

SENATE BILL NO. 1161

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR ESLINGER.

5647S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 166.400, 166.410, 166.415, 166.420, and 166.435, RSMo, and to enact in lieu thereof six new sections relating to savings accounts for education expenses.

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Section A. Sections 166.400, 166.410, 166.415, 166.420, and 166.435, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 166.400, 166.410, 166.415, 166.420, 166.435, and 166.461, to read as follows:

166.400. Sections 166.400 to [166.455] **166.456** shall be known and may be cited as the "Missouri Education Program".

166.410. As used in sections 166.400 to [166.455] **166.456**, except where the context clearly requires another interpretation, the following terms mean:

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

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

(3) "Board", the Missouri education program board established in section 166.415;

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

14 (4) "Eligible educational institution", an eligible
15 educational institution as defined in Section 529 of the
16 Internal Revenue Code, as amended;

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

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

21 (7) "Missouri education program" or "program", the
22 program created pursuant to sections 166.400 to [166.455]
23 **166.456**;

24 (8) "Participant", a person who has entered into a
25 participation agreement pursuant to sections 166.400 to
26 [166.455] **166.456** for the advance payment of qualified
27 education expenses on behalf of a beneficiary;

28 (9) "Participation agreement", an agreement between a
29 participant and the board pursuant to and conforming with
30 the requirements of sections 166.400 to [166.455] **166.456**;
31 and

32 (10) "Qualified higher education expenses" or
33 "qualified education expenses", the qualified costs of
34 tuition and fees and other expenses for attendance at an
35 eligible educational institution, as defined in Section 529
36 of the Internal Revenue Code, as amended.

166.415. 1. There is hereby created the "Missouri
2 Education Program". The program shall be administered by
3 the Missouri education program board which shall consist of
4 the Missouri state treasurer who shall serve as chairman,
5 the commissioner of the department of higher education and
6 workforce development, the commissioner of education, the
7 commissioner of the office of administration, the director
8 of the department of economic development, two persons
9 having demonstrable experience and knowledge in the areas of

10 finance or the investment and management of public funds,
11 one of whom is selected by the president pro tem of the
12 senate and one of whom is selected by the speaker of the
13 house of representatives, and one person having demonstrable
14 experience and knowledge in the area of banking or deposit
15 rate determination and placement of depository certificates
16 of deposit or other deposit investments. Such member shall
17 be appointed by the governor with the advice and consent of
18 the senate. The three appointed members shall be appointed
19 to serve for terms of four years from the date of
20 appointment, or until their successors shall have been
21 appointed and shall have qualified. The members of the
22 board shall be subject to the conflict of interest
23 provisions of section 105.452. Any member who violates the
24 conflict of interest provisions shall be removed from the
25 board. In order to establish and administer the program,
26 the board, in addition to its other powers and authority,
27 shall have the power and authority to:

28 (1) Develop and implement the Missouri education
29 program and, notwithstanding any provision of sections
30 166.400 to [166.455] **166.456** to the contrary, the programs
31 and services consistent with the purposes and objectives of
32 sections 166.400 to [166.455] **166.456**;

33 (2) Promulgate reasonable rules and regulations and
34 establish policies and procedures to implement sections
35 166.400 to [166.455] **166.456**, to permit the program to
36 qualify as a "qualified state tuition program" pursuant to
37 Section 529 of the Internal Revenue Code and to ensure the
38 program's compliance with all applicable laws;

39 (3) Develop and implement educational programs and
40 related informational materials for participants, either
41 directly or through a contractual arrangement with a

42 financial institution for investment services, and their
43 families, including special programs and materials to inform
44 families with young children regarding methods for financing
45 education and training;

46 (4) Enter into agreements with any financial
47 institution, the state or any federal or other agency or
48 entity as required for the operation of the program pursuant
49 to sections 166.400 to **[166.455] 166.456**;

50 (5) Enter into participation agreements with
51 participants;

52 (6) Accept any grants, gifts, legislative
53 appropriations, and other moneys from the state, any unit of
54 federal, state, or local government or any other person,
55 firm, partnership, or corporation for deposit to the account
56 of the program;

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

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

63 (9) Make refunds to participants upon the termination
64 of participation agreements pursuant to the provisions,
65 limitations, and restrictions set forth in sections 166.400
66 to **[166.455] 166.456** and the rules adopted by the board;

67 (10) Make provision for the payment of costs of
68 administration and operation of the program;

69 (11) Effectuate and carry out all the powers granted
70 by sections 166.400 to **[166.455] 166.456**, and have all other
71 powers necessary to carry out and effectuate the purposes,
72 objectives and provisions of sections 166.400 to **[166.455]**
73 **166.456** pertaining to the program; and

74 (12) Procure insurance, guarantees or other
75 protections against any loss in connection with the assets
76 or activities of the program.

77 2. Any member of the board may designate a proxy for
78 that member who will enjoy the full voting privileges of
79 that member for the one meeting so specified by that
80 member. No more than three proxies shall be considered
81 members of the board for the purpose of establishing a
82 quorum.

83 3. Four members of the board shall constitute a
84 quorum. No vacancy in the membership of the board shall
85 impair the right of a quorum to exercise all the rights and
86 perform all the duties of the board. No action shall be
87 taken by the board except upon the affirmative vote of a
88 majority of the members present.

89 4. The board shall meet within the state of Missouri
90 at the time set at a previously scheduled meeting or by the
91 request of any four members of the board. Notice of the
92 meeting shall be delivered to all other trustees in person
93 or by depositing notice in a United States post office in a
94 properly stamped and addressed envelope not less than six
95 days prior to the date fixed for the meeting. The board may
96 meet at any time by unanimous mutual consent. There shall
97 be at least one meeting in each quarter.

98 5. The funds shall be invested only in those
99 investments which a prudent person acting in a like capacity
100 and familiar with these matters would use in the conduct of
101 an enterprise of a like character and with like aims, as
102 provided in section 105.688. For new contracts entered into
103 after August 28, 2012, board members shall study investment
104 plans of other states and contract with or negotiate to
105 provide benefit options the same as or similar to other

106 states' qualified plans for the purpose of offering
107 additional options for members of the plan. The board may
108 delegate to duly appointed investment counselors authority
109 to act in place of the board in the investment and
110 reinvestment of all or part of the moneys and may also
111 delegate to such counselors the authority to act in place of
112 the board in the holding, purchasing, selling, assigning,
113 transferring or disposing of any or all of the securities
114 and investments in which such moneys shall have been
115 invested, as well as the proceeds of such investments and
116 such moneys. Such investment counselors shall be registered
117 as investment advisors with the United States Securities and
118 Exchange Commission. In exercising or delegating its
119 investment powers and authority, members of the board shall
120 exercise ordinary business care and prudence under the facts
121 and circumstances prevailing at the time of the action or
122 decision. No member of the board shall be liable for any
123 action taken or omitted with respect to the exercise of, or
124 delegation of, these powers and authority if such member
125 shall have discharged the duties of the member's position in
126 good faith and with that degree of diligence, care and skill
127 which a prudent person acting in a like capacity and
128 familiar with these matters would use in the conduct of an
129 enterprise of a like character and with like aims.

130 6. No investment transaction authorized by the board
131 shall be handled by any company or firm in which a member of
132 the board has a substantial interest, nor shall any member
133 of the board profit directly or indirectly from any such
134 investment.

135 7. No trustee or employee of the program shall receive
136 any gain or profit from any funds or transaction of the
137 program. Any trustee, employee or agent of the program

138 accepting any gratuity or compensation for the purpose of
139 influencing such trustee's, employee's or agent's action
140 with respect to the investment or management of the funds of
141 the program shall thereby forfeit the office and in addition
142 thereto be subject to the penalties prescribed for bribery.

166.420. 1. The board may enter into program
2 participation agreements with participants on behalf of
3 beneficiaries pursuant to the provisions of sections 166.400
4 to [166.455] **166.456**, including the following terms and
5 conditions:

6 (1) A participation agreement shall stipulate the
7 terms and conditions of the program in which the participant
8 makes contributions;

9 (2) A participation agreement shall specify the method
10 for calculating the return on the contribution made by the
11 participant;

12 (3) The execution of a participation agreement by the
13 board shall not guarantee that the beneficiary named in any
14 participation agreement will be admitted to an eligible
15 educational institution, be allowed to continue to attend an
16 eligible educational institution after having been admitted
17 or will graduate from an eligible educational institution;

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

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

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

28 2. The board shall establish the maximum amount that
29 may be contributed annually with respect to a beneficiary.

30 3. The board shall establish a total contribution
31 limit for savings accounts established under the program
32 with respect to a beneficiary to permit the program to
33 qualify as a "qualified state tuition program" pursuant to
34 Section 529 of the Internal Revenue Code. No contribution
35 may be made to a savings account for a beneficiary if it
36 would cause the balance of all savings accounts of the
37 beneficiary to exceed the total contribution limit
38 established by the board. The board may establish other
39 requirements that it deems appropriate to provide adequate
40 safeguards to prevent contributions on behalf of a
41 beneficiary from exceeding what is necessary to provide for
42 the qualified education expenses of the beneficiary.

43 4. The board shall establish the minimum length of
44 time that contributions and earnings must be held by the
45 program to qualify pursuant to section 166.435. Any
46 contributions or earnings that are withdrawn or distributed
47 from a savings account prior to the expiration of the
48 minimum length of time, as established by the board, shall
49 be subject to a penalty pursuant to section 166.430.

166.435. 1. Notwithstanding any law to the contrary,
2 the assets of the program held by the board, the assets of
3 any deposit program authorized in section 166.500, and the
4 assets of any qualified tuition program established pursuant
5 to Section 529 of the Internal Revenue Code and any income
6 therefrom shall be exempt from all taxation by the state or
7 any of its political subdivisions. Income earned or
8 received from the program, deposit, or other qualified
9 tuition programs established under Section 529 of the
10 Internal Revenue Code, or refunds of qualified education

11 expenses received by a beneficiary from an eligible
12 educational institution in connection with withdrawal from
13 enrollment at such institution which are contributed within
14 sixty days of withdrawal to a qualified tuition program of
15 which such individual is a beneficiary shall not be subject
16 to state income tax imposed pursuant to chapter 143 and
17 shall be eligible for any benefits provided in accordance
18 with Section 529 of the Internal Revenue Code. The
19 exemption from taxation pursuant to this section shall apply
20 only to assets and income maintained, accrued, or expended
21 pursuant to the requirements of the program established
22 pursuant to sections 166.400 to [166.455] **166.456**, the
23 deposit program established pursuant to sections 166.500 to
24 166.529, and other qualified tuition programs established
25 under Section 529 of the Internal Revenue Code, and no
26 exemption shall apply to assets and income expended for any
27 other purposes. Annual contributions made to the program
28 held by the board, the deposit program, and any qualified
29 tuition program established under Section 529 of the
30 Internal Revenue Code up to and including eight thousand
31 dollars per taxpayer, and up to sixteen thousand dollars for
32 married individuals filing a joint tax return, shall be
33 subtracted in determining Missouri adjusted gross income
34 pursuant to section 143.121.

35 2. If any deductible contributions to or earnings from
36 any such program referred to in this section are distributed
37 and not used to pay qualified education expenses, not
38 transferred as allowed by 26 U.S.C. Section 529(c) (3) (C) (i),
39 as amended, and any Internal Revenue Service regulations or
40 guidance issued in relation thereto, or are not held for the
41 minimum length of time established by the appropriate
42 Missouri board, then the amount so distributed shall be

43 included in the Missouri adjusted gross income of the
44 participant, or, if the participant is not living, the
45 beneficiary.

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

166.461. 1. This section shall be known and may be
2 cited as the "Show Me Child Development Account Act".

3 2. As used in this section, the following terms mean:

4 (1) "Eligible educational institution", an institution:

5 (a) Of postsecondary education as defined in 20 U.S.C.
6 Section 1002, as amended; or

7 (b) That offers a program of instruction:

8 a. Resulting in the award of a certificate,
9 undergraduate degree, or other industry-recognized
10 credential; and

11 b. That has been designated by the coordinating board
12 for higher education as preparing students to enter an area
13 of occupational shortage as determined by the coordinating
14 board;

15 (2) "Parent", the parent, legal guardian, custodian,
16 or other person having care and custody over a qualified
17 child;

18 (3) "Program", the Missouri children's development
19 account program created in this section;

20 (4) "Program fund", the Missouri children's
21 development account program fund created in this section;

22 (5) "Qualified child":

23 (a) An individual born on or after January 1, 2023,
24 and who is a resident of this state at the time of birth and

25 at the time that the scholarship grant is applied for or
26 received; or

27 (b) An adoptee with a valid decree of adoption who was
28 born on or after January 1, 2023, whose adopting parent was
29 a resident of this state at the time the decree of adoption
30 was entered and who is a resident at the time that the
31 scholarship grant is applied for or received;

32 (6) "Qualified higher education expenses", the costs
33 of tuition and fees and other expenses for attendance at an
34 eligible educational institution or a rollover to a
35 qualified Missouri Achieving a Better Life Experience
36 Program;

37 (7) "Scholarship grant", an amount not to exceed one
38 hundred dollars provided to the parent of a qualified child
39 for qualified higher education expenses under this section
40 that is deposited in a savings account as provided in
41 subsection 7 of this section.

42 3. There is hereby created the "Missouri Children's
43 Development Account Program". The program shall be
44 administered by the state treasurer as provided in this
45 section.

46 4. Upon receiving a certification of live birth in
47 this state as provided in chapter 193, the department of
48 health and senior services shall notify the state treasurer
49 and transmit any data related to the child that the
50 treasurer deems necessary for the administration of this
51 section to determine whether the child is a qualified
52 child. Such information shall include, but not be limited
53 to, the child's:

- 54 (1) Parent's full name;
55 (2) Parent's address;
56 (3) Full name; and

57 (4) Date of birth.

58 5. (1) Upon receiving notification of a live birth
59 and determining whether the child is a qualified child under
60 this section, the state treasurer shall notify the parent of
61 each qualified child about the program. The notification
62 shall include an explanation of the program and the
63 opportunity for the parent to exclude the qualified child
64 from the program. Any qualified child who is not excluded
65 by the parent shall be deemed to be enrolled in the program.

66 (2) For any information obtained from the department
67 of health and senior services under this section, the state
68 treasurer shall be subject to the same disclosure
69 restrictions and confidentiality requirements that apply to
70 the department. Any information obtained directly by the
71 treasurer under this section shall be confidential, shall
72 not be deemed a public record, and shall not be subject to
73 the provisions of chapter 610.

74 6. (1) There is hereby created in the state treasury
75 the "Missouri Children's Development Account Program Fund",
76 which shall receive deposits, make disbursements, and be
77 administered in compliance with the provisions of this
78 section.

79 (2) Subject to appropriation and the availability of
80 moneys in the program fund, moneys in the program fund shall
81 be used to provide scholarship grants and to pay for
82 personal service, equipment, and other expenses of the
83 treasurer related to the administration of this section.
84 Nothing in this section shall be construed to prevent the
85 general assembly from making appropriations to the program
86 fund from other permissible sources.

87 (3) Notwithstanding any other provisions of law to the
88 contrary, moneys shall be deposited in the program fund and
89 administered in accordance with the following provisions:

90 (a) On a daily basis, the state treasurer shall
91 apportion any interest or other increment derived from the
92 investment of funds in an amount proportionate to the
93 average daily balance of funds in the state treasury. The
94 treasurer shall use a method in accordance with generally
95 accepted accounting principles in apportioning and
96 distributing that interest or increment. After satisfying
97 the requirements of section 30.605 and prior to distributing
98 that interest or increment, the treasurer shall deduct the
99 costs incurred by the treasurer in administering this
100 section in proportion to the average daily balance of the
101 amounts deposited to each fund in the state treasury. The
102 treasurer shall then deposit the identified portion of the
103 daily interest receipts in the program fund. All other
104 remaining interest received on the investment of state funds
105 shall be allocated and deposited to funds in the state
106 treasury as required by law;

107 (b) The total costs for scholarship grants, personal
108 service, equipment, and other expenses of the treasurer
109 related to this section, exclusive of any personal service,
110 equipment, and other expenses attributable to positions
111 wholly dedicated to the functions described in chapter 447,
112 and any banking fees and other banking-related costs, shall
113 not exceed thirty-five basis points, or thirty-five-
114 hundredths of one percent, of the total of the average daily
115 fund balance of funds in the state treasury.

116 (4) Notwithstanding the provisions of section 33.080
117 to the contrary, moneys in the program fund shall not lapse
118 to the general revenue fund at the end of the biennium.

119 (5) The provisions of this section shall not apply to
120 the state road fund created in section 226.220, the motor
121 fuel tax fund created in section 142.345, the state highways
122 and transportation department fund created in section
123 226.200, the state transportation fund created in section
124 226.225, and the state road bond fund created in Article IV,
125 Section 30(b) of the Constitution of Missouri.

126 7. (1) The state treasurer shall establish a separate
127 savings account under sections 166.400 to 166.456, or
128 through another means determined by the state treasurer, for
129 each qualified child and shall deposit scholarship grants in
130 such separate savings accounts or in a master account to be
131 allocated to such separate accounts.

132 (2) Any separate savings account established under
133 this subsection shall be exempt for purposes of determining
134 eligibility for public assistance, provided that the federal
135 rules for such programs permit such an exemption.

136 (3) Any amount in any separate savings account
137 established under this subsection that is unused for
138 qualified higher education expenses and remains in such
139 savings account when the qualified child becomes thirty
140 years of age shall revert to the program fund.

141 (4) The State Treasurer may receive contributions from
142 any person or legal entity to the account on behalf of, and
143 make grants to, eligible children to pay for qualified
144 higher education expenses.

145 8. The state treasurer may promulgate all necessary
146 rules and regulations for the administration of this
147 section. Any rule or portion of a rule, as that term is
148 defined in section 536.010, that is created under the
149 authority delegated in this section shall become effective
150 only if it complies with and is subject to all of the

151 provisions of chapter 536 and, if applicable, section
152 536.028. This section and chapter 536 are nonseverable, and
153 if any of the powers vested with the general assembly
154 pursuant to chapter 536 to review, to delay the effective
155 date, or to disapprove and annul a rule are subsequently
156 held unconstitutional, then the grant of rulemaking
157 authority and any rule proposed or adopted after August 28,
158 2022, shall be invalid and void.

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