

FIRST REGULAR SESSION

# SENATE BILL NO. 296

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRATTIN.

1266S.01I

ADRIANE D. CROUSE, Secretary

## 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.

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

Section A. Chapter 166, RSMo, is amended by adding thereto  
2 seven new sections, to be known as sections 166.600, 166.610,  
3 166.620, 166.630, 166.640, 166.650, and 166.660, to read as  
4 follows:

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

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

4 (1) "Department", the department of elementary and  
5 secondary education;

6 (2) "Eligible postsecondary institution", a community  
7 college, an approved public institution as defined in  
8 section 173.1102, or an approved private institution as  
9 defined in section 173.1102;

10 (3) "Eligible student", either:

11 (a) Any elementary or secondary student who was  
12 eligible to attend a public school in the preceding semester  
13 or is starting school in the state for the first time. A  
14 first-time enrollee shall be a member of a household whose  
15 total annual income does not exceed an amount equal to two

16 times the income standard used to qualify for a free or  
17 reduced-price lunch under the national free or reduced-price  
18 lunch program established under 42 U.S.C. Section 1751, et  
19 seq. Once a student receives a grant under this program,  
20 the student shall remain eligible regardless of household  
21 income until the student graduates high school or reaches  
22 twenty-one years of age; or

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

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

29 (5) "Participating school", any private school that  
30 provides education to elementary or secondary students and  
31 has notified the department of its intention to participate  
32 in the program and comply with the program's requirements;

33 (6) "Private tutoring", tutoring services provided by  
34 tutors accredited by a regional or national accrediting  
35 organization;

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

38 (8) "Resident school district", the public school  
39 district in which the eligible student resides.

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

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

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

10           2. The state shall deposit into an education savings  
11 account the dollar amount the resident school district would  
12 have received to serve and educate the eligible student from  
13 state and local sources had the student enrolled in such  
14 district. A participating student shall be counted in the  
15 enrollment figures for his or her resident school district.  
16 The funds needed for a grant shall be subtracted from the  
17 state school aid payable to the student's resident school  
18 district.

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

- 23           (1) Tuition and fees at a participating school;
- 24           (2) Textbooks required by a participating school;
- 25           (3) Payment to a licensed or accredited tutor;
- 26           (4) Payment for purchase of curriculum;
- 27           (5) Tuition or fees for a non-public online learning  
28 program;
- 29           (6) Fees for national norm-referenced examinations,  
30 advanced placement examinations or similar courses, and any  
31 examinations related to college or university admission;
- 32           (7) Contributions of up to two thousand dollars  
33 annually to the eligible student's qualified tuition program  
34 established pursuant to 26 U.S.C. Section 530 or 26 U.S.C.  
35 Section 529;
- 36           (8) Educational services for eligible students with  
37 disabilities from an appropriate licensed or accredited  
38 practitioner or provider;

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

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

(11) Fees for account management by private financial management firms approved by the department.

4. 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.

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

6. A participating student shall be counted in the enrollment figures for his or her resident school district for the purposes of calculating state aid to the resident school district. The funds needed for a grant to an education savings account shall be subtracted from the state school aid payable to the student's resident school district.

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

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

3. The department 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 department may refer cases of substantial misuse of funds to law enforcement agencies for

12 investigation if evidence of fraudulent use of an account is  
13 obtained.

14 4. The department shall provide parents of  
15 participating students with a written explanation of the  
16 allowable uses of education savings accounts, the  
17 responsibilities of parents, and the duties of the  
18 department.

19 5. The department may deduct up to three percent of  
20 the amount from grants to education savings accounts to  
21 cover the costs of overseeing the accounts and administering  
22 the program.

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

26 7. The department shall make payments to eligible  
27 students' education savings accounts on a quarterly basis.

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

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

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

7 (3) Certify that the school is in compliance with the  
8 nondiscrimination policies set forth in 42 U.S.C. Section  
9 1981;

10 (4) Conduct criminal background checks on employees;

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

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

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

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

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

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

28           (b) Financial information that demonstrating the  
29 school's ability to pay an aggregate amount equal to the  
30 amount of the funds from education savings accounts expected  
31 to be paid during the school year to students admitted to  
32 the participating school.

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

35           (1) Parents shall ensure that:

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

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

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

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

48           (2) The department shall:

49           (a) Ensure compliance with all student privacy laws;

50           (b) Collect all test results;

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

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

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

65           a. Their satisfaction with the program; and

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

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

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

77           (2) The creation of the education savings account  
78 program does not expand the regulatory authority of the  
79 state, its officers, or any school district to impose any  
80 additional regulation of private schools or education

81 providers beyond those necessary to enforce the requirements  
82 of the program; and

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

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

7 2. The department shall create a standard form for  
8 parents of eligible students to establish their student's  
9 eligibility for the education savings account program. The  
10 department shall ensure that the application is readily  
11 available to interested families through various sources,  
12 including the internet.

13 3. The department may bar a participating school or  
14 education provider from participation in the education  
15 savings account program if the department establishes that  
16 the participating school or education provider has:

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

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

22 4. If the department decides to bar a participating  
23 school or education provider from participation in the  
24 program, it shall notify eligible students and their parents  
25 of this decision as quickly as possible.

26           5. The department shall adopt rules and procedures as  
27 necessary for the administration of the education savings  
28 account program. Any rule or portion of a rule, as that  
29 term is defined in section 536.010, that is created under  
30 the authority delegated in this section shall become  
31 effective only if it complies with and is subject to all of  
32 the provisions of chapter 536 and, if applicable, section  
33 536.028. This section and chapter 536 are nonseverable and  
34 if any of the powers vested with the general assembly  
35 pursuant to chapter 536 to review, to delay the effective  
36 date, or to disapprove and annul a rule are subsequently  
37 held unconstitutional, then the grant of rulemaking  
38 authority and any rule proposed or adopted after the  
39 effective date of this act, shall be invalid and void.

166.660. 1. The resident school district shall  
2 provide a participating school or education provider that  
3 has admitted an eligible student under this program with a  
4 complete copy of the student's school records. Such  
5 disclosures shall comply with the Family Educational Rights  
6 and Privacy Act of 1974, 20 U.S.C. Section 1232g.

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

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

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