

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 904,
2 Page 1, Section A, Line 3, by inserting immediately after all of said line the following:

3
4 "135.712. 1. Sections 135.712 to 135.719 and sections 166.700 to 166.720 establish the
5 "Missouri Empowerment Scholarship Accounts Program" to provide options toward ensuring the
6 education of students in this state.

7 2. As used in sections 135.712 to 135.719, the following terms mean:

8 (1) "Department", the department of economic development;

9 (2) "Director", the director of the department of economic development;

10 (3) "District" or "school district", the same meaning as used in section 160.011;

11 (4) "Educational assistance organization", a charitable organization registered in this state
12 that is exempt from federal taxation under the Internal Revenue Code of 1986, as amended, is
13 certified by the director, and that allocates all of its annual revenue for educational assistance,
14 except as provided in paragraph (c) of subdivision (4) of subsection 1 of section 135.714 and as
15 provided for in sections 135.712 to 135.719, derived from contributions for which a credit is
16 claimed under this section;

17 (5) "Parent", a parent, guardian, custodian, or other person with authority to act on behalf of
18 the qualified student;

19 (6) "Program", the Missouri empowerment scholarship accounts program established under
20 sections 135.712 to 135.719 and sections 166.700 to 166.720;

21 (7) "Qualified student", the same meaning as used in section 166.700;

22 (8) "Qualifying contribution", a donation of cash, stock, bonds, or other marketable
23 securities for purposes of claiming a tax credit under sections 135.712 to 135.719;

24 (9) "Scholarship account", a savings account created by the Missouri empowerment
25 scholarship accounts program authorized by sections 166.700 to 166.720;

26 (10) "Taxpayer", an individual subject to the state income tax imposed in chapter 143; an
27 individual, a firm, a partner in a firm, corporation, or a shareholder in an S corporation doing
28 business in this state and subject to the state income tax imposed by chapter 143; or an express
29 company that pays an annual tax on its gross receipts in this state under chapter 153, which files a
30 Missouri income tax return and is not a dependent of any other taxpayer.

31 135.713. 1. For all tax years beginning on or after January 1, 2017, any taxpayer who
32 makes a qualifying contribution to an educational assistance organization may claim a credit against
33 the tax otherwise due under chapter 143, other than taxes withheld under sections 143.191 to
34 143.265, and chapter 153, in an amount equal to one hundred percent of the amount the taxpayer
35 contributed during the tax year for which the credit is claimed. No taxpayer shall claim a credit
36 under sections 135.712 to 135.719 for any contribution made by the taxpayer, or an agent of the

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1 taxpayer, on behalf of the taxpayer's dependent, or in the case of a business taxpayer, on behalf of
2 the business's agent's dependent.

3 2. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state
4 tax liability for the tax year for which the credit is claimed. The department shall certify the tax
5 credit amount to the taxpayer and to the department of revenue. A taxpayer may carry the credit
6 forward to any of such taxpayer's four subsequent tax years. All tax credits authorized under the
7 program shall not be transferred, sold, or assigned.

8 3. The cumulative amount of tax credits that may be allocated to all taxpayers contributing
9 to educational assistance organizations in any one calendar year shall not exceed five million
10 dollars, which amount shall annually be adjusted by the department for inflation based on the
11 consumer price index for all urban consumers for the Midwest region, as defined and officially
12 recorded by the United States Department of Labor or its successor. The director shall establish a
13 procedure by which, from the beginning of the calendar year until some point in time later in the
14 calendar year to be determined by the director, the cumulative amount of tax credits are equally
15 apportioned among all educational assistance organizations. If an educational assistance
16 organization fails to use all, or some percentage to be determined by the director, of its apportioned
17 tax credits during this predetermined period of time, the director may reapportion these unused tax
18 credits to those educational assistance organizations that have used all, or some percentage to be
19 determined by the director, of their apportioned tax credits during this predetermined period of time.
20 The director may establish more than one period of time and reapportion more than once during
21 each calendar year. To the maximum extent possible, the director shall establish the procedure
22 described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits
23 possible up to the cumulative amount of tax credits available for the calendar year.

24 135.714. 1. Each educational assistance organization shall:

25 (1) Notify the department of its intent to provide scholarship accounts to qualified students;

26 (2) Demonstrate to the department that it is exempt from federal income tax under Section
27 501(c)(3) of the Internal Revenue Code of 1986, as amended;

28 (3) Provide a department-approved receipt to taxpayers for contributions made to the
29 organization;

30 (4) Ensure that:

31 (a) One hundred percent of its revenues from interest or investments is spent on scholarship
32 accounts;

33 (b) At least ninety percent of its revenues from qualifying contributions is spent on
34 scholarship accounts; and

35 (c) Marketing and administrative expenses shall not exceed the following limits of its
36 remaining revenue from contributions: ten percent for the first two hundred fifty thousand dollars,
37 eight percent for the next five hundred thousand dollars, and three percent thereafter;

38 (5) Distribute scholarship accounts payments either four times per year or in a single lump
39 sum at the beginning of the year as requested by the parent or guardian of a qualified student not to
40 exceed the following:

41 (a) The previous school year's tuition and fees for nonscholarship students at the qualified
42 school; or

43 (b) Ninety percent of the previous school year's average current expenditure per average
44 daily attendance for the student's district of residence;

45 (6) Provide the department, upon request, with criminal background checks on all its
46 employees and board members, and exclude from employment or governance any individual that
47 might reasonably pose a risk to the appropriate use of contributed funds;

48 (7) Demonstrate its financial accountability by:

1 (a) Submitting to the department a financial information report for the organization that
2 complies with uniform financial accounting standards established by the department and is
3 conducted by a certified public accountant; and

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

5 (8) Demonstrate its financial viability, if it is to receive donations of fifty thousand dollars
6 or more during the school year, by filing with the department before the start of the school year a
7 surety bond payable to the state in an amount equal to the aggregate amount of contributions
8 expected to be received during the school year.

9 2. An educational assistance organization shall publicly report to the department by June
10 first of each year the following information prepared by a certified public accountant regarding its
11 grants in the previous calendar year:

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

13 (2) The name and address of each qualified student who opened a scholarship account with
14 the organization;

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

17 (4) The total number and total dollar amount of scholarship accounts opened during the
18 previous calendar year; and

19 (5) The total number and total dollar amount of scholarship accounts opened during the
20 previous year to qualified students qualifying for the federal free and reduced price school lunch
21 program.

22 3. An educational assistance organization may contract with private financial management
23 firms to manage scholarship accounts with the supervision of the state.

24 135.716. 1. The department shall provide a standardized format for a receipt to be issued
25 by an educational assistance organization to a taxpayer to indicate the value of a contribution
26 received. The department shall require a taxpayer to provide a copy of this receipt if claiming the
27 tax credit authorized by the program.

28 2. The department shall provide a standardized format for educational assistance
29 organizations to report the information required in subsection 1 of this section.

30 3. The department may conduct either a financial review or an audit of an educational
31 assistance organization if the department possesses evidence of fraud committed by the
32 organization.

33 4. The department may bar an educational assistance organization from participating in the
34 program if the department establishes that the educational assistance organization has intentionally
35 and substantially failed to comply with the requirements in section 135.714. If the department bars
36 an educational assistance organization from the program under this subsection, it shall notify
37 affected qualified students and their parents of the decision as soon as possible after the
38 determination is made.

39 5. The department shall receive no more than two percent of the qualifying contributions for
40 marketing and administrative expenses or the costs incurred in administering the program,
41 whichever is less. The director shall establish procedures to ensure the percentage of funds for
42 administration of the program is directed to the department of economic development in a timely
43 manner with the necessary information to verify the correct amount has been transmitted. The
44 remaining funds shall be distributed to the educational assistance organizations.

45 135.719. 1. The department and the department of revenue may promulgate rules to
46 implement the provisions of sections 135.712 to 135.719. Any rule or portion of a rule, as that term
47 is defined in section 536.010, that is created under the authority delegated in this section shall
48 become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if

1 applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the
2 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective
3 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
4 rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be invalid and
5 void.

6 2. Under section 23.253 of the Missouri sunset act:

7 (1) The provisions of the new program authorized under sections 135.712 to 135.719 shall
8 automatically sunset on December thirty-first six years after the effective date of sections 135.712 to
9 135.719 unless reauthorized by an act of the general assembly; and

10 (2) If such program is reauthorized, the program authorized under sections 135.712 to
11 135.719 shall automatically sunset on December thirty-first twelve years after the effective date of
12 the reauthorization of sections 135.712 to 135.719; and

13 (3) Sections 135.712 to 135.719 shall terminate on September first of the calendar year
14 immediately following the calendar year in which the program authorized under sections 135.712 to
15 135.719 is sunset.

16 135.1910. 1. As used in this section, the following terms mean:

17 (1) "Contribution", a donation of cash; stock, bonds, or other marketable securities; or real
18 property;

19 (2) "Director", the director of the department of social services;

20 (3) "Qualified organization", an organization that provides funding for unmet health,
21 hunger, and hygiene needs for children in school;

22 (4) "State tax liability", in the case of a business taxpayer, any liability incurred by such
23 taxpayer under the provisions of chapters 143, 148, and 153, excluding sections 143.191 to 143.265
24 and related provisions, and in the case of an individual taxpayer, any liability incurred by such
25 taxpayer under the provisions of chapter 143, excluding sections 143.191 to 143.265 and related
26 provisions;

27 (5) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder in an S
28 corporation doing business in the state of Missouri and subject to the state income tax imposed
29 under the provisions of chapter 143; an insurance company paying an annual tax on its gross
30 premium receipts in this state, or other financial institution paying taxes to the state of Missouri or
31 any political subdivision of this state under the provisions of chapter 148; an express company
32 which pays an annual tax on its gross receipts in this state under chapter 153; an individual subject
33 to the state income tax imposed under the provisions of chapter 143; or any charitable organization
34 that is exempt from federal income tax and whose Missouri unrelated business taxable income, if
35 any, would be subject to the state income tax imposed under chapter 143.

36 2. For all tax years beginning on or after January 1, 2017, a taxpayer shall be allowed to
37 claim a tax credit against the taxpayer's state tax liability in an amount equal to fifty percent of the
38 taxpayer's contribution to a qualified organization. The qualified organization shall use the
39 taxpayer's contribution solely for the unmet health, hunger, and hygiene needs of children in school.

40 3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state
41 tax liability for the taxable year for which the credit is claimed, and such taxpayer shall not be
42 allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax
43 credit that cannot be claimed in the taxable year in which the contribution was made may be carried
44 over to the next four succeeding taxable years until the full credit has been claimed. Tax credits
45 issued under this section are nontransferable and nonrefundable.

46 4. Except for any excess credit that is carried over under subsection 3 of this section, a
47 taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's
48 contribution or contributions to a qualified organization or organizations in such taxpayer's taxable

1 year has a value of at least one hundred dollars.

2 5. The director shall determine, at least annually, which organizations in this state may be
 3 classified as qualified organizations. The director may require of an organization seeking to be
 4 classified as a qualified organization whatever information that is reasonably necessary to make
 5 such a determination. The director shall classify an organization as a qualified organization if such
 6 organization meets the definition set forth in subsection 1 of this section.

7 6. The director shall establish a procedure by which a taxpayer can determine if an
 8 organization has been classified as a qualified organization. Qualified organizations shall be
 9 permitted to decline a contribution from a taxpayer. To claim the tax credit authorized in this
 10 section, a qualified organization may submit to the department an application for the tax credit
 11 authorized by this section on behalf of taxpayers. The department shall verify that the qualified
 12 organization has submitted the following items accurately and completely:

13 (1) A valid application in the form and format required by the department;

14 (2) A statement attesting to the contribution received, which shall include the name and
 15 taxpayer identification number of the individual making the contribution, the amount of the
 16 contribution, and the date the contribution was received by the provider; and

17 (3) Payment from the qualified organization equal to the value of the tax credit for which
 18 application is made.

19 If the provider applying for the tax credit meets all criteria required by this subsection, the
 20 department shall issue a certificate in the appropriate amount.

21 7. Each qualified organization shall provide information to the director concerning the
 22 identity of each taxpayer making a contribution to the qualified organization who is claiming a tax
 23 credit under this section and the amount of the contribution. The director shall provide the
 24 information to the director of revenue. The director shall be subject to the confidentiality and
 25 penalty provisions of section 32.057 relating to the disclosure of tax information.

26 8. The provisions of this section shall not be construed to limit or in any way impair the
 27 department's ability to issue tax credits authorized on or before the date the program authorized
 28 under this section expires or a taxpayer's ability to redeem such tax credits.

29 9. Under section 23.253 of the Missouri sunset act:

30 (1) The program established under this section shall automatically expire on December 31,
 31 2022, unless reauthorized by an act of the general assembly;

32 (2) If such program is reauthorized, the program authorized under this section shall
 33 automatically sunset twelve years after the effective date of the reauthorization of this section; and

34 (3) This section shall terminate on September first of the calendar year immediately
 35 following the calendar year in which a program authorized under this section is sunset.

36 135.2000. 1. As used in this section, the following terms mean:

37 (1) "Commissioner", the commissioner of education for the department of elementary and
 38 secondary education;

39 (2) "Contribution", a donation of cash to a qualified agency as defined in section 210.1500;

40 (3) "State tax liability", in the case of a business taxpayer, any liability incurred by such
 41 taxpayer under the provisions of chapters 143, 148, and 153, excluding sections 143.191 to 143.265
 42 and related provisions and, in the case of an individual taxpayer, any liability incurred by such
 43 taxpayer under the provisions of chapter 143, excluding sections 143.191 to 143.265 and related
 44 provisions;

45 (4) "Tax credit", a credit against the taxpayer's state tax liability;

46 (5) "Tax credit certificate", a certificate evidencing a taxpayer's right to receive a tax credit;

47 (6) "Taxpayer", a person, firm, partner in a partnership, member in a limited liability
 48 company, shareholder in an S corporation, or a corporation doing business in the state of Missouri

1 and subject to the state income tax imposed under chapter 143, or an insurance company paying an
2 annual tax on its gross premium receipts in this state, or other financial institution paying taxes to
3 the state of Missouri or any political subdivision of this state under the provisions of chapter 148, or
4 an express company that pays an annual tax on its gross receipts in this state under chapter 153, or
5 an individual subject to the state income tax under chapter 143, or any charitable organization that is
6 exempt from federal income tax and whose Missouri unrelated business taxable income, if any,
7 would be subject to the state income tax imposed under chapter 143.

8 2. (1) Subject to the provisions of subsection 5 of this section, any contribution to a
9 qualified agency made on or after January 1, 2017, shall be eligible for a tax credit as provided by
10 this section.

11 (2) For all tax years beginning on or after January 1, 2017, a taxpayer shall be entitled to
12 receive a tax credit against the taxpayer's state tax liability in an amount equal to fifty percent of the
13 amount such taxpayer contributed to a qualified agency evidenced by a contribution verification. A
14 contribution verification shall be issued to the taxpayer by the qualified agency receiving the
15 contribution. Such contribution verification shall include the taxpayer's name, Social Security
16 number, amount of tax credit, amount of contribution, the name and address of the agency receiving
17 the credit, and the date the contribution was made. The tax credit provided under this subsection
18 shall be initially filed for the year in which the verified contribution is made.

19 3. The amount of the tax credit claimed shall not exceed fifty percent of the taxpayer's state
20 tax liability for the tax year for which the credit is claimed, and such taxpayer shall not be allowed
21 to claim a tax credit in excess of twenty-five thousand dollars per tax year. Any amount of credit
22 that the taxpayer is prohibited by this section from claiming in a tax year shall not be refundable.
23 However, any tax credit that cannot be claimed in the tax year in which the contribution was made
24 may be carried over to the next three succeeding tax years until the full credit has been claimed.

25 4. Prior to December thirty-first of each year, each qualified agency shall apply to the
26 department of social services in order to verify their qualified agency status. Upon a determination
27 that the agency is eligible to be a qualified agency, the department of social services shall provide a
28 letter of eligibility to such agency. No later than February first of each year, the department of
29 social services shall provide a list of qualified agencies to the department of revenue. A taxpayer
30 shall apply for the tax credit by attaching a copy of the contribution verification provided by a
31 qualified agency to such taxpayer's income tax return.

32 5. Except for any excess credit which is carried over under subsection 3 of this section, a
33 taxpayer shall not be allowed to claim a tax credit unless the amount of such taxpayer's contribution
34 to a qualified agency in such taxpayer's tax year has a value of one hundred dollars or more, up to a
35 maximum of fifty thousand dollars. Any excess of a contribution above fifty thousand dollars or
36 contribution less than one hundred dollars shall be ineligible to receive a tax credit under this
37 section.

38 6. The total amount of tax credits authorized under the provisions of this section shall not
39 exceed five million dollars in any fiscal year. The total amount of tax credits issued but not
40 redeemed shall not exceed fifteen million dollars in any fiscal year. Tax credits shall be issued in
41 the order contributions are received.

42 7. Tax credits issued under this section shall not be transferred, sold, or assigned.

43 8. The department of elementary and secondary education may promulgate rules to
44 implement the provisions of this section. Any rule or portion of a rule, as that term is defined in
45 section 536.010, that is created under the authority delegated in this section shall become effective
46 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
47 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested
48 with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to

1 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
 2 authority and any rule proposed or adopted after August 28, 2016 shall be invalid and void.

3 9. Under section 23.253 of the Missouri sunset act:

4 (1) The provisions of the new program authorized under section 135.2000 shall
 5 automatically sunset on December thirty-first six years after the effective date of section 135.2000
 6 unless reauthorized by an act of the general assembly; and

7 (2) If such program is reauthorized, the program authorized under section 135.2000 shall
 8 automatically sunset on December thirty-first twelve years after the effective date of the
 9 reauthorization of section 135.2000; and

10 (3) Section 135.2000 shall terminate on September first of the calendar year immediately
 11 following the calendar year in which the program authorized under section 135.2000 is sunset."; and
 12

13 Further amend said bill, Page 5, Section 163.031, Line 99, by inserting immediately after all of said
 14 line the following:
 15

16 "166.700. As used in sections 166.700 to 166.720, the following terms mean:

17 (1) "Child with a disability":

18 (a) A child who is at least three years of age but less than twenty-two years of age who has
 19 been evaluated and found to have at least one of the following disabilities and who, because of the
 20 disability, needs special education and related services:

21 a. An autism spectrum disorder;

22 b. Developmental delay;

23 c. Emotional disability;

24 d. Hearing impairment;

25 e. Other health impairments;

26 f. Specific learning disability;

27 g. Mild, moderate, or severe intellectual disability;

28 h. Multiple disabilities;

29 i. Multiple disabilities with severe sensory impairment;

30 j. Orthopedic impairment;

31 k. Preschool severe delay;

32 l. Speech or language impairment;

33 m. Traumatic brain injury; or

34 n. Visual impairment; and

35 (b) Shall not include a child if the determining factor for the classification is one or more of
 36 the following:

37 a. A lack of appropriate instruction in reading, including essential components of reading
 38 instruction;

39 b. A lack of appropriate instruction in mathematics; or

40 c. Difficulty in writing, speaking, or understanding the English language due to an
 41 environmental background in which a language other than English is primarily or exclusively used;

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

44 (3) "Department", the department of elementary and secondary education;

45 (4) "Educational assistance organization", the same meaning as used in section 135.712;

46 (5) "Eligible postsecondary institution", any approved private institution or approved public
 47 institution as defined in section 173.1102;

48 (6) "Parent", the same meaning as used in section 135.712;

1 (7) "Private school", a school that is not a part of the public school system of the state of
 2 Missouri and that charges tuition for the rendering of elementary or secondary educational services;

3 (8) "Program", the Missouri empowerment scholarship accounts program;

4 (9) "Qualified school", a home school as defined in section 167.031, a private school as
 5 defined in this subsection, or a preschool for children with a disability, that is located in Missouri
 6 and that does not discriminate on the basis of race, color, or national origin;

7 (10) "Qualified student", a resident of this state who:

8 (a) Is any of the following:

9 a. Identified as having a disability under Section 504 of the Rehabilitation Act of 1973;

10 b. Identified by a district as a child with a disability;

11 c. A child with a disability who is eligible to receive services from a school district under
 12 the Individuals with Disabilities Education Act.

13 166.705. 1. A parent of a qualified student may establish a Missouri empowerment
 14 scholarship account for the student by entering into a written agreement with an educational
 15 assistance organization. The agreement shall provide that:

16 (1) The qualified student shall enroll in a qualified school and receive an education in at
 17 least the subjects of reading, grammar, mathematics, social studies, and science;

18 (2) The qualified student shall not be enrolled in a school operated by a district or a charter
 19 school and shall release the district of residence from all obligations to educate the qualified student;
 20 except that, this subdivision shall not relieve the student's district of residence from the obligation to
 21 conduct an evaluation for disabilities;

22 (3) The qualified student shall receive a grant, in the form of money deposited pursuant to
 23 section 135.714, in the qualified student's Missouri empowerment scholarship account;

24 (4) The money deposited in the qualified student's Missouri empowerment scholarship
 25 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 for the qualified student from a licensed or accredited
 29 practitioner or provider, including licensed or accredited paraprofessionals or educational aides;

30 (d) Tutoring services provided by a tutor accredited by a state, regional, or national
 31 accrediting organization;

32 (e) Curriculum;

33 (f) Tuition or fees for a nonpublic online learning program;

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

37 (h) Contributions to a qualified tuition program established under 26 U.S.C. Section 529 for
 38 the benefit of the qualified student;

39 (i) Tuition or fees at an eligible postsecondary institution;

40 (j) Textbooks required by an eligible postsecondary institution;

41 (k) Fees for management of the empowerment scholarship account by firms selected by the
 42 educational assistance organization;

43 (l) Services provided by a public school, including individual classes and extracurricular
 44 programs; and

45 (m) Insurance or surety bond payments as required by the department; and

46 (5) Moneys deposited in the qualified student's account shall not be used for consumable
 47 educational supplies including, but not limited to, paper, pens, pencils, or markers.

48 2. Missouri empowerment scholarship accounts are renewable on an annual basis upon

1 request of the parent of a qualified student. Notwithstanding any changes to the qualified student's
2 multidisciplinary evaluation team plan, a student who has previously qualified for a Missouri
3 empowerment scholarship account shall remain eligible to apply for renewal until the student
4 completes high school and submits scores from a nationally standardized norm-referenced
5 achievement test, advanced placement examination, international baccalaureate examination, or any
6 exam related to college or university admission purchased with Missouri empowerment scholarship
7 account funds to the department.

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

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

13 5. If a qualified student withdraws from the program by enrolling in a school other than a
14 qualified school, or is disqualified from the program under the provisions of section 166.710, the
15 qualified student's Missouri empowerment scholarship account shall be closed and any remaining
16 funds shall be returned to the educational assistance organization for redistribution to other qualified
17 students. Under such circumstances, the obligation to provide an education for such student shall
18 transfer back to the student's district of residence.

19 6. Any funds remaining in a qualified student's scholarship account at the end of a school
20 year shall remain in the account and shall not be returned to the educational assistance organization.
21 Any funds remaining in a qualified student's scholarship account upon graduation from a qualified
22 school may be used for the purposes of postsecondary education as specified in subdivision (4) of
23 subsection 1 of this section. Any funds remaining in a qualified student's account after graduation
24 from an eligible postsecondary institution, or after a period of four years following graduation from
25 a qualified school, whichever occurs first, shall be returned to the educational assistance
26 organization for redistribution to other qualified students.

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

29 166.710. 1. The department shall conduct or contract for annual audits of empowerment
30 scholarship accounts to ensure compliance with the requirements of subsection 1 of section 166.705.
31 The department shall also conduct or contract for random, quarterly, and annual audits of
32 empowerment scholarship accounts as needed to ensure compliance with the requirements of
33 subsection 1 of section 166.705.

34 2. A parent or qualified student or vendor may be disqualified from program participation
35 if, after a hearing before the commissioner of education or his or her designee, the party is found to
36 have committed an intentional program violation consisting of any misrepresentation or other act
37 that materially violates any law or rule governing the program. The department may remove any
38 parent or qualified student from eligibility for a Missouri empowerment scholarship program
39 account. A parent may appeal the department's decision to the state board of education. A parent
40 may appeal the state board of education's decision to the circuit court of the county in which the
41 student resides.

42 3. The department may refer cases of substantial misuse of moneys to the attorney general
43 for investigation if the department obtains evidence of fraudulent use of an account.

44 4. The department shall promulgate rules to implement and administer the Missouri
45 empowerment scholarship accounts program including, but not limited to:

46 (1) Rules for conducting examinations of use of account funds;

47 (2) Rules for conducting random, quarterly, and annual reviews of accounts;

48 (3) Creating an online anonymous fraud reporting service;

1 (4) Creating an anonymous telephone hotline for fraud reporting; and

2 (5) A surety bond requirement for account holders.

3 5. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
 4 under the authority delegated in this section shall become effective only if it complies with and is
 5 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
 6 chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to
 7 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
 8 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
 9 August 28, 2016, shall be invalid and void.

10 166.715. No financial institution shall be liable in any civil action for providing a savings
 11 account's financial information to the department unless the information provided is false and the
 12 financial institution providing the false information does so knowingly and with malice.

13 166.720. 1. Sections 166.700 to 166.720 do not permit any governmental agency to
 14 exercise control or supervision over any qualified school in which a qualified student enrolls.

15 2. A qualified school that accepts a payment from a parent under sections 166.700 to
 16 166.720 shall not be an agent of the state or federal government.

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

20 4. In any legal proceeding challenging the application of sections 166.700 to 166.720 to a
 21 qualified school, the state shall bear the burden of establishing that the law is necessary and does not
 22 impose any undue burden on qualified schools."; and

23
 24 Further amend said bill, Page 6, Section 170.048, Line 17, by inserting immediately after all of said
 25 line the following:

26
 27 "210.1500. 1. As used in this section, the following terms shall mean:

28 (1) "Eligible recipient", a school-aged child enrolled in kindergarten through twelfth grade
 29 who:

30 (a) Is currently in the protective custody of the state or recently adopted; and

31 (b) Has been in the protective custody of the state for at least twelve of the last forty-eight
 32 months;

33 (2) "Qualified agency", an entity organized to receive donations, issue contribution
 34 verifications for such donations and provide scholarships to eligible recipients in this state with at
 35 least ninety percent of its revenues from contributions;

36 (3) "Qualified school", a nonpublic elementary or secondary school in this state or in the
 37 case of an adopted child, a public elementary or secondary school in this state shall be considered a
 38 qualified school;

39 (4) "Scholarship", an annual grant to eligible recipients to cover all or part of the applicable
 40 tuition and fees at a qualified school, the amount of which shall be the lesser of:

41 (a) The previous school year's tuition and fees for nonscholarship students at the qualified
 42 school;

43 (b) Ninety percent of the previous school year's average current expenditure per average
 44 daily attendance for the student's district of residence.

45 2. Any eligible recipient who receives a scholarship under the provisions of this section
 46 shall be reimbursed for any reasonable transportation costs incurred or shall receive the mileage rate
 47 prescribed by this subsection for the distance necessarily traveled in going to and returning from a
 48 qualified school, the distance to be estimated by the most usually traveled route from the place of

1 departure to a qualified school. Mileage shall be reimbursed at the rate prescribed by the Internal
2 Revenue Service for allowable expenses for motor vehicle use expressed as an amount per mile.

3 3. Any eligible recipient who receives a scholarship under the provisions of this section
4 shall continue to be eligible to receive his or her scholarship upon a legal adoption.

5 4. In the event an eligible recipient who receives a scholarship under the provisions of this
6 section graduates from the qualified school to which he or she first received a scholarship, the
7 eligible recipient shall remain eligible to receive a scholarship under this section to a new qualified
8 school.

9 5. The department of elementary and secondary education shall prepare and maintain an
10 easy-to-search database containing statewide assessment scores of all recipients of scholarships
11 under this section. Each recipient shall be assigned a random identification number by the
12 department for purposes of the database and no personally identifiable data shall be accessible on
13 the database.

14 6. The department of elementary and secondary education may promulgate rules to
15 implement the provisions of this section. Any rule or portion of a rule, as that term is defined in
16 section 536.010, that is created under the authority delegated in this section shall become effective
17 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
18 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested
19 with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to
20 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
21 authority and any rule proposed or adopted after August 28, 2016 shall be invalid and void."; and

22
23 Further amend said bill by amending the title, enacting clause, and intersectional references
24 accordingly.