

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 324
93RD GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, March 8, 2005, with recommendation that the Senate Committee Substitute do pass.

0982S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 166.420, 166.425, and 166.435, RSMo, and to enact in lieu thereof three new sections relating to a tax deduction for contributions to educational savings programs.

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

Section A. Sections 166.420, 166.425, and 166.435, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 166.420, 166.425, and 166.435, to read as follows:

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

(1) A participation agreement shall stipulate the terms and conditions of the savings 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) The execution of a participation agreement by the board shall not guarantee that the beneficiary named in any participation agreement will be admitted to an eligible educational institution, be allowed to continue to attend an eligible educational institution after having been admitted or will graduate from an eligible educational institution;

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

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

(6) A participation agreement shall clearly and prominently disclose to participants

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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 which may be contributed annually by a participant with respect to a beneficiary.

3. The board shall establish a total contribution limit for savings accounts established under the savings program with respect to a beneficiary to permit the savings program to qualify as a "qualified state tuition program" pursuant to Section 529 of the Internal Revenue Code. No contribution may be made to a savings account for a beneficiary if it would cause the balance of all savings accounts of the 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 beneficiary from exceeding what is necessary to provide for the qualified higher education expenses of the beneficiary.

4. The board shall establish the minimum length of time that contributions and earnings must be held by the savings program to qualify pursuant to section 166.435, **provided that the minimum length of time shall be at least twelve months for the amount of any single contribution.** Any contributions or earnings that are withdrawn or distributed from a savings 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 166.430.

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

166.435. 1. Notwithstanding any law to the contrary, the assets of the savings program held by the board [and], the assets of any deposit program authorized in section 166.500, **and the assets of any qualified tuition savings program meeting criteria specified by the board with such criteria including but not limited to the number of qualifying programs, fees charged to investors, minimum deposit amounts required of investors, financial soundness and past performance of the plans, revenue sharing arrangements in which the plan is involved and other requirements set by the board to protect Missouri investors,** and qualified pursuant to Section 529 of the Internal Revenue Code and any income therefrom shall be exempt from all taxation by the state or any of its political subdivisions. Income earned or received from the savings program or deposit program **or any qualified tuition savings program meeting minimum criteria established by the board** shall not be subject to state income

tax imposed pursuant to chapter 143, RSMo, and shall be eligible for any benefits provided in accordance with Section 529 of the Internal Revenue Code. The exemption from taxation pursuant to this section shall apply only to assets and income maintained, accrued, or expended pursuant to the requirements of the savings program established pursuant to sections 166.400 to 166.455, [and] the deposit program established pursuant to sections 166.500 to 166.529, **any qualified tuition savings programs meeting the minimum requirements set by the board** and Section 529 of the Internal Revenue Code, and no exemption shall apply to assets and income expended for any other purposes. Annual contributions made to the savings program held by the board and the deposit program **and any qualified tuition savings programs meeting requirements set by the board** up to and including eight thousand dollars for the participant taxpayer shall be subtracted in determining Missouri adjusted gross income [pursuant to] **under** section 143.121, RSMo. **Annual contributions made to any other qualified tuition savings programs meeting the requirements set by the board up to and including four thousand dollars for the participant taxpayer shall be subtracted in determining Missouri adjusted gross income under section 143.121, RSMo. In any fiscal year, no participant taxpayer shall, in the aggregate, subtract more than eight thousand dollars under this section in determining Missouri adjusted gross income under section 143.121, RSMo.**

2. If any deductible contributions to or earnings from any such program referred to in this section are distributed and not used to pay qualified higher education expenses or are not held for the minimum length of time established by the [appropriate Missouri state authority] **board**, the amount so distributed shall be added to the Missouri adjusted gross income of the participant, or, if the participant is not living, the beneficiary.

3. The provisions of this section shall apply to tax years beginning on or after January 1, [1999] **2005**, and the provisions of this section with regard to sections 166.500 to 166.529 shall apply to tax years beginning on or after January 1, 2004.

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