

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 1589 & 2307

98TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, May 6, 2016, with recommendation that the Senate Committee Substitute do pass.

4452S.05C

ADRIANE D. CROUSE, Secretary.

AN ACT

To amend chapters 135, 166, and 210, RSMo, by adding thereto fourteen new sections relating to tax credits, with a penalty provision.

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

Section A. Chapters 135, 166, and 210, RSMo, are amended by adding
2 thereto fourteen new sections, to be known as sections 135.435, 135.712, 135.713,
3 135.714, 135.716, 135.719, 135.1910, 135.2000, 166.700, 166.705, 166.710,
4 166.715, 166.720, and 210.1500, to read as follows:

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

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

4 **(2) "Director", the director of the department of corrections;**

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

9 **(4) "Qualified organization", an organization exempt from**
10 **taxation under section 501(c)(3) of the Internal Revenue Code,**
11 **including but not limited to, any faith-based organization, that provides**
12 **assistance to ex-offenders to rebuild their lives, learn useful trades,**
13 **gain employment, and avoid reincarceration that has operated in this**
14 **capacity for longer than five years and enrolls a minimum of twenty ex-**
15 **offenders per year;**

16 **(5) "State tax liability", in the case of a business taxpayer, any**
17 **liability incurred by such taxpayer pursuant to the provisions of**

18 chapters 143, 147, 148, and 153, excluding sections 143.191 to 143.265
19 and related provisions, and in the case of an individual taxpayer, any
20 liability incurred by such taxpayer under the provisions of chapter 143,
21 excluding sections 143.191 to 143.265 and related provisions;

22 (6) "Taxpayer", a person, firm, a partner in a firm, corporation,
23 or a shareholder in an S corporation doing business in the state of
24 Missouri and subject to the state income tax imposed by the provisions
25 of chapter 143, or a corporation subject to the annual corporation
26 franchise tax imposed by the provisions of chapter 147, or an insurance
27 company paying an annual tax on its gross premium receipts in this
28 state, or other financial institution paying taxes to the state of Missouri
29 or any political subdivision of this state under the provisions of
30 chapter 148, or an express company which pays an annual tax on its
31 gross receipts in this state pursuant to chapter 153, or an individual
32 subject to the state income tax imposed by the provisions of chapter
33 143, or any charitable organization which is exempt from federal
34 income tax and whose Missouri unrelated business taxable income, if
35 any, would be subject to the state income tax imposed under chapter
36 143.

37 2. For all tax years beginning on or after January 1, 2017, a
38 taxpayer shall be allowed to claim a tax credit against the taxpayer's
39 state tax liability in an amount equal to fifty percent of the taxpayer's
40 contribution to a qualified organization. The qualified organization
41 shall use the taxpayer's contribution to assist ex-offenders with the goal
42 of reducing recidivism.

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

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

52 5. The director shall determine, at least annually, which
53 organizations in this state may be classified as qualified
54 organizations. The director may require of an organization seeking to

55 be classified as a qualified organization whatever information which is
56 reasonably necessary to make such a determination. The director shall
57 classify an organization as a qualified organization if such organization
58 meets the definition set forth in subsection 1 of this section.

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

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

76 8. The department of corrections shall develop metrics based on
77 reincarceration that show the major factors that increase the
78 probability of an inmate being reincarcerated. Such factors shall
79 include, but not be limited to, the number of years since release, types
80 of offenses, and numbers of previous incarceration commitments. Using
81 this data, the department of corrections shall create a practical number
82 of categories with average recidivism percentages, by year, assigned to
83 each category. The department of corrections shall also track the ex-
84 offenders assigned to 501(c)(3) aftercare programs, and for the second
85 through fifth years after release from prison, calculate the recidivism
86 rates for former inmates served by these programs. The recidivism
87 rates for these aftercare programs shall be made available to the public
88 to allow study of best practices and to evaluate the effectiveness of the
89 benevolent tax credit program created by this section.

90 9. The provisions of this section shall not be construed to limit
91 or in any way impair the department of revenue's ability to issue tax

92 credits authorized on or before the date the program authorized under
93 this section expires or a taxpayer's ability to redeem such tax credits.

94 10. Under section 23.253 of the Missouri sunset act:

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

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

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

135.712. 1. Sections 135.712 to 135.719 and sections 166.700 to
2 166.720 establish the "Missouri Empowerment Scholarship Accounts
3 Program" to provide options toward ensuring the education of students
4 in this state.

5 2. As used in sections 135.712 to 135.719, the following terms
6 mean:

7 (1) "Department", the department of economic development;

8 (2) "Director", the director of the department of economic
9 development;

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

12 (4) "Educational assistance organization", a charitable
13 organization registered in this state that is exempt from federal
14 taxation under the Internal Revenue Code of 1986, as amended, is
15 certified by the director, and that allocates all of its annual revenue for
16 educational assistance, except as provided in paragraph (c) of
17 subdivision (4) of subsection 1 of section 135.714 and as provided for in
18 sections 135.712 to 135.719, derived from contributions for which a
19 credit is claimed under this section;

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

22 (6) "Program", the Missouri empowerment scholarship accounts
23 program established under sections 135.712 to 135.719 and sections
24 166.700 to 166.720;

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

26 **166.700;**

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

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

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

135.713. 1. For all tax years beginning on or after January 1,
2 **2019, any taxpayer who makes a qualifying contribution to an**
3 **educational assistance organization may claim a credit against the tax**
4 **otherwise due under chapter 143, other than taxes withheld under**
5 **sections 143.191 to 143.265, and chapter 153, in an amount equal to one**
6 **hundred percent of the amount the taxpayer contributed during the tax**
7 **year for which the credit is claimed. No taxpayer shall claim a credit**
8 **under sections 135.712 to 135.719 for any contribution made by the**
9 **taxpayer, or an agent of the taxpayer, on behalf of the taxpayer's**
10 **dependent, or in the case of a business taxpayer, on behalf of the**
11 **business's agent's dependent.**

12 **2. The amount of the tax credit claimed shall not exceed the**
13 **amount of the taxpayer's state tax liability for the tax year for which**
14 **the credit is claimed. The department shall certify the tax credit**
15 **amount to the taxpayer and to the department of revenue. A taxpayer**
16 **may carry the credit forward to any of such taxpayer's four subsequent**
17 **tax years. All tax credits authorized under the program shall not be**
18 **transferred, sold, or assigned.**

19 **3. The cumulative amount of tax credits that may be allocated to**
20 **all taxpayers contributing to educational assistance organizations in**
21 **any one calendar year shall not exceed twenty-five million dollars,**
22 **which amount shall annually be adjusted by the department for**
23 **inflation based on the consumer price index for all urban consumers for**

24 the Midwest region, as defined and officially recorded by the United
25 States Department of Labor or its successor. The director shall
26 establish a procedure by which, from the beginning of the calendar
27 year until some point in time later in the calendar year to be
28 determined by the director, the cumulative amount of tax credits are
29 equally apportioned among all educational assistance organizations. If
30 an educational assistance organization fails to use all, or some
31 percentage to be determined by the director, of its apportioned tax
32 credits during this predetermined period of time, the director may
33 reapportion these unused tax credits to those educational assistance
34 organizations that have used all, or some percentage to be determined
35 by the director, of their apportioned tax credits during this
36 predetermined period of time. The director may establish more than
37 one period of time and reapportion more than once during each
38 calendar year. To the maximum extent possible, the director shall
39 establish the procedure described in this subsection in such a manner
40 as to ensure that taxpayers can claim all the tax credits possible up to
41 the cumulative amount of tax credits available for the calendar year.

135.714. 1. Each educational assistance organization shall:

- 2 (1) Notify the department of its intent to provide scholarship
3 accounts to qualified students;
- 4 (2) Demonstrate to the department that it is exempt from federal
5 income tax under Section 501(c)(3) of the Internal Revenue Code of
6 1986, as amended;
- 7 (3) Provide a department-approved receipt to taxpayers for
8 contributions made to the organization;
- 9 (4) Ensure that:
 - 10 (a) One hundred percent of its revenues from interest or
11 investments is spent on scholarship accounts;
 - 12 (b) At least ninety percent of its revenues from qualifying
13 contributions is spent on scholarship accounts; and
 - 14 (c) Marketing and administrative expenses shall not exceed the
15 following limits of its remaining revenue from contributions: ten
16 percent for the first two hundred fifty thousand dollars, eight percent
17 for the next five hundred thousand dollars, and three percent
18 thereafter;
- 19 (5) Distribute scholarship accounts payments either four times

20 per year or in a single lump sum at the beginning of the year as
21 requested by the parent or guardian of a qualified student not to
22 exceed the following:

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

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

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

32 (7) Demonstrate its financial accountability by:

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

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

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

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

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

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

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

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

56 (5) The total number and total dollar amount of scholarship

57 accounts opened during the previous year to qualified students
58 qualifying for the federal free and reduced price school lunch program.

59 3. An educational assistance organization may contract with
60 private financial management firms to manage scholarship accounts
61 with the supervision of the state.

135.716. 1. The department shall provide a standardized format
2 for a receipt to be issued by an educational assistance organization to
3 a taxpayer to indicate the value of a contribution received. The
4 department shall require a taxpayer to provide a copy of this receipt
5 if claiming the tax credit authorized by the program.

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

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

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

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

135.719. 1. The department and the department of revenue may
2 promulgate rules to implement the provisions of sections 135.712 to
3 135.719. Any rule or portion of a rule, as that term is defined in section
4 536.010, that is created under the authority delegated in this section

5 shall become effective only if it complies with and is subject to all of
6 the provisions of chapter 536 and, if applicable, section 536.028. This
7 section and chapter 536 are nonseverable, and if any of the powers
8 vested with the general assembly pursuant to chapter 536 to review, to
9 delay the effective date, or to disapprove and annul a rule are
10 subsequently held unconstitutional, then the grant of rulemaking
11 authority and any rule proposed or adopted after August 28, 2016, shall
12 be invalid and void.

13 2. Under section 23.253 of the Missouri sunset act:

14 (1) The provisions of the new program authorized under sections
15 135.712 to 135.719 shall automatically sunset on December thirty-first
16 six years after the effective date of sections 135.712 to 135.719 unless
17 reauthorized by an act of the general assembly; and

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

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

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

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

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

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

8 (4) "State tax liability", in the case of a business taxpayer, any
9 liability incurred by such taxpayer under the provisions of chapters
10 143, 148, and 153, excluding sections 143.191 to 143.265 and related
11 provisions, and in the case of an individual taxpayer, any liability
12 incurred by such taxpayer under the provisions of chapter 143,
13 excluding sections 143.191 to 143.265 and related provisions;

14 (5) "Taxpayer", a person, firm, a partner in a firm, corporation,
15 or a shareholder in an S corporation doing business in the state of
16 Missouri and subject to the state income tax imposed under the
17 provisions of chapter 143; an insurance company paying an annual tax

18 on its gross premium receipts in this state, or other financial
19 institution paying taxes to the state of Missouri or any political
20 subdivision of this state under the provisions of chapter 148; an express
21 company which pays an annual tax on its gross receipts in this state
22 under chapter 153; an individual subject to the state income tax
23 imposed under the provisions of chapter 143; or any charitable
24 organization that is exempt from federal income tax and whose
25 Missouri unrelated business taxable income, if any, would be subject to
26 the state income tax imposed under chapter 143.

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

33 3. The amount of the tax credit claimed shall not exceed the
34 amount of the taxpayer's state tax liability for the taxable year for
35 which the credit is claimed, and such taxpayer shall not be allowed to
36 claim a tax credit in excess of fifty thousand dollars per taxable
37 year. However, any tax credit that cannot be claimed in the taxable
38 year in which the contribution was made may be carried over to the
39 next four succeeding taxable years until the full credit has been
40 claimed. Tax credits issued under this section are nontransferable and
41 nonrefundable.

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

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

54 6. The director shall establish a procedure by which a taxpayer

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

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

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

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

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

73 7. Each qualified organization shall provide information to the
74 director concerning the identity of each taxpayer making a
75 contribution to the qualified organization who is claiming a tax credit
76 under this section and the amount of the contribution. The director
77 shall provide the information to the director of revenue. The director
78 shall be subject to the confidentiality and penalty provisions of section
79 32.057 relating to the disclosure of tax information.

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

84 9. Under section 23.253 of the Missouri sunset act:

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

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

91 (3) This section shall terminate on September first of the

92 calendar year immediately following the calendar year in which a
93 program authorized under this section is sunset.

135.2000. 1. As used in this section, the following terms mean:

2 (1) "Commissioner", the commissioner of education for the
3 department of elementary and secondary education;

4 (2) "Contribution", a donation of cash to a qualified agency as
5 defined in section 210.1500;

6 (3) "State tax liability", in the case of a business taxpayer, any
7 liability incurred by such taxpayer under the provisions of chapters
8 143, 148, and 153, excluding sections 143.191 to 143.265 and related
9 provisions and, in the case of an individual taxpayer, any liability
10 incurred by such taxpayer under the provisions of chapter 143,
11 excluding sections 143.191 to 143.265 and related provisions;

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

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

15 (6) "Taxpayer", a person, firm, partner in a partnership, member
16 in a limited liability company, shareholder in an S corporation, or a
17 corporation doing business in the state of Missouri and subject to the
18 state income tax imposed under chapter 143, or an insurance company
19 paying an annual tax on its gross premium receipts in this state, or
20 other financial institution paying taxes to the state of Missouri or any
21 political subdivision of this state under the provisions of chapter 148,
22 or an express company that pays an annual tax on its gross receipts in
23 this state under chapter 153, or an individual subject to the state
24 income tax under chapter 143, or any charitable organization that is
25 exempt from federal income tax and whose Missouri unrelated business
26 taxable income, if any, would be subject to the state income tax
27 imposed under chapter 143.

28 2. (1) Subject to the provisions of subsection 5 of this section,
29 any contribution to a qualified agency made on or after January 1,
30 2019, shall be eligible for a tax credit as provided by this section.

31 (2) For all tax years beginning on or after January 1, 2019, a
32 taxpayer shall be entitled to receive a tax credit against the taxpayer's
33 state tax liability in an amount equal to fifty percent of the amount
34 such taxpayer contributed to a qualified agency evidenced by a
35 contribution verification. A contribution verification shall be issued to

36 the taxpayer by the qualified agency receiving the contribution. Such
37 contribution verification shall include the taxpayer's name, Social
38 Security number, amount of tax credit, amount of contribution, the
39 name and address of the agency receiving the credit, and the date the
40 contribution was made. The tax credit provided under this subsection
41 shall be initially filed for the year in which the verified contribution is
42 made.

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

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

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

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

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

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

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

88 9. Under section 23.253 of the Missouri sunset act:

89 (1) The provisions of the new program authorized under section
90 135.2000 shall automatically sunset on December thirty-first six years
91 after the effective date of section 135.2000 unless reauthorized by an
92 act of the general assembly; and

93 (2) If such program is reauthorized, the program authorized
94 under section 135.2000 shall automatically sunset on December
95 thirty-first twelve years after the effective date of the reauthorization
96 of section 135.2000; and

97 (3) Section 135.2000 shall terminate on September first of the
98 calendar year immediately following the calendar year in which the
99 program authorized under section 135.2000 is sunset.

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

3 (1) "Child with a disability":

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

8 a. An autism spectrum disorder;

9 b. Developmental delay;

10 c. Emotional disability;

- 11 **d. Hearing impairment;**
12 **e. Other health impairments;**
13 **f. Specific learning disability;**
14 **g. Mild, moderate, or severe intellectual disability;**
15 **h. Multiple disabilities;**
16 **i. Multiple disabilities with severe sensory impairment;**
17 **j. Orthopedic impairment;**
18 **k. Preschool severe delay;**
19 **l. Speech or language impairment;**
20 **m. Traumatic brain injury; or**
21 **n. Visual impairment; and**
- 22 **(b) Shall not include a child if the determining factor for the**
23 **classification is one or more of the following:**
- 24 **a. A lack of appropriate instruction in reading, including**
25 **essential components of reading instruction;**
26 **b. A lack of appropriate instruction in mathematics; or**
27 **c. Difficulty in writing, speaking, or understanding the English**
28 **language due to an environmental background in which a language**
29 **other than English is primarily or exclusively used;**
- 30 **(2) "Curriculum", a complete course of study for a particular**
31 **content area or grade level, including any supplemental materials;**
- 32 **(3) "Department", the department of elementary and secondary**
33 **education;**
- 34 **(4) "Educational assistance organization", the same meaning as**
35 **used in section 135.712;**
- 36 **(5) "Eligible postsecondary institution", any approved private**
37 **institution or approved public institution as defined in section**
38 **173.1102;**
- 39 **(6) "Parent", the same meaning as used in section 135.712;**
- 40 **(7) "Private school", a school that is not a part of the public**
41 **school system of the state of Missouri and that charges tuition for the**
42 **rendering of elementary or secondary educational services;**
- 43 **(8) "Program", the Missouri empowerment scholarship accounts**
44 **program;**
- 45 **(9) "Qualified school", a home school as defined in section**
46 **167.031, a private school as defined in this subsection, or a preschool**
47 **for children with a disability, that is located in Missouri and that does**

48 not discriminate on the basis of race, color, or national origin;

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

50 (a) Is any of the following:

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

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

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

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

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

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

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

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

19 (a) Tuition or fees at a qualified school;

20 (b) Textbooks required by a qualified school;

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

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

26 (e) Curriculum;

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

28 (g) Fees for a nationally standardized norm-referenced

29 achievement test, advanced placement examinations, international
30 baccalaureate examinations, or any exams related to college or
31 university admission;

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

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

35 (j) Textbooks required by an eligible postsecondary institution;

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

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

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

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

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

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

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

62 5. If a qualified student withdraws from the program by
63 enrolling in a school other than a qualified school, or is disqualified
64 from the program under the provisions of section 166.710, the qualified
65 student's Missouri empowerment scholarship account shall be closed

66 and any remaining funds shall be returned to the educational
67 assistance organization for redistribution to other qualified
68 students. Under such circumstances, the obligation to provide an
69 education for such student shall transfer back to the student's district
70 of residence.

71 6. Any funds remaining in a qualified student's scholarship
72 account at the end of a school year shall remain in the account and
73 shall not be returned to the educational assistance organization. Any
74 funds remaining in a qualified student's scholarship account upon
75 graduation from a qualified school may be used for the purposes of
76 postsecondary education as specified in subdivision (4) of subsection
77 1 of this section. Any funds remaining in a qualified student's account
78 after graduation from an eligible postsecondary institution, or after a
79 period of four years following graduation from a qualified school,
80 whichever occurs first, shall be returned to the educational assistance
81 organization for redistribution to other qualified students.

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

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

7 2. A parent or qualified student or vendor may be disqualified
8 from program participation if, after a hearing before the commissioner
9 of education or his or her designee, the party is found to have
10 committed an intentional program violation consisting of any
11 misrepresentation or other act that materially violates any law or rule
12 governing the program. The department may remove any parent or
13 qualified student from eligibility for a Missouri empowerment
14 scholarship program account. A parent may appeal the department's
15 decision to the state board of education. A parent may appeal the state
16 board of education's decision to the circuit court of the county in which
17 the student resides.

18 3. The department may refer cases of substantial misuse of

19 moneys to the attorney general for investigation if the department
20 obtains evidence of fraudulent use of an account.

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

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

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

27 (3) Creating an online anonymous fraud reporting service;

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

29 and

30 (5) A surety bond requirement for account holders.

31 5. Any rule or portion of a rule, as that term is defined in section
32 536.010, that is created under the authority delegated in this section
33 shall become effective only if it complies with and is subject to all of
34 the provisions of chapter 536 and, if applicable, section 536.028. This
35 section and chapter 536 are nonseverable, and if any of the powers
36 vested with the general assembly pursuant to chapter 536 to review, to
37 delay the effective date, or to disapprove and annul a rule are
38 subsequently held unconstitutional, then the grant of rulemaking
39 authority and any rule proposed or adopted after August 28, 2016, shall
40 be invalid and void.

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

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

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

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

11 4. In any legal proceeding challenging the application of sections
12 166.700 to 166.720 to a qualified school, the state shall bear the burden
13 of establishing that the law is necessary and does not impose any undue
14 burden on qualified schools.

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

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

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

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

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

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

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

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

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

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

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

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

42 **5. The department of elementary and secondary education shall**
43 **prepare and maintain an easy-to-search database containing statewide**
44 **assessment scores of all recipients of scholarships under this**
45 **section. Each recipient shall be assigned a random identification**
46 **number by the department for purposes of the database and no**
47 **personally identifiable data shall be accessible on the database.**

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

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