

FIRST REGULAR SESSION

# HOUSE BILL NO. 242

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HURLBERT.

0762H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 135.719, 166.700, 166.705, 166.715, and 166.720, RSMo, and to enact in lieu thereof five new sections relating to Missouri empowerment scholarship accounts, with penalty provisions.

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

Section A. Sections 135.719, 166.700, 166.705, 166.715, and 166.720, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 135.719, 166.700, 166.705, 166.715, and 166.720, to read as follows:

135.719. 1. The state treasurer and the department of revenue may promulgate rules to implement the provisions of sections 135.712 to 135.719. 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 August 28, 2021, shall be invalid and void.

2. The provisions of section 23.253 of the Missouri sunset act shall not apply to sections 135.712 to 135.719.

**3. (1) The program authorized under sections 135.712 to 135.719 shall expire on June 30, 2024.**

**(2) Sections 135.712 to 135.719 shall terminate on September 1, 2025.**

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15           **(3) Nothing in sections 135.712 to 135.719 shall be construed to preclude any**  
16 **taxpayer who claims any benefit under any program that expires under this subsection**  
17 **from claiming such benefit for all allowable activities related to such claim that were**  
18 **completed before July 1, 2024, or to eliminate any responsibility of the administering**  
19 **department to verify the continued eligibility of projects receiving tax credits and to**  
20 **enforce other requirements of law that applied before July 1, 2024.**

          166.700. 1. **(1) Sections 166.700 to 166.720 shall be known and may be cited as**  
2 **the "Missouri Empowerment Scholarship Accounts Program". Such program is**  
3 **established to provide options for ensuring the education of students in this state.**

4           **(2) Beginning July 1, 2024, no Missouri empowerment scholarship program**  
5 **moneys shall be granted to any qualified student under sections 135.712 to 135.719 and**  
6 **any Missouri empowerment scholarship program moneys granted to qualified students**  
7 **shall be granted under sections 166.700 to 166.720.**

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

9           **(1) "Board", the Missouri empowerment scholarship accounts board established**  
10 **in section 166.705;**

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

13           ~~[(2)]~~ **(3) "Department", the department of elementary and secondary education;**

14           **(4) "District", the same meaning as used in section 160.011;**

15           ~~[(3)]~~ **(5) "Educational assistance organization", [the same meaning as used in section**  
16 **135.712] a charitable organization registered in this state that is exempt from federal**  
17 **taxation under the Internal Revenue Code of 1986, as amended, that is certified by the**  
18 **state treasurer, and that allocates all of its annual revenue for educational assistance,**  
19 **except as provided in paragraph (c) of subdivision (4) of subsection 1 of section 135.714**  
20 **and as provided in sections 135.712 to 135.719, derived from contributions for which a**  
21 **credit is claimed under sections 135.712 to 135.719;**

22           ~~[(4)]~~ **(6) "Parent", [the same meaning as used in section 135.712] a parent,**  
23 **guardian, custodian, or other person with authority to act on behalf of a qualified**  
24 **student;**

25           ~~[(5)]~~ **(7) "Private school", a school that is not a part of the public school system of the**  
26 **state of Missouri and that charges tuition for the rendering of elementary or secondary**  
27 **educational services;**

28           ~~[(6)]~~ **(8) "Program", the [same meaning as used in section 135.712] Missouri**  
29 **empowerment scholarship accounts program established under sections 135.712 to**  
30 **135.719 and sections 166.700 to 166.720;**

31           ~~[(7)]~~ **(9)** "Qualified school", ~~[a home school as defined in section 167.031 or]~~ any of  
 32 the following entities that is incorporated in Missouri and that does not discriminate on the  
 33 basis of race, color, or national origin:

- 34           (a) A charter school as defined in section 160.400;
- 35           (b) A private school;
- 36           (c) A public school as defined in section 160.011; or
- 37           (d) A public or private virtual school;

38           ~~[(8)]~~ **(10)** "Qualified student":

39           **(a) For school years ending before July 1, 2024**, any elementary or secondary  
 40 school student who is a resident of this state and resides in any county with a charter form of  
 41 government or any city with at least thirty thousand inhabitants who:

42           ~~[(a)]~~ **a.** Has an approved "individualized education plan" (IEP) developed under the  
 43 federal Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400[~~5~~] et seq.,  
 44 as amended; or

45           ~~[(b)]~~ **b.** Is a member of a household whose total annual income does not exceed an  
 46 amount equal to two hundred percent of the income standard used to qualify for free and  
 47 reduced price lunches, and meets at least one of the following qualifications:

48           ~~[(a)]~~ **(i)** Attended a public school as a full-time student for at least one semester during  
 49 the previous twelve months; or

50           ~~[(b)]~~ **(ii)** Is a child who is eligible to begin kindergarten or first grade under sections  
 51 160.051 to 160.055; **and**

52           **(b) For the 2024-25 school year and all subsequent school years, any elementary**  
 53 **or secondary school student who is a resident of this state.**

166.705. 1. **For school years ending before July 1, 2024**, a parent of a qualified  
 2 student may establish a Missouri empowerment scholarship account for the student by  
 3 entering into a written agreement with an educational assistance organization. **For the 2024-**  
 4 **25 school year and all subsequent school years, a parent of a qualified student may**  
 5 **establish a Missouri empowerment scholarship account for the student by entering into**  
 6 **a written agreement with the board.** The agreement shall provide that:

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

9           (2) Except for a qualified student who is in the custody of the state, the qualified  
 10 student shall not be enrolled in a public school operated by, or a charter school located within,  
 11 the qualified student's district of residence and shall release the district of residence from all  
 12 obligations to educate the qualified student while the qualified student is enrolled in the  
 13 program. This subdivision shall not be construed to relieve the student's district of residence  
 14 from the obligation to conduct an evaluation for disabilities;

15 (3) **For school years ending before July 1, 2024**, the qualified student shall receive a  
16 grant, in the form of moneys deposited in accordance with section 135.714, in the qualified  
17 student's Missouri empowerment scholarship account. **Subject to appropriation, for the**  
18 **2024-25 school year and all subsequent school years the qualified student shall receive a**  
19 **grant equal to the state adequacy target as defined in section 163.011 and calculated by**  
20 **the department in the form of moneys deposited in the qualified student's Missouri**  
21 **empowerment scholarship account, to be distributed either in payments four times per**  
22 **year or in a lump sum at the beginning of the school year as requested by the parent of**  
23 **such qualified student;**

24 (4) The moneys deposited in the qualified student's Missouri empowerment  
25 scholarship account shall be used only for the following expenses of the qualified student:

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

27 (b) Textbooks required by a qualified school;

28 (c) Educational therapies or services from a licensed or accredited practitioner or  
29 provider including, but not limited to, licensed or accredited paraprofessionals or educational  
30 aides;

31 (d) Tutoring services;

32 (e) Curriculum;

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

34 (g) Fees for a nationally standardized norm-referenced achievement test, advanced  
35 placement examinations, international baccalaureate examinations, or any examinations  
36 related to college or university admission;

37 (h) Fees for management of the Missouri empowerment scholarship account by firms  
38 selected by the educational assistance organization **for school years ending before July 1,**  
39 **2024, and by the board for school year 2024-25 and all subsequent school years;**

40 (i) Services provided by a public school including, but not limited to, individual  
41 classes and extracurricular programs;

42 (j) Computer hardware or other technological devices that are used to help meet the  
43 qualified student's educational needs and that are approved by an educational assistance  
44 organization **for school years ending before July 1, 2024, and by the board for school**  
45 **year 2024-25 and all subsequent school years;**

46 (k) Fees for summer education programs and specialized after-school education  
47 programs;

48 (l) Transportation costs for mileage to and from a qualified school; and

49 (5) Moneys deposited in the qualified student's Missouri empowerment scholarship  
50 account shall not be used for the following:

51 (a) Consumable educational supplies including, but not limited to, paper, pens,  
52 pencils, or markers;

53 (b) Tuition at a private school located outside of the state of Missouri; and

54 (c) Payments or reimbursements to any person related within the third degree of  
55 consanguinity or affinity to a qualified student.

56 2. Missouri empowerment scholarship accounts are renewable on an annual basis  
57 upon request of the parent of a qualified student. Notwithstanding any changes to the  
58 qualified student's multidisciplinary evaluation team plan, a student who has previously  
59 qualified for a Missouri empowerment scholarship account shall remain eligible to apply for  
60 renewal until the student completes high school and submits scores to the state treasurer from  
61 a nationally standardized norm-referenced achievement test, advanced placement  
62 examination, international baccalaureate examination, or any examination related to college  
63 or university admission purchased with Missouri empowerment scholarship account funds.

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

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

69 5. If a qualified student withdraws from the program by enrolling in a school other  
70 than a qualified school or is disqualified from the program under the provisions of section  
71 166.710, the qualified student's Missouri empowerment scholarship account shall be closed  
72 and any remaining funds shall be returned to the educational assistance organization for  
73 redistribution to other qualified students **for school years ending before July 1, 2024, and**  
74 **transferred to the board for school year 2024-25 and all subsequent school years.** Under  
75 such circumstances, the obligation to provide an education for such student shall transfer back  
76 to the student's district of residence.

77 6. Any funds remaining in a qualified student's Missouri empowerment scholarship  
78 account at the end of a school year shall remain in the account and shall not be returned to the  
79 educational assistance organization **for school years ending before July 1, 2024, or**  
80 **transferred to the board for school year 2024-25 and all subsequent school years.** Any  
81 funds remaining in a qualified student's Missouri empowerment scholarship account upon  
82 graduation from a qualified school shall be returned to the educational assistance organization  
83 for redistribution to other qualified students **for school years ending before July 1, 2024,**  
84 **and transferred to the board for school year 2024-25 and all subsequent school years.**

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

87           **8. (1) There is hereby established in the office of the state treasurer the**  
88 **"Missouri Empowerment Scholarship Accounts Board". The Missouri empowerment**  
89 **scholarship accounts board shall consist of the following:**

90           **(a) The state treasurer, who shall serve as chair;**

91           **(b) The commissioner of the department of higher education and workforce**  
92 **development;**

93           **(c) The commissioner of education;**

94           **(d) The commissioner of the office of administration;**

95           **(e) One member appointed by the president pro tempore of the senate;**

96           **(f) One member appointed by the speaker of the house of representatives; and**

97           **(g) Three members appointed by the governor with the advice and consent of the**  
98 **senate, each of whom shall be a parent of a qualified student participating in the**  
99 **program.**

100           **(2) Each appointed member shall serve a term of four years or until a successor**  
101 **has been appointed and qualified. If a vacancy occurs for any reason among members**  
102 **appointed by the governor, the governor shall fill such vacancy in the same manner as**  
103 **the initial appointment. Such replacement shall serve until the expiration of the term or**  
104 **a successor is appointed and qualified.**

105           **(3) Members of the board shall not receive compensation for their service, but**  
106 **may receive reimbursement for necessary expenses.**

107           **(4) The board shall have all powers and duties assigned under sections 166.700**  
108 **to 166.720.**

109           **9. The board shall:**

110           **(1) Ensure that participating students take the state achievement tests or**  
111 **nationally norm-referenced tests that measure learning gains in math and English**  
112 **language arts, and provide for value-added assessment, in grades that require testing**  
113 **under the statewide assessment system set forth in section 160.518;**

114           **(2) Allow costs of the testing requirements to be covered by the scholarships**  
115 **distributed by the program;**

116           **(3) Provide the parents of each student who was tested with a copy of the results**  
117 **of the tests on an annual basis, beginning with the first year of testing;**

118           **(4) Report the following annually to the general assembly, beginning in the 2024-**  
119 **25 school year:**

120           **(a) Results of tests required under this subsection, beginning with the first year**  
121 **of testing;**

122           **(b) Information relating to participating students, aggregating data by grade**  
123 **level, gender, family income level, and race. No information reported under this**

124 **paragraph shall be disclosed in any form that allows the personal identification of any**  
125 **student;**

126 **(c) Rates of high school graduation, college attendance, and college graduation**  
127 **for participating students to the state treasurer in a manner consistent with nationally**  
128 **recognized standards;**

129 **(d) Results from an annual parental satisfaction survey, including information**  
130 **about the number of years that the parent's child has participated in the scholarship**  
131 **program. The annual satisfaction survey shall ask parents of scholarship students to**  
132 **express:**

133 **a. Their level of satisfaction with the child's academic achievement, including**  
134 **academic achievement at the schools the child attends through the scholarship program**  
135 **versus academic achievement at the school previously attended; and**

136 **b. Their level of satisfaction with school safety at the schools the child attends**  
137 **through the scholarship program versus safety at the schools previously attended.**

166.715. 1. A person commits a class A misdemeanor if the person is found to have  
2 knowingly used moneys granted under section 135.714 or sections 166.700 to 166.720 for  
3 purposes other than those provided for in sections 166.700 to 166.720.

4 2. No financial institution shall be liable in any civil action for providing a  
5 scholarship account's financial information to the state treasurer unless the information  
6 provided is false and the financial institution providing the false information does so  
7 knowingly and with malice.

166.720. 1. Sections 166.700 to 166.720 shall not be construed to permit any  
2 governmental agency to exercise control or supervision over any qualified school in which a  
3 qualified student enrolls other than a qualified school that is a public school.

4 2. A qualified school, other than a qualified school that is a public school, that accepts  
5 a payment from a parent under sections 166.700 to 166.720 shall not be considered an agent  
6 of the state or federal government due to its acceptance of the payment.

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

10 4. (1) Any qualified student receiving a Missouri empowerment scholarship who  
11 leaves a public school or charter school, as such terms are defined in chapter 160, in the  
12 qualified student's resident school district to enroll in a qualified school that is not the  
13 qualified student's resident school district shall continue to be counted in the resident public  
14 ~~school~~ **school's** or charter school's weighted average daily attendance as a resident student  
15 for the purposes of determining state and federal aid for the qualified student's resident school  
16 district or charter school.

- 17 (2) The qualified student will continue to be counted for such purpose ~~[as provided]~~:
- 18 (a) For five years after the qualified student no longer attends school in the qualified
- 19 student's resident school district;
- 20 (b) Until any calendar year ~~[that]~~ **in which** the qualified student no longer receives
- 21 grant money in ~~[their]~~ **such student's** scholarship account;
- 22 (c) Until the qualified student is counted in the weighted average daily attendance for
- 23 a public school or charter ~~[that they are a resident student in]~~ **school in the school district in**
- 24 **which the student resides**; or
- 25 (d) Until the qualified student graduates.
- 26 (3) The educational assistance organization and the state treasurer shall provide the
- 27 necessary information to the department ~~[of elementary and secondary education]~~ to allow the
- 28 federal and state aid to continue to the public school or charter school in the qualified
- 29 student's resident school district previously attended by the qualified student.
- 30 (4) The provisions of this subsection shall terminate ~~[five years after]~~ **on** August 28,
- 31 ~~[2021]~~ **2026**.
- 32 5. In any legal proceeding challenging the application of sections 166.700 to 166.720
- 33 to a qualified school, the state shall bear the burden of establishing that the law is necessary
- 34 and does not impose any undue burden on qualified schools.
- 35 6. The provisions of section 23.253 of the Missouri sunset act shall not apply to
- 36 sections 166.700 to 166.720.

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