

SENATE BILL NO. 1391

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR LUETKEMEYER.

5543S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 135.713, 135.714, 135.715, and 166.700, RSMo, and to enact in lieu thereof four new sections relating to educational scholarships.

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

Section A. Sections 135.713, 135.714, 135.715, and
2 166.700, RSMo, are repealed and four new sections enacted in
3 lieu thereof, to be known as sections 135.713, 135.714, 135.715,
4 and 166.700, to read as follows:

135.713. 1. Any taxpayer who makes a qualifying
2 contribution to an educational assistance organization after
3 August 28, 2021, may claim a credit against the tax
4 otherwise due under chapter 143, other than taxes withheld
5 under sections 143.191 to 143.265, and chapter 153 in an
6 amount equal to one hundred percent of the amount the
7 taxpayer contributed during the tax year for which the
8 credit is claimed. No taxpayer shall claim a credit under
9 sections 135.712 to 135.719 for any contribution made by the
10 taxpayer, or an agent of the taxpayer, on behalf of the
11 taxpayer's dependent or, in the case of a business taxpayer,
12 on behalf of the business's agent's dependent.

13 2. The amount of the tax credit claimed shall not
14 exceed fifty percent of the taxpayer's state tax liability
15 for the tax year for which the credit is claimed. The state
16 treasurer shall certify the tax credit amount to the
17 taxpayer. A taxpayer may carry the credit forward to any of

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 such taxpayer's four subsequent tax years. All tax credits
19 authorized under the program shall not be transferred, sold,
20 or assigned, and are [not] refundable.

21 3. The cumulative amount of tax credits that may be
22 allocated to all taxpayers contributing to educational
23 assistance organizations in any one calendar year shall not
24 exceed a maximum of [fifty] **seventy-five** million dollars[,
25 which]. **Such maximum** amount shall be annually adjusted **from**
26 **the 2021 maximum amount** by the state treasurer for inflation
27 based on the Consumer Price Index for All Urban Consumers
28 for the Midwest region, as defined and officially recorded
29 by the United States Department of Labor or its successor,
30 [such annual increase will cease when the amount of tax
31 credits reach seventy-five million dollars] **and shall**
32 **additionally be annually adjusted by any percentage increase**
33 **in the amount appropriated for pupil transportation under**
34 **section 163.161 above the threshold of ninety percent of the**
35 **projected amount necessary to fully fund transportation aid**
36 **funding for the current fiscal year.** The state treasurer
37 shall establish a procedure by which, from the beginning of
38 the calendar year until August first, the cumulative amount
39 of tax credits shall be allocated on a first-come, first-
40 served basis among all educational assistance
41 organizations. If an educational assistance organization
42 fails to use all, or some percentage to be determined by the
43 state treasurer, of its allocated tax credits during this
44 period, the state treasurer may reallocate these unused tax
45 credits to those educational assistance organizations that
46 have used all, or some percentage to be determined by the
47 state treasurer, of their allocated tax credits during this
48 period. The state treasurer may establish more than one
49 period and reallocate more than once during each calendar

50 year. The state treasurer shall establish the procedure
51 described in this subsection in such a manner as to ensure
52 that taxpayers can claim all the tax credits possible up to
53 the cumulative amount of tax credits available for the
54 calendar year.

55 4. A taxpayer who makes a contribution to an education
56 assistance organization shall not designate the student who
57 will receive a scholarship grant.

58 [5. The provisions of sections 135.712 to 135.719 and
59 sections 166.700 to 166.720 shall be effective in any fiscal
60 year immediately subsequent to any fiscal year in which the
61 amount appropriated for pupil transportation under section
62 163.161 equals or exceeds forty percent of the projected
63 amount necessary to fully fund transportation aid funding
64 for fiscal year 2021. If the amount appropriated for
65 transportation under section 163.161 in any succeeding year
66 falls below such amount, no additional scholarships for
67 newly qualified students shall be awarded.]

135.714. 1. Each educational assistance organization
2 shall:

3 (1) Notify the state treasurer of **[its] such**
4 **organization's** intent to provide scholarship accounts to
5 qualified students;

6 (2) Demonstrate to the state treasurer that **[it] such**
7 **organization** is exempt from federal income tax under Section
8 501(c)(3) of the Internal Revenue Code of 1986, as amended;

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

11 (4) Ensure that grants are distributed to scholarship
12 accounts of qualified students in the following order:

13 (a) Qualified students that have an approved
14 "individualized education plan" (IEP) developed under the

15 federal Individuals with Disabilities Education Act (IDEA),
16 20 U.S.C. Section 1400[,,] et seq., as amended, or qualified
17 students living in a household whose total annual income
18 does not exceed an amount equal to one hundred percent of
19 the income standard used to qualify for free and reduced
20 price lunches;

21 (b) Qualified students living in a household whose
22 total annual income does not exceed an amount equal to two
23 hundred percent of the income standard used to qualify for
24 free and reduced price lunches; and

25 (c) All other qualified students;

26 (5) Ensure that:

27 (a) One hundred percent of [its] **such organization's**
28 revenues from interest or investments is spent on
29 scholarship accounts;

30 (b) At least ninety percent of [its] **such**
31 **organization's** revenues from qualifying contributions is
32 spent on scholarship accounts; and

33 (c) Marketing and administrative expenses do not
34 exceed the following limits of [its] **such organization's**
35 remaining revenue from contributions:

36 a. Ten percent for the first two hundred fifty
37 thousand dollars;

38 b. Eight percent for the next five hundred thousand
39 dollars; and

40 c. Three percent thereafter;

41 (6) **(a)** Distribute scholarship account payments
42 either four times per year or in a single lump sum at the
43 beginning of the year as requested by the parent of a
44 qualified student, [not to exceed a total grant amount equal
45 to] **based on** the state adequacy target as defined in section
46 163.011 and calculated by the department of elementary and

47 secondary education, **subject to the following total grant**
48 **amount limits:**

49 a. For a qualified student who meets the criteria to
50 be included in a school district's limited English
51 proficiency pupil count as set forth in subdivision (8) of
52 section 163.011, not more than one hundred sixty percent of
53 the state adequacy target;

54 b. For a qualified student who is eligible for free or
55 reduced price lunch as approved by the department of
56 elementary and secondary education in accordance with
57 federal regulations, not more than one hundred twenty-five
58 percent of the state adequacy target;

59 c. For a qualified student who has an approved
60 individualized education plan developed under the federal
61 Individuals with Disabilities Education Act (IDEA), 20
62 U.S.C. Section 1400 et seq., as amended, not more than one
63 hundred seventy-five percent of the state adequacy target;
64 and

65 d. For all other qualified students, not more than the
66 state adequacy target;

67 (b) Scholarship account payments distributed under
68 this subdivision shall be in the form of a deposit into the
69 scholarship account of the qualified student;

70 (7) Provide the state treasurer, upon request, with
71 criminal background checks on all [its] such organization's
72 employees and board members and exclude from employment or
73 governance any individual who might reasonably pose a risk
74 to the appropriate use of contributed funds, **provided that**
75 **no background check shall be required by the educational**
76 **assistance organization or the state treasurer for a parent**
77 **who educates their child at a home school as defined in**
78 **section 167.031;**

79 (8) Demonstrate [its] **such organization's** financial
80 accountability by:

81 (a) Submitting to the state treasurer annual audit
82 financial statements by a certified public accountant within
83 six months of the end of the educational assistance
84 organization's fiscal year; and

85 (b) Having an auditor certify that the report is free
86 of material misstatements; and

87 (9) Ensure that participating students take the state
88 achievement tests or nationally norm-referenced tests that
89 measure learning gains in math and English language arts,
90 and provide for value-added assessment, in grades that
91 require testing under the statewide assessment system set
92 forth in section 160.518;

93 (10) Allow costs of the testing requirements to be
94 covered by the scholarships distributed by the educational
95 assistance organization;

96 (11) Provide the parents of each student who was
97 tested with a copy of the results of the tests on an annual
98 basis, beginning with the first year of testing;

99 (12) Provide the test results to the state treasurer
100 on an annual basis, beginning with the first year of testing;

101 (13) Report student information that would allow the
102 state treasurer to aggregate data by grade level, gender,
103 family income level, and race;

104 (14) Provide rates of high school graduation, college
105 attendance, and college graduation for participating
106 students to the state treasurer in a manner consistent with
107 nationally recognized standards;

108 (15) Provide to the state treasurer the results from
109 an annual parental satisfaction survey, including
110 information about the number of years that the parent's

111 child has participated in the scholarship program. The
112 annual satisfaction survey shall ask parents of scholarship
113 students to express:

114 (a) Their level of satisfaction with the child's
115 academic achievement, including academic achievement at the
116 schools the child attends through the scholarship program
117 versus academic achievement at the school previously
118 attended;

119 (b) Their level of satisfaction with school safety at
120 the schools the child attends through the scholarship
121 program versus safety at the schools previously attended;

122 (16) Demonstrate **[its] such organization's** financial
123 viability, if **[it] such organization** is to receive donations
124 of fifty thousand dollars or more during the school year, by
125 filing with the state treasurer before the start of the
126 school year a surety bond payable to the state in an amount
127 equal to the aggregate amount of contributions expected to
128 be received during the school year or other financial
129 information that demonstrates the financial viability of the
130 educational assistance organization.

131 2. The annual audit required under this section shall
132 include:

133 (1) The name and address of the educational assistance
134 organization;

135 (2) The name and address of each qualified student for
136 whom a parent opened a scholarship account with the
137 organization;

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

140 (4) The total number and total dollar amount of
141 scholarship accounts opened during the previous calendar
142 year.

143 3. The state treasurer shall:

144 (1) Ensure compliance with all student privacy laws
145 for data in the state treasurer's possession;

146 (2) Collect all test results;

147 (3) Provide the test results and associated learning
148 gains to the public via a state website after the third year
149 of test and test-related data collection. The findings
150 shall be aggregated by the students' grade level, gender,
151 family income level, number of years of participation in the
152 scholarship program, and race; and

153 (4) Provide graduation rates to the public via a state
154 website after the third year of test and test-related data
155 collection.

156 4. An educational assistance organization may contract
157 with private financial management firms to manage
158 scholarship accounts with the supervision of the state
159 treasurer.

135.715. 1. [Notwithstanding any provision in section
2 135.713 to the contrary, the annual increase to the
3 cumulative amount of tax credits under subsection 3 of
4 section 135.713 shall cease when the amount of tax credits
5 reaches fifty million dollars.] The cumulative amount of
6 tax credits that may be allocated to all taxpayers
7 contributing to educational assistance organizations in the
8 first year of the program shall not exceed twenty-five
9 million dollars.

10 2. The state treasurer shall limit the number of
11 educational assistance organizations that are certified to
12 administer scholarship accounts to no more than ten such
13 organizations in any single school year[, with]. **If the**
14 **total contributions to educational assistance organizations**
15 **exceed twenty-five million dollars in any school year, the**

16 **state treasurer may certify one additional educational**
17 **assistance organization to administer scholarship accounts.**

18 No more than [~~six~~] **seven** of such organizations [~~having~~]
19 **shall have** their principal place of business in:

20 (1) A county of the first classification with more
21 than two hundred sixty thousand but fewer than three hundred
22 thousand inhabitants;

23 (2) A county with a charter form of government and
24 with more than six hundred thousand but fewer than seven
25 hundred thousand inhabitants;

26 (3) A county with a charter form of government and
27 with more than three hundred thousand but fewer than four
28 hundred fifty thousand inhabitants;

29 (4) A county with a charter form of government and
30 with more than nine hundred fifty thousand inhabitants; or

31 (5) A city not within a county.

32 3. The state treasurer may delegate any duties
33 assigned to the state treasurer under sections 135.712 to
34 135.719 and sections 166.700 to 166.720 to the "Missouri
35 Empowerment Scholarship Accounts Board", which is hereby
36 established. The Missouri empowerment scholarship accounts
37 board shall consist of the state treasurer, who shall serve
38 as chair, the commissioner of the department of higher
39 education and workforce development, the commissioner of
40 education, the commissioner of the office of administration,
41 one member appointed by the president pro tempore of the
42 senate, one member appointed by the speaker of the house of
43 representatives, and one member appointed by the governor
44 with the advice and consent of the senate. The appointed
45 members shall serve terms of four years or until their
46 successors have been appointed and qualified. The board
47 shall have all powers and duties assigned to the state

48 treasurer under sections 135.712 to 135.719 and sections
49 166.700 to 166.720 that are delegated to the board by the
50 state treasurer. Members of the board shall not receive
51 compensation for their service, but may receive
52 reimbursement for necessary expenses.

53 4. Notwithstanding the provisions of subsection 7 of
54 section 135.716 to the contrary, four percent of the total
55 qualifying contributions received by each educational
56 assistance organization per calendar year shall be deposited
57 in the Missouri empowerment scholarship accounts fund to be
58 used by the state treasurer for marketing and administrative
59 expenses or the costs incurred in administering the program,
60 whichever is less.

61 5. Notwithstanding the provisions of subdivision (5)
62 of subsection 2 of section 135.712 to the contrary, the term
63 "qualifying contribution" shall mean a donation of cash,
64 including, but not limited to, checks drawn on a banking
65 institution located in the continental United States in U.S.
66 dollars (other than cashier checks, or third-party checks
67 exceeding ten thousand dollars), money orders, payroll
68 deductions, and electronic fund transfers. This term shall
69 not include stocks, bonds, other marketable securities, or
70 property.

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

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

6 (2) "District", the same meaning as used in section
7 160.011;

8 (3) "Educational assistance organization", the same
9 meaning as used in section 135.712;

10 (4) "Parent", the same meaning as used in section
11 135.712;

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

16 (6) "Program", the same meaning as used in section
17 135.712;

18 (7) "Qualified school", a home school as defined in
19 section 167.031 or any of the following entities that is
20 incorporated in Missouri and that does not discriminate on
21 the basis of race, color, or national origin:

22 (a) A charter school as defined in section 160.400;

23 (b) A private school;

24 (c) A public school as defined in section 160.011; or

25 (d) A public or private virtual school;

26 (8) "Qualified student", any elementary or secondary
27 school student who is a resident of this state and [resides
28 in any county with a charter form of government or any city
29 with at least thirty thousand inhabitants] who:

30 (a) Has an approved "individualized education plan"
31 (IEP) developed under the federal Individuals with
32 Disabilities Education Act (IDEA), 20 U.S.C. Section 1400[,]
33 et seq., as amended; or

34 (b) Is a member of a household whose total annual
35 income does not exceed an amount equal to [two] **four** hundred
36 percent of the income standard used to qualify for free and
37 reduced price lunches, and **that** meets at least one of the
38 following qualifications:

39 a. Attended a public school as a full-time student for
40 at least one semester during the previous twelve months; or

41 b. Is a child who is eligible to begin kindergarten or
42 first grade under sections 160.051 to 160.055.

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