

FIRST REGULAR SESSION

# HOUSE BILL NO. 540

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FITZWATER.

1428H.011

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To repeal sections 166.400, 166.410, 166.415, 166.420, 166.425, 166.435, 166.440, 166.456, 166.502, and 209.610, RSMo, and to enact in lieu thereof fifteen new sections relating to educational savings programs.

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

Section A. Sections 166.400, 166.410, 166.415, 166.420, 166.425, 166.435, 166.440, 166.456, 166.502, and 209.610, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 135.730, 135.732, 135.734, 135.736, 135.738, 166.400, 166.410, 166.415, 166.420, 166.425, 166.435, 166.440, 166.456, 166.502, and 209.610, to read as follows:

- 135.730. 1. Sections 135.730 to 135.738 establish the "Show Me A Brighter Future Scholarship Program".**
- 2. As used in sections 135.730 to 135.738, the following terms mean:**
- (1) "Eligible student", a student who:**
- (a) Is a member of a household whose total annual income in the year prior to such student receiving a scholarship under this program does not exceed an amount equal to two times the income standard used to qualify for free and reduced price lunches. Once a student receives a scholarship 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, whichever occurs first; and**
- (b) Attended a public school for the preceding academic school year or is starting school in this state for the first time;**
- (c) Received a scholarship grant from the program in the preceding semester;**

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.

14 (d) Is starting school in this state for the first time and is a sibling of a student  
15 already enrolled in the program; or

16 (e) Is an active duty military dependent who relocates to Missouri and is enrolling  
17 in a school in the state for the first time;

18 (2) "Parent", a parent, guardian, custodian, or other person with authority to act  
19 on behalf of the eligible student;

20 (3) "Program", the show me a brighter future scholarship program;

21 (4) "Qualifying school", any private school in the state, or any public school not  
22 within an eligible student's district of residence, that provides education to elementary or  
23 secondary students and has notified the state treasurer of its intention to participate in the  
24 program and comply with the program's requirements. A private school shall qualify as  
25 a qualifying school and be eligible to receive tuition payments under this section only if it  
26 satisfies the following conditions:

27 (a) Is accredited by an accrediting body approved by the state treasurer;

28 (b) Annually administers either the state achievement tests or nationally norm-  
29 referenced tests that measure learning gains in math and English language arts and  
30 provide for value-added assessment to all participating students in grades that require  
31 testing under the statewide assessment system set forth in section 160.518;

32 (c) Complies with all health and safety laws or codes that apply to nonpublic  
33 schools;

34 (d) Holds a valid occupancy permit if required by its municipality;

35 (e) Complies with the employee criminal history background check and the family  
36 care safety registry check under section 168.133; and

37 (f) Requires at least eighty percent of teachers employed by the school to hold a  
38 bachelor's degree or a state teaching certification;

39 (5) "Scholarship fund", the show me a brighter future scholarship fund created in  
40 section 135.736 and administered by the state treasurer;

41 (6) "Scholarship grant", a contribution to a qualified tuition savings account  
42 established under Section 529 of the Internal Revenue Code, as amended, or a contribution  
43 to a similar account approved by the state treasurer, to cover all or part of tuition,  
44 including special education services;

45 (7) "Special education eligible student", any student who has an Individualized  
46 Education Program (IEP) created by a public school at the time of application to the  
47 program.

135.732. 1. For all tax years beginning on or after January 1, 2022, any taxpayer  
2 who makes a qualifying contribution to the scholarship fund shall be allowed a credit

3 against the tax otherwise due under chapter 143, excluding withholding tax imposed by  
4 sections 143.191 to 143.265, and chapter 153, in an amount equal to one hundred percent  
5 of the amount the taxpayer contributed during the tax year for which the credit is claimed.  
6 No taxpayer shall claim a credit under sections 135.730 to 135.738 for any contribution  
7 made by the taxpayer or an agent of the taxpayer on behalf of the taxpayer's dependent  
8 or, in the case of a business taxpayer, on behalf of the business's agent's dependent.

9       2. The amount of the tax credit claimed by an individual taxpayer or a married  
10 couple filing jointly shall not exceed fifty percent of the taxpayer's state tax liability for the  
11 tax year for which the credit is claimed.

12       3. The amount of the tax credit claimed by a corporate taxpayer shall not exceed  
13 fifty percent of the corporate taxpayer's state tax liability for the tax year for which the  
14 credit is claimed.

15       4. The department shall create a receipt to be issued to a taxpayer to indicate the  
16 value of a contribution received.

17       5. The state treasurer shall certify the tax credit amount to the taxpayer. An  
18 individual or corporate taxpayer, or a married couple filing jointly, may carry the credit  
19 forward to any of such taxpayer's three subsequent tax years. All tax credits authorized  
20 under the program shall not be transferred, sold, or assigned, and are not refundable.

21       6. The cumulative amount of tax credits that may be allocated to all taxpayers  
22 contributing to the scholarship fund in the first year of the program shall not exceed  
23 twenty-five million dollars. If the amount of tax credits claimed in the first tax year  
24 exceeds ninety percent of the tax credits available, the amount of tax credits available shall  
25 increase by ten percent in subsequent years, except that the total amount of tax credits  
26 available in a year shall not exceed fifty million dollars. The state treasurer shall establish  
27 a procedure by which the cumulative amount of tax credits shall be allocated to taxpayers  
28 on a first-come first-served basis.

29       7. A taxpayer who makes a contribution to the scholarship fund shall not designate  
30 the student who will receive a scholarship grant.

135.734. 1. The state treasurer shall adopt rules and procedures necessary to  
2 implement the provisions of sections 135.730 to 135.738, including rules setting forth:

3       (1) The procedure for awarding scholarship grants, in the following order of  
4 preference:

5       (a) Eligible students who received a scholarship grant in the previous year;

6       (b) The siblings of eligible students who will receive a scholarship grant;

7       (c) Eligible students who qualify for free lunch under the free and reduced price  
8 lunch program who attend any school that has been performing in the bottom five percent

9 of schools as determined by the state's every student succeeds act plan, required by Section  
10 1111 of the Every Student Succeeds Act (20 U.S.C. Section 6311), as amended;

11 (d) Eligible students who qualify for reduced price lunch under the free and  
12 reduced price lunch program who attend any school that has been performing in the  
13 bottom five percent of schools as determined by the state's every student succeeds act plan,  
14 required by Section 1111 of the Every Student Succeeds Act (20 U.S.C. Section 6311), as  
15 amended;

16 (e) Eligible students who qualify for free lunch under the free and reduced price  
17 lunch program and who reside in an unaccredited school district;

18 (f) Eligible students who qualify for reduced price lunch under the free and  
19 reduced price lunch program and reside in an unaccredited school district;

20 (g) Eligible students who qualify for free lunch under the free and reduced price  
21 lunch program and reside in a provisionally accredited district;

22 (h) Eligible students who qualify for reduced price lunch under the free and  
23 reduced price lunch program and reside in a provisionally accredited district; and

24 (i) Students who are active duty military dependents who have relocated to  
25 Missouri and are enrolling in a school in the state for the first time;

26 (2) Reporting requirements;

27 (3) Responsibilities of a parent of an eligible student; and

28 (4) Responsibilities of an eligible student's school district of residence.

29 2. The state treasurer shall provide to the parent of each eligible student an  
30 explanation of a qualifying private school's special education program, in a form  
31 prescribed by the state treasurer, which shall include the methods of instruction that will  
32 be used by the school to provide special education and related services to the eligible  
33 student and the qualifications of the teachers and other persons who will be providing  
34 special education and related services to the eligible child.

35 3. A scholarship grant awarded to an eligible student shall not exceed an amount  
36 equal to the state adequacy target, as defined in section 163.011, or the actual tuition at a  
37 qualifying school, whichever is less.

38 4. A scholarship grant awarded to a student who qualifies for a free or reduced  
39 price lunch or a limited English proficiency student shall not exceed an amount equal to  
40 the state adequacy target, as defined in section 163.011, multiplied by one and twenty-five-  
41 hundredths, or the actual tuition at a qualifying school, whichever is less.

42 5. A scholarship grant awarded to a special education eligible student shall not  
43 exceed an amount equal to the state adequacy target, as defined in section 163.011,

44 multiplied by one and seventy-five-hundredths, or the actual tuition at a qualifying school,  
45 whichever is less.

46 6. Scholarship grants shall be used only for payment of tuition at a qualifying  
47 school, including special education services.

48 7. The state treasurer shall not discriminate on the basis of race, color, creed, or  
49 national origin in making scholarship grants, and shall not make multiyear scholarship  
50 grants.

51 8. The state treasurer may bar a parent from future participation in the program  
52 if the state treasurer establishes that the parent has intentionally or negligently spent  
53 scholarship grant funds for a purpose other than that allowed by law or rule.

54 9. The state treasurer shall publish a report on its website on the state of the  
55 program six years after it goes into effect. The report shall include, but is not limited to:

56 (1) Information regarding the finances of the program;

57 (2) Educational outcomes of eligible students; and

58 (3) Results of the annual parental satisfaction surveys, as set forth in subsection 10  
59 of this section.

60 10. The state treasurer shall provide a standardized format for qualifying schools  
61 to provide the results from an annual parental satisfaction survey, including information  
62 about the number of years that the parent's child has participated in the scholarship  
63 program. The annual satisfaction survey shall ask parents of scholarship students to  
64 express:

65 (1) Their level of satisfaction with their child's academic achievement, including  
66 academic achievement at the school their child attends through the scholarship program  
67 versus academic achievement at the school previously attended;

68 (2) Their level of satisfaction with school safety at the school their child attends  
69 through the scholarship program versus safety at the school previously attended;

70 (3) Whether their child would have been able to attend their school of choice  
71 without the scholarship; and

72 (4) Their opinions on other topics, items, or issues that the state treasurer finds  
73 would elicit information about the effectiveness of the scholarship program.

135.736. 1. There is hereby created in the state treasury the "Show Me a Brighter  
2 Future Scholarship Fund", which shall consist of moneys collected under sections 135.730  
3 to 135.738. The state treasurer shall be custodian of the fund. In accordance with sections  
4 30.170 and 30.180, the state treasurer may approve disbursements. Subject to  
5 appropriation, moneys in the fund shall be used solely by the state treasurer to make

6 scholarship grants and to pay for personal service, equipment, and other expenses of the  
7 treasurer related to the administration of sections 135.730 to 135.738.

8         **2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys**  
9 **remaining in the fund at the end of the biennium shall not revert to the credit of the**  
10 **general revenue fund.**

11         **3. The state treasurer shall invest moneys in the fund in the same manner as other**  
12 **funds are invested. Any interest and moneys earned on such investments shall be credited**  
13 **to the fund.**

**135.738. 1. The state treasurer shall promulgate rules to implement the provisions**  
2 **of sections 135.730 to 135.738. Any rule or portion of a rule, as that term is defined in**  
3 **section 536.010, that is created under the authority delegated in this section shall become**  
4 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**  
5 **if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any**  
6 **of the powers vested with the general assembly pursuant to chapter 536 to review, to delay**  
7 **the effective date, or to disapprove and annul a rule are subsequently held**  
8 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**  
9 **after August 28, 2021, shall be invalid and void.**

10         **2. The provisions of section 23.253 of the Missouri sunset act shall not apply to**  
11 **sections 135.730 to 135.738.**

       166.400. Sections 166.400 to 166.455 shall be known and may be cited as the "Missouri  
2 Education [~~Savings~~] Program".

       166.410. [~~Definitions.~~] As used in sections 166.400 to 166.455, except where the  
2 context clearly requires another interpretation, the following terms mean:

3         (1) "Beneficiary", any individual designated by a participation agreement to benefit from  
4 payments for qualified education expenses at an eligible educational institution;

5         (2) "Benefits", the payment of qualified education expenses on behalf of a beneficiary  
6 from a savings account during the beneficiary's attendance at an eligible educational institution;

7         (3) "Board", the Missouri education [~~savings~~] program board established in section  
8 166.415;

9         (4) "Eligible educational institution", an institution [~~of postsecondary education~~] as  
10 defined in Section [~~529(e)(5) of the Internal Revenue Code, and institutions of elementary and~~  
11 ~~secondary education as provided in Sections 529(e)(7) and 529(e)(3)] **529** of the Internal  
12 Revenue Code, as amended;~~

13         (5) "Financial institution", a bank, insurance company or registered investment company;

14         (6) "Internal Revenue Code", the Internal Revenue Code of 1986, as amended;

15 (7) "Missouri education [savings] program" or "[savings] program", the program created  
16 pursuant to sections 166.400 to 166.455;

17 (8) "Participant", a person who has entered into a participation agreement pursuant to  
18 sections 166.400 to 166.455 for the advance payment of qualified education expenses on behalf  
19 of a beneficiary;

20 (9) "Participation agreement", an agreement between a participant and the board pursuant  
21 to and conforming with the requirements of sections 166.400 to 166.455; and

22 (10) "Qualified higher education expenses" or "qualified education expenses", the  
23 qualified costs of tuition and fees and other expenses for attendance at an eligible educational  
24 institution, as defined in Section ~~529(e)(3)~~ **529** of the Internal Revenue Code, as amended.

166.415. 1. There is hereby created the "Missouri Education [Savings] Program". The  
2 program shall be administered by the Missouri education [savings] program board which shall  
3 consist of the Missouri state treasurer who shall serve as chairman, the commissioner of the  
4 department of higher education and workforce development, the commissioner of education, the  
5 commissioner of the office of administration, the director of the department of economic  
6 development, two persons having demonstrable experience and knowledge in the areas of  
7 finance or the investment and management of public funds, one of whom is selected by the  
8 president pro tem of the senate and one of whom is selected by the speaker of the house of  
9 representatives, and one person having demonstrable experience and knowledge in the area of  
10 banking or deposit rate determination and placement of depository certificates of deposit or other  
11 deposit investments. Such member shall be appointed by the governor with the advice and  
12 consent of the senate. The three appointed members shall be appointed to serve for terms of four  
13 years from the date of appointment, or until their successors shall have been appointed and shall  
14 have qualified. The members of the board shall be subject to the conflict of interest provisions  
15 of section 105.452. Any member who violates the conflict of interest provisions shall be  
16 removed from the board. In order to establish and administer the [savings] program, the board,  
17 in addition to its other powers and authority, shall have the power and authority to:

18 (1) Develop and implement the Missouri education [savings] program and,  
19 notwithstanding any provision of sections 166.400 to 166.455 to the contrary, the [savings]  
20 programs and services consistent with the purposes and objectives of sections 166.400 to  
21 166.455;

22 (2) Promulgate reasonable rules and regulations and establish policies and procedures  
23 to implement sections 166.400 to 166.455, to permit the [savings] program to qualify as a  
24 "qualified state tuition program" pursuant to Section 529 of the Internal Revenue Code and to  
25 ensure the [savings] program's compliance with all applicable laws;

26 (3) Develop and implement educational programs and related informational materials  
27 for participants, either directly or through a contractual arrangement with a financial institution  
28 for investment services, and their families, including special programs and materials to inform  
29 families with young children regarding methods for financing education and training;

30 (4) Enter into agreements with any financial institution, the state or any federal or other  
31 agency or entity as required for the operation of the [savings] program pursuant to sections  
32 166.400 to 166.455;

33 (5) Enter into participation agreements with participants;

34 (6) Accept any grants, gifts, legislative appropriations, and other moneys from the state,  
35 any unit of federal, state, or local government or any other person, firm, partnership, or  
36 corporation for deposit to the account of the [savings] program;

37 (7) Invest the funds received from participants in appropriate investment instruments to  
38 achieve long-term total return through a combination of capital appreciation and current income;

39 (8) Make appropriate payments and distributions on behalf of beneficiaries pursuant to  
40 participation agreements;

41 (9) Make refunds to participants upon the termination of participation agreements  
42 pursuant to the provisions, limitations, and restrictions set forth in sections 166.400 to 166.455  
43 and the rules adopted by the board;

44 (10) Make provision for the payment of costs of administration and operation of the  
45 [savings] program;

46 (11) Effectuate and carry out all the powers granted by sections 166.400 to 166.455, and  
47 have all other powers necessary to carry out and effectuate the purposes, objectives and  
48 provisions of sections 166.400 to 166.455 pertaining to the [savings] program; and

49 (12) Procure insurance, guarantees or other protections against any loss in connection  
50 with the assets or activities of the [savings] program.

51 2. Any member of the board may designate a proxy for that member who will enjoy the  
52 full voting privileges of that member for the one meeting so specified by that member. No more  
53 than three proxies shall be considered members of the board for the purpose of establishing a  
54 quorum.

55 3. Four members of the board shall constitute a quorum. No vacancy in the membership  
56 of the board shall impair the right of a quorum to exercise all the rights and perform all the duties  
57 of the board. No action shall be taken by the board except upon the affirmative vote of a  
58 majority of the members present.

59 4. The board shall meet within the state of Missouri at the time set at a previously  
60 scheduled meeting or by the request of any four members of the board. Notice of the meeting  
61 shall be delivered to all other trustees in person or by depositing notice in a United States post



62 office in a properly stamped and addressed envelope not less than six days prior to the date fixed  
63 for the meeting. The board may meet at any time by unanimous mutual consent. There shall be  
64 at least one meeting in each quarter.

65 5. The funds shall be invested only in those investments which a prudent person acting  
66 in a like capacity and familiar with these matters would use in the conduct of an enterprise of a  
67 like character and with like aims, as provided in section 105.688. For new contracts entered into  
68 after August 28, 2012, board members shall study investment plans of other states and contract  
69 with or negotiate to provide benefit options the same as or similar to other states' qualified plans  
70 for the purpose of offering additional options for members of the plan. The board may delegate  
71 to duly appointed investment counselors authority to act in place of the board in the investment  
72 and reinvestment of all or part of the moneys and may also delegate to such counselors the  
73 authority to act in place of the board in the holding, purchasing, selling, assigning, transferring  
74 or disposing of any or all of the securities and investments in which such moneys shall have been  
75 invested, as well as the proceeds of such investments and such moneys. Such investment  
76 counselors shall be registered as investment advisors with the United States Securities and  
77 Exchange Commission. In exercising or delegating its investment powers and authority,  
78 members of the board shall exercise ordinary business care and prudence under the facts and  
79 circumstances prevailing at the time of the action or decision. No member of the board shall be  
80 liable for any action taken or omitted with respect to the exercise of, or delegation of, these  
81 powers and authority if such member shall have discharged the duties of ~~his or her~~ **the**  
82 **member's** position in good faith and with that degree of diligence, care and skill which a prudent  
83 person acting in a like capacity and familiar with these matters would use in the conduct of an  
84 enterprise of a like character and with like aims.

85 6. No investment transaction authorized by the board shall be handled by any company  
86 or firm in which a member of the board has a substantial interest, nor shall any member of the  
87 board profit directly or indirectly from any such investment.

88 7. No trustee or employee of the ~~savings~~ program shall receive any gain or profit from  
89 any funds or transaction of the ~~savings~~ program. Any trustee, employee or agent of the  
90 ~~savings~~ program accepting any gratuity or compensation for the purpose of influencing such  
91 trustee's, employee's or agent's action with respect to the investment or management of the funds  
92 of the ~~savings~~ program shall thereby forfeit the office and in addition thereto be subject to the  
93 penalties prescribed for bribery.

166.420. 1. The board may enter into ~~savings~~ program participation agreements with  
2 participants on behalf of beneficiaries pursuant to the provisions of sections 166.400 to 166.455,  
3 including the following terms and conditions:

4 (1) A participation agreement shall stipulate the terms and conditions of the [savings]  
5 program in which the participant makes contributions;

6 (2) A participation agreement shall specify the method for calculating the return on the  
7 contribution made by the participant;

8 (3) The execution of a participation agreement by the board shall not guarantee that the  
9 beneficiary named in any participation agreement will be admitted to an eligible educational  
10 institution, be allowed to continue to attend an eligible educational institution after having been  
11 admitted or will graduate from an eligible educational institution;

12 (4) A participation agreement shall clearly and prominently disclose to participants the  
13 risk associated with depositing moneys with the board;

14 (5) Participation agreements shall be organized and presented in a way and with  
15 language that is easily understandable by the general public; and

16 (6) A participation agreement shall clearly and prominently disclose to participants the  
17 existence of any load charge or similar charge assessed against the accounts of the participants  
18 for administration or services.

19 2. The board shall establish the maximum amount ~~[which]~~ **that** may be contributed  
20 annually ~~[by a participant]~~ with respect to a beneficiary.

21 3. The board shall establish a total contribution limit for savings accounts established  
22 under the [savings] program with respect to a beneficiary to permit the [savings] program to  
23 qualify as a "qualified state tuition program" pursuant to Section 529 of the Internal Revenue  
24 Code. No contribution may be made to a savings account for a beneficiary if it would cause the  
25 balance of all savings accounts of the beneficiary to exceed the total contribution limit  
26 established by the board. The board may establish other requirements that it deems appropriate  
27 to provide adequate safeguards to prevent contributions on behalf of a beneficiary from  
28 exceeding what is necessary to provide for the qualified education expenses of the beneficiary.

29 4. The board shall establish the minimum length of time that contributions and earnings  
30 must be held by the [savings] program to qualify pursuant to section 166.435. Any contributions  
31 or earnings that are withdrawn or distributed from a savings account prior to the expiration of  
32 the minimum length of time, as established by the board, shall be subject to a penalty pursuant  
33 to section 166.430.

166.425. All money paid by a participant in connection with participation agreements  
2 shall be deposited as received and shall be promptly invested by the board. Contributions and  
3 earnings thereon accumulated on behalf of participants in the [savings] program may be used,  
4 as provided in the participation agreement, for qualified education expenses. Such contributions  
5 and earnings shall not be considered income for purposes of determining a participant's eligibility  
6 for financial assistance under any state student aid program.

166.435. 1. Notwithstanding any law to the contrary, the assets of the [savings] program held by the board, the assets of any deposit program authorized in section 166.500, and the assets of any qualified tuition [savings] program established pursuant to Section 529 of the Internal Revenue Code and any income therefrom shall be exempt from all taxation by the state or any of its political subdivisions. Income earned or received from the [savings] program, deposit, or other qualified tuition [savings] programs established under Section 529 of the Internal Revenue Code, or refunds of qualified education expenses received by a beneficiary from an eligible educational institution in connection with withdrawal from enrollment at such institution which are contributed within sixty days of withdrawal to a qualified tuition [savings] program of which such individual is a beneficiary shall not be subject to state income tax imposed pursuant to chapter 143 and shall be eligible for any benefits provided in accordance with Section 529 of the Internal Revenue Code. The exemption from taxation pursuant to this section shall apply only to assets and income maintained, accrued, or expended pursuant to the requirements of the [savings] program established pursuant to sections 166.400 to 166.455, the deposit program established pursuant to sections 166.500 to 166.529, and other qualified tuition [savings] programs established under Section 529 of the Internal Revenue Code, and no exemption shall apply to assets and income expended for any other purposes. Annual contributions made to the [savings] program held by the board, the deposit program, and any qualified tuition [savings] program established under Section 529 of the Internal Revenue Code up to and including eight thousand dollars per [participating] taxpayer, and up to sixteen thousand dollars for married individuals filing a joint tax return, shall be subtracted in determining Missouri adjusted gross income pursuant to section 143.121.

2. If any deductible contributions to or earnings from any such program referred to in this section are distributed and not used to pay qualified education expenses, not transferred as allowed by 26 U.S.C. Section 529(c)(3)(C)(i), as amended, and any Internal Revenue Service regulations or guidance issued in relation thereto, or are not held for the minimum length of time established by the appropriate Missouri board, then the amount so distributed shall be included in the Missouri adjusted gross income of the participant, or, if the participant is not living, the beneficiary.

3. The provisions of this section shall apply to tax years beginning on or after January 1, 2008, and the provisions of this section with regard to sections 166.500 to 166.529 shall apply to tax years beginning on or after January 1, 2004.

166.440. The assets of the [savings] program shall at all times be preserved, invested and expended only for the purposes set forth in this section and in accordance with the participation agreements, and no property rights therein shall exist in favor of the state.

166.456. All personally identifiable information concerning participants and beneficiaries of accounts established within the Missouri education [savings] program pursuant to sections 166.400 to 166.456 shall be confidential, and any disclosure of such information shall be restricted to purposes directly connected with the administration of the program.

166.502. As used in sections 166.500 to 166.529, except where the context clearly requires another interpretation, the following terms mean:

- 2 (1) "Beneficiary", any individual designated by a participation agreement to benefit from  
3 payments for qualified higher education expenses at an eligible educational institution;
- 4 (2) "Benefits", the payment of qualified higher education expenses on behalf of a  
5 beneficiary from a deposit account during the beneficiary's attendance at an eligible educational  
6 institution;
- 7 (3) "Board", the Missouri education [savings] program board established in section  
8 166.415;
- 9 (4) "Eligible educational institution", an institution of postsecondary education as  
10 defined in Section 529(e)(5) of the Internal Revenue Code;
- 11 (5) "Financial institution", a depository institution and any intermediary that brokers  
12 certificates of deposits;
- 13 (6) "Internal Revenue Code", the Internal Revenue Code of 1986, as amended;
- 14 (7) "Missouri higher education deposit program" or "deposit program", the program  
15 created pursuant to sections 166.500 to 166.529;
- 16 (8) "Participant", a person who has entered into a participation agreement pursuant to  
17 sections 166.500 to 166.529 for the advance payment of qualified higher education expenses on  
18 behalf of a beneficiary;
- 19 (9) "Participation agreement", an agreement between a participant and the board pursuant  
20 to and conforming with the requirements of sections 166.500 to 166.529;
- 21 (10) "Qualified higher education expenses", the qualified costs of tuition and fees and  
22 other expenses for attendance at an eligible educational institution, as defined in Section  
23 529(e)(3) of the Internal Revenue Code of 1986, as amended.

209.610. 1. The board may enter into ABLE program participation agreements with participants on behalf of designated beneficiaries pursuant to the provisions of sections 209.600 to 209.645, including the following terms and conditions:

- 2 (1) A participation agreement shall stipulate the terms and conditions of the ABLE  
3 program in which the participant makes contributions;
- 4 (2) A participation agreement shall specify the method for calculating the return on the  
5 contribution made by the participant;
- 6  
7

8 (3) A participation agreement shall clearly and prominently disclose to participants the  
9 risk associated with depositing moneys with the board;

10 (4) Participation agreements shall be organized and presented in a way and with  
11 language that is easily understandable by the general public; and

12 (5) A participation agreement shall clearly and prominently disclose to participants the  
13 existence of any load charge or similar charge assessed against the accounts of the participants  
14 for administration or services.

15 2. The board shall establish the maximum amount of contributions which may be made  
16 annually to an ABLE account, which shall be the same as the amount allowed by 26 U.S.C.  
17 Section 529A of the Internal Revenue Code of 1986, as amended.

18 3. The board shall establish a total contribution limit for savings accounts established  
19 under the ABLE program with respect to a designated beneficiary which shall in no event be less  
20 than the amount established as the contribution limit by the Missouri education [savings]  
21 program board for qualified tuition [savings] programs established under sections 166.400 to  
22 166.450. No contribution shall be made to an ABLE account for a designated beneficiary if it  
23 would cause the balance of the ABLE account of the designated beneficiary to exceed the total  
24 contribution limit established by the board. The board may establish other requirements that it  
25 deems appropriate to provide adequate safeguards to prevent contributions on behalf of a  
26 designated beneficiary from exceeding what is necessary to provide for the qualified disability  
27 expenses of the designated beneficiary.

28 4. The board shall establish the minimum length of time that contributions and earnings  
29 must be held by the ABLE program to qualify as tax exempt pursuant to section 209.625. Any  
30 contributions or earnings that are withdrawn or distributed from an ABLE account prior to the  
31 expiration of the minimum length of time, as established by the board, shall be subject to a  
32 penalty pursuant to section 209.620.

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