal year; and

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

60 (9) Ensure that participating students take the state achievement tests or nationally
61 norm-referenced tests that measure learning gains in math and English language arts, and
62 provide for value-added assessment, in grades that require testing under the statewide
63 assessment system set forth in section 160.518;

64 (10) Allow costs of the testing requirements to be covered by the scholarships
65 distributed by the educational assistance organization;

66 (11) Provide the parents of each student who was tested with a copy of the results of
67 the tests on an annual basis, beginning with the first year of testing;

68 (12) Provide the test results to the state treasurer on an annual basis, beginning with
69 the first year of testing;

70 (13) Report student information that would allow the state treasurer to aggregate data
71 by grade level, gender, family income level, and race;

72 (14) Provide rates of high school graduation, college attendance, and college
73 graduation for participating students to the state treasurer in a manner consistent with
74 nationally recognized standards;

75 (15) Provide to the state treasurer the results from an annual parental satisfaction
76 survey, including information about the number of years that the parent's child has
77 participated in the scholarship program. The annual satisfaction survey shall ask parents of
78 scholarship students to express:

79 (a) Their level of satisfaction with the child's academic achievement, including
80 academic achievement at the schools the child attends through the scholarship program versus
81 academic achievement at the school previously attended;

82 (b) Their level of satisfaction with school safety at the schools the child attends
83 through the scholarship program versus safety at the schools previously attended;

84 (16) Demonstrate ~~[its]~~ **such organization's** financial viability, if ~~[it]~~ **such**
85 **organization** is to receive donations of fifty thousand dollars or more during the school
86 year, by filing with the state treasurer before the start of the school year a surety bond payable
87 to the state in an amount equal to the aggregate amount of contributions expected to be
88 received during the school year or other financial information that demonstrates the financial
89 viability of the educational assistance organization.

90 2. The annual audit required under this section shall include:

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

92 (2) The name and address of each qualified student for whom a parent opened a
93 scholarship account with the organization;

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

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

98 3. The state treasurer shall:

99 (1) Ensure compliance with all student privacy laws for data in the state treasurer's
100 possession;

101 (2) Collect all test results;

102 (3) Provide the test results and associated learning gains to the public via a state
103 website after the third year of test and test-related data collection. The findings shall be
104 aggregated by the students' grade level, gender, family income level, number of years of
105 participation in the scholarship program, and race; and

106 (4) Provide graduation rates to the public via a state website after the third year of test
107 and test-related data collection.

108 4. An educational assistance organization may contract with private financial
109 management firms to manage scholarship accounts with the supervision of the state treasurer.

135.715. 1. ~~[Notwithstanding any provision in section 135.713 to the contrary, the
2 annual increase to the cumulative amount of tax credits under subsection 3 of section 135.713
3 shall cease when the amount of tax credits reaches fifty million dollars.]~~ The cumulative
4 amount of tax credits that may be allocated to all taxpayers contributing to educational
5 assistance organizations in the first year of the program shall not exceed twenty-five million
6 dollars.

7 2. The state treasurer shall limit the number of educational assistance organizations
8 that are certified to administer scholarship accounts to no more than ten such organizations in
9 any single school year~~[-]~~. ~~[with]~~ **If the total contributions to educational assistance**

10 **organizations exceed twenty-five million dollars in any school year, the state treasurer**
11 **may certify one additional educational assistance organization to administer scholarship**
12 **accounts.** No more than six of such organizations [~~having~~] **shall have** their principal place of
13 business in:

14 (1) A county of the first classification with more than two hundred sixty thousand but
15 fewer than three hundred thousand inhabitants;

16 (2) A county with a charter form of government and with more than six hundred
17 thousand but fewer than seven hundred thousand inhabitants;

18 (3) A county with a charter form of government and with more than three hundred
19 thousand but fewer than four hundred fifty thousand inhabitants;

20 (4) A county with a charter form of government and with more than nine hundred
21 fifty thousand inhabitants; or

22 (5) A city not within a county.

23 3. The state treasurer may delegate any duties assigned to the state treasurer under
24 sections 135.712 to 135.719 and sections 166.700 to 166.720 to the "Missouri Empowerment
25 Scholarship Accounts Board", which is hereby established. The Missouri empowerment
26 scholarship accounts board shall consist of the state treasurer, who shall serve as chair, the
27 commissioner of the department of higher education and workforce development, the
28 commissioner of education, the commissioner of the office of administration, one member
29 appointed by the president pro tempore of the senate, one member appointed by the speaker
30 of the house of representatives, and one member appointed by the governor with the advice
31 and consent of the senate. The appointed members shall serve terms of four years or until
32 their successors have been appointed and qualified. The board shall have all powers and
33 duties assigned to the state treasurer under sections 135.712 to 135.719 and sections 166.700
34 to 166.720 that are delegated to the board by the state treasurer. Members of the board shall
35 not receive compensation for their service, but may receive reimbursement for necessary
36 expenses.

37 4. Notwithstanding the provisions of subsection 7 of section 135.716 to the contrary,
38 four percent of the total qualifying contributions received by each educational assistance
39 organization per calendar year shall be deposited in the Missouri empowerment scholarship
40 accounts fund to be used by the state treasurer for marketing and administrative expenses or
41 the costs incurred in administering the program, whichever is less.

42 5. Notwithstanding the provisions of subdivision (5) of subsection 2 of section
43 135.712 to the contrary, the term "qualifying contribution" shall mean a donation of cash,
44 including, but not limited to, checks drawn on a banking institution located in the continental
45 United States in U.S. dollars (other than cashier checks, or third-party checks exceeding ten

46 thousand dollars), money orders, payroll deductions, and electronic fund transfers. This term
47 shall not include stocks, bonds, other marketable securities, or property.

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

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

4 (2) "District", the same meaning as used in section 160.011;

5 (3) "Educational assistance organization", the same meaning as used in section
6 135.712;

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

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

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

12 (7) "Qualified school", a home school as defined in section 167.031 or any of the
13 following entities that is incorporated in Missouri and that does not discriminate on the basis
14 of race, color, or national origin:

15 (a) A charter school as defined in section 160.400;

16 (b) A private school;

17 (c) A public school as defined in section 160.011; or

18 (d) A public or private virtual school;

19 (8) "Qualified student", any elementary or secondary school student who is a resident
20 of this state and ~~[resides in any county with a charter form of government or any city with at~~
21 ~~least thirty thousand inhabitants]~~ who:

22 (a) Has an approved "individualized education plan" (IEP) developed under the
23 federal Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400[5] et seq.,
24 as amended; or

25 (b) Is a member of a household whose total annual income does not exceed an amount
26 equal to ~~two~~ **four** hundred percent of the income standard used to qualify for free and
27 reduced price lunches, and **who** meets at least one of the following qualifications:

28 a. Attended a public school as a full-time student for at least one semester during the
29 previous twelve months; or

30 b. Is a child who is eligible to begin kindergarten or first grade under sections 160.051
31 to 160.055.

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