

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 612

AN ACT

To amend chapters 135, 166, and 167, RSMo, by adding thereto thirteen new sections relating to alternative education options for elementary and secondary education students, with penalty provisions and a contingent effective date.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Chapters 135, 166, and 167, RSMo, are amended by
2 adding thereto thirteen new sections, to be known as sections
3 135.712, 135.713, 135.714, 135.716, 135.719, 160.840, 166.700,
4 166.705, 166.710, 166.715, 166.720, 166.725, and 167.125, to read
5 as follows:

6 135.712. 1. Sections 135.712 to 135.719 and sections
7 166.700 to 166.725 establish the "Missouri Empowerment
8 Scholarship Accounts Program" to provide options toward ensuring
9 the education of students in this state.

10 2. As used in sections 135.712 to 135.719, the following
11 terms mean:

12 (1) "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 state treasurer, and that allocates all of its
16 annual revenue for educational assistance, except as provided in

1 paragraph (c) of subdivision (4) of subsection 1 of section
2 135.714 and as provided for in sections 135.712 to 135.719,
3 derived from contributions for which a credit is claimed under
4 section 135.713;

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

7 (3) "Program", the Missouri empowerment scholarship
8 accounts program established under sections 135.712 to 135.719
9 and sections 166.700 to 166.725;

10 (4) "Qualified student", the same meaning as used in
11 section 166.700;

12 (5) "Qualifying contribution", a donation of cash, stock,
13 bonds, or other marketable securities for purposes of claiming a
14 tax credit under sections 135.712 to 135.719;

15 (6) "Scholarship account", a savings account created by the
16 Missouri empowerment scholarship accounts program authorized by
17 sections 166.700 to 166.725;

18 (7) "Taxpayer", an individual subject to the state income
19 tax imposed in chapter 143; an individual, a firm, a partner in a
20 firm, corporation, or a shareholder in an S corporation doing
21 business in this state and subject to the state income tax
22 imposed by chapter 143; or an express company that pays an annual
23 tax on its gross receipts in this state under chapter 153, which
24 files a Missouri income tax return and is not a dependent of any
25 other taxpayer.

26 135.713. 1. (1) For all tax years beginning on or after
27 January 1, 2019, any taxpayer who makes a qualifying contribution
28 to an educational assistance organization may claim a credit

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

10 (2) The following taxpayers shall not be eligible to claim
11 a tax credit under sections 135.712 to 135.719 for the tax year
12 in which the following conditions apply:

13 (a) Any taxpayer who is subject to the federal alternative
14 minimum tax imposed under 26 U.S.C. Section 55 and who claims a
15 deduction under 26 U.S.C. Section 170;

16 (b) Any taxpayer or owner of a pass-through entity who
17 claims a deduction under 26 U.S.C. Section 170 for a qualifying
18 contribution under sections 135.712 to 135.719.

19 (3) For the purposes of this subsection, the term "pass-
20 through entity" shall mean any entity organized under 26 U.S.C.
21 Subchapter S, or any other entity for which taxable income is
22 passed through to the owners of such entity.

23 2. The amount of the tax credit claimed shall not exceed
24 fifty percent of the taxpayer's state tax liability for the tax
25 year for which the credit is claimed. The state treasurer shall
26 certify the tax credit amount to the taxpayer and to the
27 department of revenue. A taxpayer may carry the credit forward
28 to any of such taxpayer's four subsequent tax years. All tax

1 credits authorized under the program shall not be transferred,
2 sold, or assigned, and are not refundable.

3 3. The cumulative amount of tax credits that may be
4 allocated to all taxpayers contributing to educational assistance
5 organizations in any one calendar year shall not exceed twenty-
6 five million dollars, which amount shall annually be adjusted by
7 the state treasurer for inflation based on the consumer price
8 index for all urban consumers for the Midwest region, as defined
9 and officially recorded by the United States Department of Labor
10 or its successor. The state treasurer may adopt rules, policies,
11 and procedures not inconsistent with the provisions of sections
12 135.712 to 135.719, to ensure that taxpayers may claim all the
13 tax credits possible up to the cumulative amount of tax credits
14 available in any one calendar year.

15 135.714. 1. Each educational assistance organization
16 shall:

17 (1) Notify the state treasurer of its intent to provide
18 scholarship accounts to qualified students;

19 (2) Demonstrate to the state treasurer that it is exempt
20 from federal income tax under Section 501(c)(3) of the Internal
21 Revenue Code of 1986, as amended;

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

24 (4) Ensure that:

25 (a) One hundred percent of its revenues from interest or
26 investments is spent on scholarship accounts;

27 (b) At least ninety percent of its revenues from qualifying
28 contributions is spent on scholarship accounts; and

1 (c) Marketing and administrative expenses shall not exceed
2 the following limits of its remaining revenue from contributions:
3 ten percent for the first two hundred fifty thousand dollars,
4 eight percent for the next five hundred thousand dollars, and
5 three percent thereafter;

6 (5) Distribute scholarship account payments four times per
7 year, not to exceed a total grant amount equal to the state
8 adequacy target as defined in section 163.011 and calculated by
9 the department of elementary and secondary education, in the form
10 of a deposit into the scholarship account of the qualified
11 student;

12 (6) Provide the state treasurer, upon request, with
13 criminal background checks on all its employees and board
14 members, and exclude from employment or governance any individual
15 that might reasonably pose a risk to the appropriate use of
16 contributed funds;

17 (7) Demonstrate its financial accountability by:

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

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

24 (8) Demonstrate its financial viability, if it is to
25 receive donations of fifty thousand dollars or more during the
26 school year, by filing with the state treasurer before the start
27 of the school year a surety bond payable to the state in an
28 amount equal to the aggregate amount of contributions expected to

1 be received during the school year or other financial information
2 that demonstrates the financial viability of the educational
3 assistance organization.

4 2. The audit shall include:

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

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

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

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

13 3. An educational assistance organization may contract with
14 private financial management firms to manage scholarship accounts
15 with the supervision of the state.

16 135.716. 1. The state treasurer shall provide a
17 standardized format for a receipt to be issued by an educational
18 assistance organization to a taxpayer to indicate the value of a
19 contribution received. The department of revenue shall require a
20 taxpayer to provide a copy of this receipt if claiming the tax
21 credit authorized by the program.

22 2. The state treasurer shall provide a standardized format
23 for educational assistance organizations to report the
24 information required in subsection 1 of this section.

25 3. The state treasurer or state auditor may conduct an
26 investigation if the state treasurer possesses evidence of fraud
27 committed by an educational assistance organization.

28 4. The state treasurer may bar an educational assistance

1 organization from participating in the program if the state
2 treasurer establishes that the educational assistance
3 organization has intentionally and substantially failed to comply
4 with the requirements in section 135.714. If the state treasurer
5 bars an educational assistance organization from the program
6 under this subsection, it shall notify affected qualified
7 students and their parents of the decision as soon as possible
8 after the decision is made.

9 5. The state treasurer shall issue a report on the state of
10 the Missouri empowerment scholarship accounts program five years
11 after it goes into effect. The report shall include, but is not
12 limited to:

13 (1) Information regarding the finances of the educational
14 assistance organizations; and

15 (2) Educational outcomes of qualified students.

16 135.719. 1. The state treasurer and the department of
17 revenue may promulgate rules to implement the provisions of
18 sections 135.712 to 135.719. Any rule or portion of a rule, as
19 that term is defined in section 536.010 that is created under the
20 authority delegated in this section shall become effective only
21 if it complies with and is subject to all of the provisions of
22 chapter 536, and, if applicable, section 536.028. This section
23 and chapter 536 are nonseverable and if any of the powers vested
24 with the general assembly pursuant to chapter 536, to review, to
25 delay the effective date, or to disapprove and annul a rule are
26 subsequently held unconstitutional, then the grant of rulemaking
27 authority and any rule proposed or adopted after August 28, 2018,
28 shall be invalid and void.

1 2. The provisions of section 23.253 of the Missouri sunset
2 act shall not apply to sections 135.712 to 135.719 and sections
3 166.700 to 166.725.

4 160.840. 1. This section shall be known and may be cited
5 as the "Innovation Schools Act".

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

7 (1) "Eligible district" or "district", a metropolitan or
8 urban school district;

9 (2) "Governing board of an eligible district" or "board",
10 the board of education of a metropolitan or urban school district
11 or any successor governing agency or board for the district,
12 including, but not limited to, a special administrative board,
13 the department of elementary and secondary education, or other
14 alternate governing structure that governs the district, as
15 provided in sections 162.081, 162.1100, or other applicable
16 sections of law;

17 (3) "Innovation plan", an agreement between the governing
18 board of an eligible district and a leadership committee to
19 establish an innovation school within a district;

20 (4) "Innovation school" or "School", a semi-autonomous
21 public school, operated by a leadership committee and located
22 within an eligible district, formed by means of an innovation
23 plan agreed to by a leadership committee and the governing board
24 of an eligible district;

25 (5) "Leadership committee", a group of local business
26 persons, educational experts, and civic leaders formed in order
27 to establish an innovation school located within an eligible
28 district and which has secured funding from charitable donations,

1 corporate gifts, philanthropic organizations, grants, or other
2 aid in order to establish an innovation school;

3 (6) "Project based learning", a teaching method in which
4 students gain knowledge and skills by working for an extended
5 period to investigate and respond to an authentic, engaging, and
6 complex question, problem, or challenge.

7 3. The governing board of an eligible district may enter
8 into a cooperative agreement with a leadership committee in order
9 to develop an innovation plan and establish an innovation school
10 located within the district. The initial innovation plan agreed
11 to by the leadership committee and the board shall be for a term
12 of ten years. After the initial ten year agreement, the plan may
13 be renewed in five year intervals. The leadership committee and
14 the board may alter an innovation plan at any point upon mutual
15 agreement. Should the governing board of an eligible district be
16 altered or cease to exist for any reason, including but not
17 limited to, the provisions contained in sections 162.081 and
18 162.1100 during the term of the innovation plan, the successor
19 governing agency of the district shall be considered the
20 governing board of an eligible district and shall continue to
21 comply with the innovation plan for the term of the agreement.

22 4. To the extent possible, the innovation plan shall grant
23 the innovation school autonomy from state and district
24 regulations in order to foster an environment of innovation.
25 Except as otherwise provided in this section, the innovation plan
26 shall grant the innovation school autonomy, to the extent
27 allowable, to implement curriculum, educational programming,
28 personnel selection and evaluation, calendars and scheduling, and

1 budgeting policies free of district, state, and other outside
2 control, including collective bargaining agreement and teacher
3 certification provisions. The innovation plan shall contain
4 details regarding the proposed school's focus, curriculum,
5 educational programming, personnel selection and evaluation,
6 calendars and scheduling, and budgeting policies. The
7 educational programming and curriculum selected for the
8 innovation school shall be proven effective by scientifically
9 based research and may contain elements of project based learning
10 or other, similar teaching methods. No individual hired to teach
11 at the innovation school shall be subject to the provisions of
12 section 168.011.

13 5. Notwithstanding any provision of law to the contrary,
14 enrollment in the innovation school shall be available only to
15 students who reside within the boundary of the eligible district.
16 The innovation plan shall establish attendance criteria and
17 parameters for enrollment, provided that students who reside
18 within two and one-half miles of the school shall be given first
19 priority in enrollment on a first come, first served basis,
20 provided that such students are residents of the eligible
21 district. When sixty-five percent of the enrolled students
22 reside within two and one-half miles of the school, the remaining
23 slots may be awarded by means of a lottery system, which shall be
24 available to any student who resides within the eligible
25 district, regardless of geography. The innovation plan shall
26 contain provisions to assure a given level of racial and
27 socioeconomic diversity in the school's total enrollment, which
28 shall be specified in the plan. A student transportation policy

1 shall be included in the innovation plan.

2 6. The innovation plan shall demonstrate that the
3 leadership committee has secured sufficient funding from
4 charitable donations, corporate gifts, philanthropic
5 organizations, grants, and other aid in order to fund a
6 significant portion of the startup costs and capital outlays of
7 the innovation school. The innovation school shall not possess
8 bonding authority, but shall receive funds from district-issued
9 bonds, as agreed to in the innovation plan.

10 7. In developing an innovation plan, the leadership
11 committee and board shall not waive any federal law and
12 requirements contained in the Individuals with Disabilities in
13 Education Act, as amended, the Every Student Succeeds Act, or
14 wave any federal requirement that results in a loss of federal
15 funds. Laws and regulations related to the statewide assessment
16 system established in section 160.518, as well as any
17 requirements for providing a minimum school day and school term
18 as provided in sections 160.011, 160.041, 171.031, and 171.033
19 shall not be waived.

20 8. For the purposes of calculation and distribution of
21 state aid as provided in chapter 163, pupils enrolled in an
22 innovation school shall be included in the pupil enrollment of
23 the eligible district. The innovation plan shall specify the
24 financial arrangement between the board and the leadership
25 committee, including provisions for the monthly, proportional
26 transfer of the state aid to which the innovation school is
27 entitled based on the school's weighted average daily attendance,
28 as defined in section 163.011. The board shall also remit to the

1 innovation school an amount equal to the school's proportionate
2 share of any other applicable state, local, and federal funding,
3 including the school's proportionate share under section 163.087.
4 Eligible districts shall be entitled to reimbursement under
5 section 163.161 for transportation of pupils by the innovation
6 school. The innovation plan shall delineate the manner in which
7 transportation funding shall be disbursed to the leadership
8 committee for the transportation of innovation school pupils.

9 9. The innovation school, the school's employees, and the
10 leadership committee shall not be deemed to be the state or a
11 state agency for any purpose, including sections 105.711 to
12 105.726. The state of Missouri, its agencies, and its employees
13 shall be absolutely immune from liability for any and all acts or
14 omissions relating to or in any way involving the innovation
15 school, the leadership committee, its members, or its employees.
16 Such immunities, and immunity doctrines as exist or may hereafter
17 exist benefitting boards of education, their members, and their
18 employees shall be available to the leadership committee, its
19 members, and its employees. The leadership committee and the
20 innovation school which it governs shall not be considered a
21 successor entity for the purpose of employment contracts,
22 unemployment compensation payment pursuant to section 288.110, or
23 any other purpose.

24 10. The state board of education, whose decision shall be
25 final, shall resolve any dispute arising between the leadership
26 committee and a governing board of an eligible district.

27 11. (1) Teachers employed by an innovation school may
28 qualify for tenure under the provisions of sections 168.102 to

1 168.130 if agreed to in the innovation plan. Tenured teachers
2 who were employed in the eligible district prior to teaching at
3 the innovation school may retain their tenure rights if they stop
4 teaching at the innovation school and return to the eligible
5 district.

6 (2) Notwithstanding any provision of chapter 169 or any
7 other provision of law, a teacher receiving retirement benefits
8 under chapter 169 may, without losing his or her retirement
9 benefits, teach on a full-time or part-time basis in an
10 innovation school if the teacher has teaching experience in a
11 subject that is essential to the mission of the innovation school
12 and the eligible district can demonstrate that the district has
13 been unsuccessful in employing a teacher with the same
14 certification and relevant experience in the subject area.

15 12. The state auditor may audit the innovation school and
16 leadership committee at any point after which any state funds
17 have been remitted to the innovation school.

18 13. Notwithstanding any provision of law to the contrary,
19 the eligible district may sell or lease a school building owned
20 by the district to the innovation school at or below market value
21 or at no cost.

22 166.700. As used in sections 166.700 to 166.725, the
23 following terms mean:

24 (1) "Child with a disability":

25 (a) A child who is at least five years of age but less than
26 twenty-two years of age who has been evaluated and found to have
27 at least one of the following disabilities and who, because of
28 the disability, needs special education and related services:

- a. An autism spectrum disorder;
- b. Developmental delay;
- c. Emotional disability;
- d. Hearing impairment;
- e. Other health impairments;
- f. Specific learning disability;
- g. Mild, moderate, or severe intellectual disability;
- h. Multiple disabilities;
- i. Multiple disabilities with severe sensory impairment;
- j. Orthopedic impairment;
- k. Preschool severe delay;
- l. Speech or language impairment;
- m. Traumatic brain injury; or
- n. Visual impairment; and

(b) Shall not include a child if the determining factor for the classification is one or more of the following:

- a. A lack of appropriate instruction in reading, including essential components of reading instruction;
- b. A lack of appropriate instruction in mathematics; or
- c. Difficulty in writing, speaking, or understanding the English language due to an environmental background in which a language other than English is primarily or exclusively used;

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

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

(4) "Educational assistance organization", the same meaning

1 as used in section 135.712;

2 (5) "Parent", the same meaning as used in section 135.712;

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

7 (7) "Program", the Missouri empowerment scholarship
8 accounts program established under sections 135.712 to 135.719
9 and sections 166.700 to 166.725;

10 (8) "Qualified school", a charter school as defined in
11 section 160.400, a home school as defined in section 167.031, a
12 private school as defined in this section, a public school as
13 defined in section 160.011, or a public or private virtual school
14 that is incorporated in Missouri, and that does not discriminate
15 on the basis of race, color, or national origin. Charter
16 schools, public schools, and public virtual schools are
17 "qualified schools" only to the extent that moneys deposited in a
18 qualified student's scholarship account shall be used for
19 specific services or individual classes consistent with the
20 provisions of subdivision (4) of subsection 1 of section 166.705;

21 (9) "Qualified student", a resident of this state who:

22 (a) Is any of the following:

23 a. Identified by a district as a child with a disability;

24 b. A child with a disability who is eligible to receive
25 services from a school district under the Individuals with
26 Disabilities Education Act;

27 c. A child of a parent in active military service;

28 d. A child who is a ward of the juvenile court and who is

1 residing with a prospective permanent placement and for whom the
2 case plan is adoption or permanent guardianship; or

3 e. A child who was a ward of the juvenile court and who
4 achieved permanency through adoption permanent guardianship; and

5 (b) Did any of the following:

6 a. Attended a public school as a full-time student for at
7 least one semester from the previous twelve months and who
8 transferred from a public school under a contract to participate
9 in the Missouri empowerment scholarship accounts program;

10 b. Previously participated in the Missouri empowerment
11 scholarship accounts program;

12 c. Is a child who is eligible to begin kindergarten under
13 sections 160.051 to 160.055; or

14 d. Is attending school for the first time.

15 166.705. 1. A parent of a qualified student may establish
16 a Missouri empowerment scholarship account for the student by
17 entering into a written agreement with an educational assistance
18 organization. The agreement shall provide that:

19 (1) The qualified student shall enroll in a qualified
20 school and receive an education in at least the subjects of
21 English language arts, mathematics, social studies, and science;

22 (2) The qualified student shall not be enrolled in a school
23 operated by the qualified student's district of residence or a
24 charter school, except for a qualified student who is in the
25 custody of the state, and shall release the district of residence
26 from all obligations to educate the qualified student while the
27 qualified student is enrolled in the program; except that, this
28 subdivision shall not relieve the student's district of residence

1 from the obligation to conduct an evaluation for disabilities;

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

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

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

9 (b) Textbooks required by a qualified school;

10 (c) Educational therapies or services for the qualified
11 student from a licensed or accredited practitioner or provider,
12 including licensed or accredited paraprofessionals or educational
13 aides;

14 (d) Tutoring services;

15 (e) Curriculum;

16 (f) Tuition or fees for a private virtual school;

17 (g) Fees for nationally standardized norm-referenced
18 achievement tests, advanced placement examinations, international
19 baccalaureate examinations, or any exams related to college or
20 university admission;

21 (h) Fees for management of the empowerment scholarship
22 account by firms selected by the educational assistance
23 organization;

24 (i) Services provided by a qualified school, including
25 individual classes and extracurricular programs;

26 (j) Insurance or surety bond payments as required by the
27 state treasurer;

28 (k) Computer hardware or other technological devices that

1 are used to help meet a qualified student's educational needs and
2 that are approved by an educational assistance organization; and

3 (1) Fees for summer education programs and specialized
4 after-school education programs;

5 (5) Moneys deposited in the qualified student's account
6 shall not be used for the following:

7 (a) Consumable educational supplies including, but not
8 limited to, paper, pens, pencils, or markers; and

9 (b) Tuition at a private school located outside of the
10 state of Missouri.

11 2. Missouri empowerment scholarship accounts are renewable
12 on an annual basis upon request of the parent of a qualified
13 student. Notwithstanding any changes to the qualified student's
14 multidisciplinary evaluation team plan, a student who has
15 previously qualified for a Missouri empowerment scholarship
16 account shall remain eligible to apply for renewal until the
17 student completes high school and submits scores from a
18 nationally standardized norm-referenced achievement test,
19 advanced placement examination, international baccalaureate
20 examination, or any exam related to college or university
21 admission purchased with Missouri empowerment scholarship account
22 funds to the state treasurer.

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

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

1 5. If a qualified student withdraws from the program by
2 enrolling in a school other than a qualified school, or is
3 disqualified from the program under the provisions of section
4 166.710, the qualified student's Missouri empowerment scholarship
5 account shall be closed and any remaining funds shall be returned
6 to the educational assistance organization for redistribution to
7 other qualified students. Under such circumstances, the
8 obligation to provide an education for such student shall
9 transfer back to the student's district of residence.

10 6. Any funds remaining in a qualified student's scholarship
11 account at the end of a school year shall remain in the account
12 and shall not be returned to the educational assistance
13 organization. Any funds remaining in a qualified student's
14 scholarship account upon graduation from a qualified school that
15 is a high school shall be returned to the educational assistance
16 organization for redistribution to other qualified students.

17 7. Moneys received under section 135.714 shall not
18 constitute Missouri taxable income to the parent of the qualified
19 student.

20 166.710. 1. Beginning in the 2020-2021 school year, the
21 state treasurer shall conduct or contract for annual audits of
22 empowerment scholarship accounts to ensure compliance with the
23 requirements of subsection 1 of section 166.705. The state
24 treasurer shall also conduct or contract for random, quarterly,
25 and annual audits of empowerment scholarship accounts as needed
26 to ensure compliance with the requirements of subsection 1 of
27 section 166.705.

28 2. A parent, qualified student, or vendor may be

1 disqualified from program participation if the state treasurer,
2 or his or her designee, finds the party has committed an
3 intentional program violation consisting of any misrepresentation
4 or other act that materially violates any law or rule governing
5 the program. The state treasurer may remove any parent or
6 qualified student from eligibility for a Missouri empowerment
7 scholarship program account. A parent may appeal the state
8 treasurer's decision to the administrative hearing commission. A
9 parent may appeal the administrative hearing commission's
10 decision to the circuit court of the county in which the student
11 resides.

12 3. The state treasurer may refer cases of substantial
13 misuse of moneys to the attorney general for investigation if the
14 state treasurer obtains evidence of fraudulent use of an account.

15 4. The state treasurer shall promulgate the following rules
16 to implement and administer the Missouri empowerment scholarship
17 accounts program:

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

20 (2) Rules for conducting random, quarterly, and annual
21 reviews of accounts;

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

23 (4) Creating an anonymous telephone hotline for fraud
24 reporting; and

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

26 5. Any rule or portion of a rule, as that term is defined
27 in section 536.010 that is created under the authority delegated
28 in this section shall become effective only if it complies with

1 and is subject to all of the provisions of chapter 536, and, if
2 applicable, section 536.028. This section and chapter 536 are
3 nonseverable and if any of the powers vested with the general
4 assembly pursuant to chapter 536, to review, to delay the
5 effective date, or to disapprove and annul a rule are
6 subsequently held unconstitutional, then the grant of rulemaking
7 authority and any rule proposed or adopted after August 28, 2018,
8 shall be invalid and void.

9 166.715. The parent of a qualified student in grades third
10 through twelfth who has a scholarship account shall annually have
11 the qualified student take a nationally standardized norm-
12 referenced achievement test, an advanced placement examination,
13 or any examination related to college or university admissions
14 that assesses reading and mathematics. The state treasurer shall
15 make available to qualified students with a scholarship account a
16 list of achievement tests that satisfy the requirement of this
17 section. Qualified schools shall ensure that such tests and
18 examinations are administered during the same time frame that
19 public schools of the state administer the same tests and
20 examinations.

21 166.720. 1. A person commits a class A misdemeanor if they
22 are found to have knowingly used moneys granted under section
23 135.714 for purposes other than those provided for in sections
24 166.700 to 166.725.

25 2. No financial institution shall be liable in any civil
26 action for providing a savings account's financial information to
27 the state treasurer unless the information provided is false and
28 the financial institution providing the false information does so

1 knowingly and with malice.

2 166.725. 1. Sections 166.700 to 166.725 do not permit any
3 governmental agency to exercise control or supervision over any
4 qualified school in which a qualified student enrolls other than
5 a qualified school that is a public school.

6 2. A qualified school, other than a qualified school that
7 is a public school, that accepts a payment from a parent under
8 sections 166.700 to 166.725 shall not be considered an agent of
9 the state or federal government due to the school's acceptance of
10 the payment.

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

16 4. In any legal proceeding challenging the application of
17 sections 166.700 to 166.725 to a qualified school, the state
18 shall bear the burden of establishing that the law is necessary
19 and does not impose any undue burden on qualified schools.

20 167.125. 1. For any pupil residing in any school district
21 in the state, the commissioner of education or his or her
22 designee shall, upon proper application by the parent or guardian
23 of the pupil, assign the pupil and any sibling of the pupil to
24 another school district if the pupil is eligible as described
25 under subsection 2 of this section and the following conditions
26 are met:

27 (1) The actual driving distance from the pupil's residence
28 to the attendance center in the district of residence is fifteen

1 miles or more by the shortest route available as determined by
2 the commissioner or his or her designee;

3 (2) The attendance center to which the pupil would be
4 assigned in the receiving district is at least five miles closer
5 in actual driving distance by the shortest route available to the
6 pupil's residence than the current attendance center in the
7 district of residence as determined by the commissioner or his or
8 her designee; and

9 (3) The attendance of the pupil will not cause the
10 classroom in the receiving district to exceed the number of
11 pupils per class as determined by the receiving district.

12 2. (1) For pupils applying to the commissioner of
13 education under this section, the commissioner or his or her
14 designee shall assign pupils in the order in which applications
15 are received, so long as the applications are properly completed
16 and the conditions of subsection 1 of this section are met.

17 (2) Once granted, the hardship assignment shall continue
18 until the pupil, and any sibling of the pupil who attends the
19 same attendance center, completes his or her course of study in
20 the receiving district or the parent or guardian withdraws the
21 pupil. If a parent or guardian withdraws a pupil from a hardship
22 assignment, the granting of a subsequent application is
23 discretionary.

24 (3) A pupil shall be eligible to apply to the commissioner
25 of education to be assigned to another district under this
26 section if the pupil has been enrolled in and attending a public
27 school in his or her district of residence during the school year
28 prior to the application. Any pupil shall be eligible to apply

1 to the commissioner of education to be assigned to another
2 district under this section if the pupil has been enrolled in and
3 attending a public school in a district other than his or her
4 district of residence and paid nonresident tuition for such
5 enrollment during the school year prior to the application.
6 Pupils who reside in the district who become eligible for
7 kindergarten or first grade shall also be eligible to apply to
8 the commissioner of education to be assigned to another district.

9 (4) A pupil who is not currently enrolled in a public
10 school district shall become eligible to apply to the
11 commissioner of education to be assigned to another district
12 after the pupil has enrolled in and completed a full school year
13 in a public school in his or her district of residence.

14 3. A school district that is assigned a pupil under the
15 provisions of this section may charge a nonresident tuition rate.
16 The board of education of the pupil's district of residence shall
17 pay the tuition of the pupil assigned, however, the amount paid
18 by the district of residence shall not exceed the pro rata cost
19 of instruction of the attendance center the pupil would have
20 attended in the pupil's district of residence. If the amount of
21 tuition paid by the district of residence is less than the
22 nonresident tuition rate set by the receiving school district,
23 the balance shall be paid by the parents or guardians of the
24 pupil. No pupil shall be assigned under the provisions of this
25 section unless tuition is paid in full.

26 Section B. Because of the need to ensure alternative
27 education options for the students of Missouri, section A of this
28 act is deemed necessary for the immediate preservation of the

1 public health, welfare, peace and safety, and is hereby declared
2 to be an emergency act within the meaning of the constitution,
3 and section A of this act shall be in full force and effect upon
4 its passage and approval or July first following the school year
5 in which the amount appropriated for subsections 1 and 2 of
6 section 163.031 is equal to or exceeds the amount necessary to
7 fund the entire entitlement calculation determined by subsections
8 1 and 2 of section 163.031, whichever occurs later. The
9 department of elementary and secondary education shall inform the
10 revisor of statutes when the amount appropriated for subsections
11 1 and 2 of section 163.031 is equal to or exceeds the amount
12 necessary to fund the entire entitlement calculation determined
13 by subsections 1 and 2 of section 163.031.