

# SENATE BILL NO. 360

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

1153S.01H

KRISTINA MARTIN, Secretary

## AN ACT

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

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

Section A. Sections 135.713, 135.714, and 166.700, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 135.713, 135.714, and 166.700, to read as follows:

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

2. The amount of the tax credit claimed shall not exceed fifty percent of the taxpayer's state tax liability for the tax year for which the credit is claimed. The state treasurer shall certify the tax credit amount to the 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 fifty million dollars[, which]. **Such** amount shall be  
25 annually adjusted by the state treasurer for inflation based  
26 on the Consumer Price Index for All Urban Consumers for the  
27 Midwest region, as defined and officially recorded by the  
28 United States Department of Labor or its successor, [such  
29 annual increase will cease when the amount of tax credits  
30 reach seventy-five million dollars] **and shall additionally**  
31 **be annually adjusted by any percentage increase above the**  
32 **threshold of forty percent of the projected amount necessary**  
33 **to fully fund transportation aid funding for fiscal year**  
34 **2021 as provided in subsection 5 of this section.** The state  
35 treasurer shall establish a procedure by which, from the  
36 beginning of the calendar year until August first, the  
37 cumulative amount of tax credits shall be allocated on a  
38 first-come, first-served basis among all educational  
39 assistance organizations. If an educational assistance  
40 organization fails to use all, or some percentage to be  
41 determined by the state treasurer, of its allocated tax  
42 credits during this period, the state treasurer may  
43 reallocate these unused tax credits to those educational  
44 assistance organizations that have used all, or some  
45 percentage to be determined by the state treasurer, of their  
46 allocated tax credits during this period. The state  
47 treasurer may establish more than one period and reallocate  
48 more than once during each calendar year. The state  
49 treasurer shall establish the procedure described in this

50 subsection in such a manner as to ensure that taxpayers can  
51 claim all the tax credits possible up to the cumulative  
52 amount of tax credits available for the calendar year.

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

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

135.714. 1. Each educational assistance organization  
2 shall:

3 (1) Notify the state treasurer of its intent to  
4 provide scholarship accounts to qualified students;

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

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

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

12 (a) Qualified students that have an approved  
13 "individualized education plan" (IEP) developed under the  
14 federal Individuals with Disabilities Education Act (IDEA),  
15 20 U.S.C. Section 1400, et seq., as amended, or qualified  
16 students living in a household whose total annual income

17 does not exceed an amount equal to one hundred percent of  
18 the income standard used to qualify for free and reduced  
19 price lunches;

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

24 (c) All other qualified students;

25 (5) Ensure that:

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

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

31 (c) Marketing and administrative expenses do not  
32 exceed the following limits of its remaining revenue from  
33 contributions:

34 a. Ten percent for the first two hundred fifty  
35 thousand dollars;

36 b. Eight percent for the next five hundred thousand  
37 dollars; and

38 c. Three percent thereafter;

39 (6) Distribute scholarship account payments either  
40 four times per year or in a single lump sum at the beginning  
41 of the year as requested by the parent of a qualified  
42 student, not to exceed a total grant amount equal to the  
43 state adequacy target as defined in section 163.011, **or for**  
44 **a qualified student under paragraph (a) of subdivision (8)**  
45 **of section 166.700 a total grant amount equal to all state**  
46 **and federal moneys allocated to public schools on a per**  
47 **capita basis to students with an individualized education**  
48 **plan**, and calculated by the department of elementary and

49 secondary education, in the form of a deposit into the  
50 scholarship account of the qualified student;

51 (7) Provide the state treasurer, upon request, with  
52 criminal background checks on all its employees and board  
53 members and exclude from employment or governance any  
54 individual who might reasonably pose a risk to the  
55 appropriate use of contributed funds, **provided that no**  
56 **background check shall be required by the educational**  
57 **assistance organization or the state treasurer for a parent**  
58 **who educates their child at a home school as defined in**  
59 **section 167.031;**

60 (8) Demonstrate its financial accountability by:

61 (a) Submitting to the state treasurer annual audit  
62 financial statements by a certified public accountant within  
63 six months of the end of the educational assistance  
64 organization's fiscal year; and

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

67 (9) Ensure that participating students take the state  
68 achievement tests or nationally norm-referenced tests that  
69 measure learning gains in math and English language arts,  
70 and provide for value-added assessment, in grades that  
71 require testing under the statewide assessment system set  
72 forth in section 160.518;

73 (10) Allow costs of the testing requirements to be  
74 covered by the scholarships distributed by the educational  
75 assistance organization;

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

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

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

84           (14) Provide rates of high school graduation, college  
85 attendance, and college graduation for participating  
86 students to the state treasurer in a manner consistent with  
87 nationally recognized standards;

88           (15) Provide to the state treasurer the results from  
89 an annual parental satisfaction survey, including  
90 information about the number of years that the parent's  
91 child has participated in the scholarship program. The  
92 annual satisfaction survey shall ask parents of scholarship  
93 students to express:

94           (a) Their level of satisfaction with the child's  
95 academic achievement, including academic achievement at the  
96 schools the child attends through the scholarship program  
97 versus academic achievement at the school previously  
98 attended;

99           (b) Their level of satisfaction with school safety at  
100 the schools the child attends through the scholarship  
101 program versus safety at the schools previously attended;

102           (16) Demonstrate its financial viability, if it is to  
103 receive donations of fifty thousand dollars or more during  
104 the school year, by filing with the state treasurer before  
105 the start of the school year a surety bond payable to the  
106 state in an amount equal to the aggregate amount of  
107 contributions expected to be received during the school year  
108 or other financial information that demonstrates the  
109 financial viability of the educational assistance  
110 organization.

111           2. The annual audit required under this section shall  
112 include:

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

115 (2) The name and address of each qualified student for  
116 whom a parent opened a scholarship account with the  
117 organization;

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

120 (4) The total number and total dollar amount of  
121 scholarship accounts opened during the previous calendar  
122 year.

123 3. The state treasurer shall:

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

126 (2) Collect all test results;

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

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

136 4. An educational assistance organization may contract  
137 with private financial management firms to manage  
138 scholarship accounts with the supervision of the state  
139 treasurer.

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 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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