

## SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 296

AN ACT

To amend chapter 166, RSMo, by adding thereto seven new sections relating to education savings accounts for elementary and secondary students, with a delayed effective date.

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

Section A. Chapter 166, RSMo, is amended by adding thereto seven new sections, to be known as sections 166.600, 166.610, 166.620, 166.630, 166.640, 166.650, and 166.660, to read as follows:

166.600. Sections 166.600 to 166.660 shall be known and may be cited as the "Education Savings Account Program".

166.610. As used in sections 166.600 to 166.660, except where the context clearly requires another interpretation, the following terms mean:

(1) "Eligible postsecondary institution", a community college, an approved public institution as defined in section 173.1102, or an approved private institution as defined in section 173.1102;

(2) "Eligible student", either:

(a) Any elementary or secondary student who was eligible to attend a public school in the preceding semester or is starting school in the state for the first time. A first-time enrollee shall be a member of a household whose total annual income does not exceed an amount equal to two times the income standard used to qualify for a free or reduced-price lunch under the national free or reduced-price lunch program established under 42 U.S.C. Section 1751, et seq. Once a student receives a grant under this program, the student shall remain eligible regardless of household

income until the student graduates high school or reaches twenty-one years of age; or

(b) Any elementary or secondary student who is starting school in the state for the first time and is a sibling of a student already enrolled in the program;

(3) "Parent", a resident of this state who is a parent, guardian, custodian, or other person with the authority to act on behalf of the child;

(4) "Participating school", any private school that provides education to elementary or secondary students and has notified the state treasurer of its intention to participate in the program and comply with the program's requirements;

(5) "Private tutor", any teacher with a certificate of license to teach in the state, or any other educator or administrator required to maintain a professional license issued by the state board of education, who provides educational services in a home or other private, non-classroom setting;

(6) "Program", the education savings account program created in sections 166.600 to 166.660;

(7) "Resident school district", the public school district in which the eligible student resides.

166.620. 1. Any parent of an eligible student may establish an education savings account and qualify for the state to make a grant to their child's education savings account if the parent signs an agreement promising:

(1) To provide an education for the eligible student in at least the subjects of reading, grammar, mathematics, social studies, and science; and

(2) Not to enroll their eligible student in a district or charter school.

2. The Educational Savings Account Program Fund is established consisting of moneys appropriated by the general assembly for the purpose of funding grants into education savings accounts. The state treasurer shall administer the fund. Moneys in the fund are continuously appropriated. The state shall deposit into an education savings account, from this fund, a grant in the amount the eligible student's resident school district would have received to serve and educate the student from state sources had the student enrolled in such district. A participating student shall not be counted in the enrollment figures for his or her resident school district.

3. If the number of eligible students with an educational savings account is such that total grants for a school year would exceed the amount of funding available from the educational savings account program fund, the state treasurer shall award grants in the following order of priority:

(1) First, to eligible students who received grants under this section in the prior school year;

(2) Second, to eligible students with family incomes at or below one hundred percent of the income standard used to qualify for a free or reduced-price lunch under the national free or reduced-price lunch program established under 42 U.S.C. Section 1751. If the number of students described in this subdivision exceeds the number of available grants after awards are made under subdivision (1) of this subsection, the state treasurer shall select students under this subdivision by lot to receive any remaining grants;

(3) Third, to other eligible students who qualify under this section. If the number of students described in this subdivision exceeds the number of available grants

after awards are made under subdivisions (1) and (2) of this subsection, the state treasurer shall select students under this subdivision by lot to receive any remaining grants.

4. A parent participating in the program shall agree to use the funds deposited in the eligible student's account for the following qualifying expenses to educate the eligible student:

(1) Tuition and fees at a participating school;

(2) Textbooks required by a participating school;

(3) Payment to a private tutor;

(4) Payment for purchase of curriculum;

(5) Tuition or fees for a non-public online learning program;

(6) Fees for national norm-referenced examinations, advanced placement examinations or similar courses, and any examinations related to college or university admission;

(7) Educational services for eligible students with disabilities from an appropriate licensed or accredited practitioner or provider;

(8) Tuition and fees at an eligible postsecondary institution;

(9) Textbooks required for college or university courses; and

(10) Fees for account management by private financial management firms approved by the treasurer.

5. A participating school, private tutor, eligible postsecondary institution or other educational provider shall not refund, rebate, or share a student's grant with a parent or the student in any manner. The funds in an education saving account shall only be used for educational purposes.

6. Parents may make payments for the costs of educational programs and services not covered by the funds in their accounts.

7. Funds deposited into education savings accounts under sections 166.600 to 166.660 shall not constitute Missouri taxable income to the parent of the qualified student.

166.630. 1. The state treasurer shall qualify private financial management firms to manage education savings accounts.

2. The treasurer shall conduct or contract for random audits of accounts on an annual basis and may conduct or contract for further audits of accounts at his or her discretion.

3. The treasurer may determine any parent of an eligible student ineligible for the education savings account program in the event of substantial misuse of the funds in the account. The treasurer may refer cases of substantial misuse of funds to law enforcement agencies for investigation if evidence of fraudulent use of an account is obtained.

4. The treasurer shall provide parents of participating students with a written explanation of the allowable uses of education savings accounts, the responsibilities of parents, and the duties of the treasurer.

5. The treasurer may deduct up to three percent of the amount from grants to education savings accounts to cover the costs of overseeing the accounts and administering the program.

6. The treasurer shall establish reasonable fees for private financial management firms participating in the program based upon market rates.

7. The treasurer shall make payments to eligible students' education savings accounts at the beginning of each semester.

166.640. 1. To ensure that students are treated fairly and kept safe, all participating schools shall:

(1) Comply with all health and safety laws or codes that apply to private schools;

(2) Hold a valid occupancy permit if required by the municipality in which the school is located;

(3) Certify that the school is in compliance with the nondiscrimination policies set forth in 42 U.S.C. Section 1981;

(4) Conduct criminal background checks on employees;

(5) Exclude from employment any people not permitted by state law to work in a private school; and

(6) Exclude from employment any people that might reasonably pose a threat to the safety of students.

2. To ensure that funds are spent appropriately, all participating schools shall:

(1) Provide parents with a receipt for all qualifying expenses at the school; and

(2) If receiving fifty thousand dollars or more from education savings account funds during the school year, demonstrate that the school can repay any funds that might be provided from education savings accounts by filing with the treasurer prior to the school year:

(a) A surety bond payable to the state in an amount equal to the aggregate amount of the funds from education savings accounts expected to be paid during the school year from students admitted at the participating school; or

(b) Financial information that demonstrating the school's ability to pay an aggregate amount equal to the amount of the funds from education savings accounts expected

to be paid during the school year to students admitted to the participating school.

3. In order to allow parents and taxpayers to measure the achievements of the program:

(1) Parents shall ensure that:

(a) Each year their eligible student takes either the state achievement tests or nationally norm-referenced tests that measure learning gains in math and language arts, and provide for value-added assessment;

(b) The results of these tests are provided to the state or an organization chosen by the state on an annual basis, beginning with the first year of testing;

(c) The student information is reported in a way that would allow the state to aggregate data by grade level, gender, family income level, and race; and

(d) The treasurer is informed of the eligible student's graduation from high school;

(2) The treasurer shall:

(a) Ensure compliance with all student privacy laws;

(b) Collect all test results;

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

(d) Provide rates for high school graduation, college attendance and college graduation for participating students to the public via a state web site after the third year of test and test-related data collection; and

(e) Administer an annual parental satisfaction survey that shall ask parents of students receiving education savings accounts to express:

a. Their satisfaction with the program; and

b. Their opinions on other topics, items, or issues that the state finds would elicit information about the effectiveness of education savings accounts program and the number of years their child has participated in the program.

4. A participating private school is autonomous and not an agent of the state or federal government, and therefore:

(1) No state agency or officer shall in any way regulate the educational program of a participating private school or education provider that accepts funds from an education savings account;

(2) The creation of the education savings account program does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools or education providers beyond those necessary to enforce the requirements of the program; and

(3) Participating private schools and education providers shall be given the maximum freedom to provide for the educational needs of their students without governmental control.

166.650. 1. The state treasurer shall ensure that eligible students and their parents are informed annually of which schools will be participating in the education savings account program. Special attention shall be paid to ensuring that lower-income families are made aware of the program and their options.

2. The state treasurer shall create a standard form for parents of eligible students to establish their



student's eligibility for the education savings account program. The treasurer shall ensure that the application is readily available to interested families through various sources, including the internet.

3. The treasurer may bar a participating school or education provider from participation in the education savings account program if the treasurer establishes that the participating school or education provider has:

(1) Routinely failed to comply with the accountability standards established in the provisions of section 166.640; or

(2) Failed to provide the eligible student with the educational services funded by the education savings account.

4. If the treasurer decides to bar a participating school or education provider from participation in the program, he or she shall notify eligible students and their parents of this decision as quickly as possible.

5. The treasurer shall adopt rules and procedures as necessary for the administration of the education savings account program. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this act, shall be invalid and void.

166.660. 1. The resident school district shall provide a participating school or education provider that

has admitted an eligible student under this program with a complete copy of the student's school records. Such disclosures shall comply with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g.

2. The resident school district shall provide transportation for an eligible student to and from the participating school or education provider under the same conditions and to the same extent as the resident school district is required to provide transportation for other resident students to private schools. The resident school district shall qualify for state transportation aid for each student so transported.

Section B. Section A of this act shall become effective on July 1, 2022.