

FIRST REGULAR SESSION

# SENATE BILL NO. 430

94TH GENERAL ASSEMBLY

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INTRODUCED BY SENATORS SHIELDS, CALLAHAN AND KOSTER.

Read 1st time February 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

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## AN ACT

To repeal sections 160.534, 313.805, and 313.812, RSMo, and to enact in lieu thereof five new sections relating to the smart start scholarship program, with penalty provisions and an effective date.

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

Section A. Sections 160.534, 313.805, and 313.812, RSMo, are repealed  
2 and five new sections enacted in lieu thereof, to be known as sections 160.534,  
3 173.950, 313.805, 313.812, and 313.823, to read as follows:

160.534. For fiscal year 1996 and each subsequent fiscal year, any amount  
2 of the excursion gambling boat proceeds deposited in the gaming proceeds for  
3 education fund in excess of the amount transferred to the school district bond  
4 fund as provided in section 164.303, RSMo, shall be transferred to the classroom  
5 trust fund. Such moneys shall be distributed in the manner provided in section  
6 163.043, RSMo. **For fiscal year 2009, all funds transferred from the**  
7 **gaming proceeds for education fund in excess of the sum of the amount**  
8 **transferred to the school district bond fund for the preceding fiscal**  
9 **year plus the amount transferred to the classroom trust fund for the**  
10 **preceding fiscal year times one and five hundredths, shall be**  
11 **transferred to the smart start scholarship fund, as established in**  
12 **section 173.950, RSMo. For fiscal year 2010 and for each fiscal year**  
13 **thereafter, the amount transferred from the gaming proceeds for**  
14 **education fund to the classroom trust fund shall be the amount**  
15 **transferred to the fund during the preceding fiscal year, adjusted by**  
16 **one half of the percent increase or decrease of the gaming proceeds for**  
17 **education fund from the preceding fiscal year; and the amount**

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

18 transferred from the gaming proceeds for education fund to the smart  
19 start scholarship fund shall be the amount transferred to the fund  
20 during the preceding fiscal year, adjusted by one half of the percent  
21 increase or decrease of the gaming proceeds for education fund from  
22 the preceding fiscal year.

173.950. 1. This act shall be known and cited as the "Smart Start  
2 Scholarship Act".

3 2. As used in this section, the following terms shall be defined as:

4 (1) "Department", the Missouri department of higher education;

5 (2) "Qualifying student", a person who attends a high school in  
6 this state for three consecutive academic years immediately prior to  
7 being graduated from the institution, and who, within two calendar  
8 years from the date of graduation, applies for a grant under this  
9 section, provided that students who are active duty military  
10 dependents and who, in the school year immediately preceding  
11 graduation, meet all other requirements of this section and are  
12 graduated from a high school in this state shall be exempt from the  
13 three-year attendance requirement of this subdivision;

14 (3) "Qualifying institution", an "approved public institution" or an  
15 "approved private institution", as such terms are defined in section  
16 173.205, or a proprietary school certificated to operate in this state by  
17 the department of higher education under section 173.604, or an  
18 educational institution located in Missouri deemed acceptable by the  
19 department under rules promulgated pursuant to this section.

20 3. The smart start scholarship program is hereby established and  
21 shall be administered by the department. Within the limits established  
22 by this section and subject to available appropriations, each qualifying  
23 student shall be eligible to receive a grant for educational expenses  
24 incurred while attending a qualifying institution for no more than two  
25 academic years. Grant amounts shall be distributed to each qualifying  
26 student by the department, which shall annually establish a maximum  
27 grant amount based on the number of applicants and available monies  
28 in the fund.

29 4. There is hereby created in the state treasury the "Smart Start  
30 Scholarship Fund" which shall consist of the moneys collected under  
31 section 160.534, RSMo, and moneys collected under section 313.823,  
32 RSMo. The state treasurer shall be custodian of the fund and shall

33 approve disbursements from the fund in accordance with sections  
34 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall  
35 be used solely for the administration of this section. Notwithstanding  
36 the provisions of section 33.080, RSMo, to the contrary, any moneys  
37 remaining in the fund at the end of the biennium shall not revert to the  
38 credit of the general revenue fund. The state treasurer shall invest  
39 moneys in the fund in the same manner as other funds are  
40 invested. Any interest and moneys earned on such investments shall be  
41 credited to the fund.

42 5. The department shall promulgate rules to establish a  
43 procedure for implementing this section. Any rule or portion of a rule,  
44 as that term is defined in section 536.010, RSMo, that is created under  
45 the authority delegated in this section shall become effective only if it  
46 complies with and is subject to all of the provisions of chapter 536,  
47 RSMo, and, if applicable, section 536.028, RSMo. This section and  
48 chapter 536, RSMo, are nonseverable and if any of the powers vested  
49 with the general assembly pursuant to chapter 536, RSMo, to review, to  
50 delay the effective date, or to disapprove and annul a rule are  
51 subsequently held unconstitutional, then the grant of rulemaking  
52 authority and any rule proposed or adopted after August 28, 2007, shall  
53 be invalid and void.

54 6. The provisions of section 23.253, RSMo, shall not apply to this  
55 section.

313.805. The commission shall have full jurisdiction over and shall  
2 supervise all gambling operations governed by sections 313.800 to 313.850. The  
3 commission shall have the following powers and shall promulgate rules and  
4 regulations to implement sections 313.800 to 313.850:

5 (1) To investigate applicants and determine the priority and eligibility of  
6 applicants for a license and to select among competing applicants for a license the  
7 applicant which best serves the interests of the citizens of Missouri;

8 (2) To license the operators of excursion gambling boats and operators of  
9 gambling games within such boats, to identify occupations within the excursion  
10 gambling boat operations which require licensing, and adopt standards for  
11 licensing the occupations including establishing fees for the occupational licenses  
12 and to license suppliers;

13 (3) To adopt standards under which all excursion gambling boat

14 operations shall be held and standards for the facilities within which the  
15 gambling operations are to be held. Notwithstanding the provisions of chapter  
16 311, RSMo, to the contrary, the commission may authorize the operation of  
17 gambling games on an excursion gambling boat which is also licensed to sell or  
18 serve alcoholic beverages, wine, or beer. The commission shall regulate the  
19 wagering structure for gambling excursions [including providing a maximum loss  
20 of five hundred dollars per individual player per gambling excursion], **provided**  
21 **that the commission shall not establish any maximum loss limit;**

22 (4) To enter the premises of excursion gambling boats, facilities, or other  
23 places of business of a licensee within this state to determine compliance with  
24 sections 313.800 to 313.850;

25 (5) To investigate alleged violations of sections 313.800 to 313.850 or the  
26 commission rules, orders, or final decisions;

27 (6) To assess any appropriate administrative penalty against a licensee,  
28 including, but not limited to, suspension, revocation, and penalties of an amount  
29 as determined by the commission up to three times the highest daily amount of  
30 gross receipts derived from wagering on the gambling games, whether  
31 unauthorized or authorized, conducted during the previous twelve months as well  
32 as confiscation and forfeiture of all gambling game equipment used in the conduct  
33 of unauthorized gambling games. Forfeitures pursuant to this section shall be  
34 enforced as provided in sections 513.600 to 513.645, RSMo;

35 (7) To require a licensee, an employee of a licensee or holder of an  
36 occupational license to remove a person violating a provision of sections 313.800  
37 to 313.850 or the commission rules, orders, or final orders, or other person  
38 deemed to be undesirable from the excursion gambling boat or adjacent facilities;

39 (8) To require the removal from the premises of a licensee, an employee  
40 of a licensee, or a holder of an occupational license for a violation of sections  
41 313.800 to 313.850 or a commission rule or engaging in a fraudulent practice;

42 (9) To require all licensees to file all financial reports required by rules  
43 and regulations of the commission;

44 (10) To issue subpoenas for the attendance of witnesses and subpoenas  
45 duces tecum for the production of books, records, and other pertinent documents,  
46 and to administer oaths and affirmations to the witnesses, when, in the judgment  
47 of the commission, it is necessary to enforce sections 313.800 to 313.850 or the  
48 commission rules;

49 (11) To keep accurate and complete records of its proceedings and to

50 certify the records as may be appropriate;

51 (12) To ensure that the gambling games are conducted fairly. No  
52 gambling device shall be set to pay out less than eighty percent of all wagers;

53 (13) To require all licensees of gambling game operations to use a cashless  
54 wagering system whereby all players' money is converted to physical or electronic  
55 tokens, electronic cards, or chips which only can be used for wagering on the  
56 excursion gambling boat;

57 (14) To require excursion gambling boat licensees to develop a system,  
58 approved by the commission, that allows patrons the option to prohibit the  
59 excursion gambling boat licensee from using identifying information for  
60 marketing purposes. The provisions of this subdivision shall apply only to  
61 patrons giving identifying information for the first time. Such system shall be  
62 submitted to the commission by October 1, 2000, and approved by the commission  
63 by January 1, 2001. The excursion gambling boat licensee shall use identifying  
64 information obtained from patrons who have elected to have marketing blocked  
65 under the provisions of this section only for the purposes of enforcing the  
66 requirements contained in sections 313.800 to 313.850. This section shall not  
67 prohibit the commission from accessing identifying information for the purposes  
68 of enforcing section 313.004 and sections 313.800 to 313.850;

69 (15) To determine which of the authorized gambling games will be  
70 permitted on any licensed excursion gambling boat;

71 (16) Excursion gambling boats shall cruise, unless the commission finds  
72 that the best interest of Missouri and the safety of the public indicate the need  
73 for continuous docking of the excursion gambling boat in any city or county  
74 authorized pursuant to subsection 10 of section 313.812. The commission shall  
75 base its decision to allow continuously docked excursion gambling boats on any  
76 of the following criteria: the docking location or the excursion cruise could cause  
77 danger to the boat's passengers, violate federal law or the law of another state,  
78 or cause disruption of interstate commerce or possible interference with railway  
79 or barge transportation. In addition, the commission shall consider economic  
80 feasibility or impact that would benefit land-based development and permanent  
81 job creation. The commission shall not discriminate among applicants for  
82 continuous-docking excursion gambling that are similarly situated with respect  
83 to the criteria set forth in this section;

84 (17) The commission shall render a finding concerning the possibility of  
85 continuous docking, as described in subdivision (15) of this section, within thirty

86 days after a hearing on any request from an applicant or licensee. Such hearing  
87 may be held prior to any final action on licensing to assist an applicant and any  
88 city or county in the finalizing of their economic development plan;

89 (18) To require any applicant for a license or renewal of a license to  
90 operate an excursion gambling boat to provide an affirmative action plan which  
91 has as its goal the use of best efforts to achieve maximum employment of  
92 African-Americans and other minorities and maximum participation in the  
93 procurement of contractual purchases of goods and services. This provision shall  
94 be administered in accordance with all federal and state employment laws,  
95 including Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights  
96 Act of 1991. At license renewal, the licensee will report on the effectiveness of  
97 the plan. The commission shall include the licensee's reported information in its  
98 annual report to the joint committee on gaming and wagering;

99 (19) To take any other action as may be reasonable or appropriate to  
100 enforce sections 313.800 to 313.850 and the commission rules.

313.812. 1. **Except as provided in subsection 15 of this section,** the  
2 commission may issue licenses pursuant to subsection 1 of section 313.807 when  
3 it is satisfied that the applicant has complied with all rules and regulations,  
4 including an update of all information provided to the commission in the  
5 licensee's initial application. The commission shall decide the number, location  
6 and type of excursion gambling boat in a city or county under subsection 10 of  
7 this section. The license shall set forth the name of the licensee, the type of  
8 license granted, the place where the excursion gambling boat will operate and  
9 dock, including the docking of an excursion gambling boat which is continuously  
10 docked, and other information the commission deems appropriate. The  
11 commission shall have the ultimate responsibility of deciding the number,  
12 location, and type of excursion gambling boats licensed in a city or county;  
13 however, any city or county which has complied with the provisions of subsection  
14 10 of this section shall submit to the commission a plan outlining the following:

15 (1) The recommended number of licensed excursion gambling boats  
16 operating in such city or county;

17 (2) The recommended licensee or licensees operating in such city or  
18 county;

19 (3) The community's economic development or impact and affirmative  
20 action plan concerning minorities' and women's ownership, contracting and  
21 employment for the waterfront development;

22 (4) The city or county proposed sharing of revenue with any other  
23 municipality;

24 (5) Any other information such city or county deems necessary; and

25 (6) Any other information the commission may determine is necessary.

26 The commission shall provide for due dates for receiving such plan from the city  
27 or county.

28 2. A license to operate an excursion gambling boat shall only be granted  
29 to an applicant upon the express conditions that:

30 (1) The applicant shall not, by a lease, contract, understanding, or  
31 arrangement of any kind, grant, assign, or turn over to a person the operation of  
32 an excursion gambling boat licensed under this section or of the system of  
33 wagering described in section 313.817. This section does not prohibit a  
34 management contract with a person licensed by the commission; and

35 (2) The applicant shall not in any manner permit a person other than the  
36 licensee and the management licensee to have a share, percentage, or proportion  
37 of the money received for admissions to the excursion gambling boat.

38 3. The commission shall require, as a condition of granting a license, that  
39 an applicant operate an excursion gambling boat which, as nearly as practicable,  
40 resembles or is a part of Missouri's or the home dock city's or county's riverboat  
41 history.

42 4. The commission shall encourage through its rules and regulations the  
43 use of Missouri resources, goods and services in the operation of any excursion  
44 gambling boat.

45 5. The excursion gambling boat shall provide for nongaming areas, food  
46 service and a Missouri theme gift shop. The amount of space used for gaming  
47 shall be determined in accordance with all rules and regulations of the  
48 commission and the United States Coast Guard safety regulations.

49 6. A license to operate gambling games or to operate an excursion  
50 gambling boat shall not be granted unless the applicant has, through clear and  
51 convincing evidence, demonstrated financial responsibility sufficient to meet  
52 adequately the requirements of the proposed enterprise.

53 7. Each applicant shall establish by clear and convincing evidence its  
54 fitness to be licensed. Without limitation, the commission may deny a license  
55 based solely on the fact that there is evidence that any of the following apply:

56 (1) The applicant has been suspended from operating an excursion  
57 gambling boat or a game of chance or gambling operation in another jurisdiction

58 by a board or commission of that jurisdiction;

59 (2) The applicant is not the true owner of the enterprise proposed;

60 (3) The applicant is not the sole owner, and other persons have ownership  
61 in the enterprise, which fact has not been disclosed;

62 (4) The applicant is a corporation that is not publicly traded and ten  
63 percent or more of the stock of the corporation is subject to a contract or option  
64 to purchase at any time during the period for which the license is to be issued  
65 unless the contract or option was disclosed to the commission and the commission  
66 approved the sale or transfer during the period of the license;

67 (5) The applicant has knowingly made a false statement of a material fact  
68 to the commission; or

69 (6) The applicant has failed to meet a valid, bona fide monetary obligation  
70 in connection with an excursion gambling boat.

71 8. A license shall not be granted if the applicant has not established his  
72 good repute and moral character or if the applicant has pled guilty to, or has been  
73 convicted of, a felony. No licensee shall employ or contract with any person who  
74 has pled guilty to, or has been convicted of, a felony to perform any duties directly  
75 connected with the licensee's privileges under a license granted pursuant to this  
76 section, except that employees performing nongaming related occupations as  
77 determined by the commission shall be exempt from the requirements of this  
78 subsection.

79 9. A licensee shall not lend to any person money or any other thing of  
80 value for the purpose of permitting that person to wager on any gambling game  
81 authorized by law. This does not prohibit credit card or debit card transactions  
82 or cashing of checks. Any check cashed must be deposited within twenty-four  
83 hours. The commission may require licensees to verify a sufficient account  
84 balance exists before cashing any check. Any licensee who violates the provisions  
85 of this subsection shall be subject to an administrative penalty of five thousand  
86 dollars for each violation. Such administrative penalties shall be assessed and  
87 collected by the commission.

88 10. Gambling excursions including the operation of gambling games on an  
89 excursion gambling boat which is not continuously docked shall be allowed only  
90 on the Mississippi River and the Missouri River. No license to conduct gambling  
91 games on an excursion gambling boat in a city or county shall be issued unless  
92 and until the qualified voters of the city or county approve such activities  
93 pursuant to this subsection. The question shall be submitted to the qualified



94 voters of the city or county at a general, primary or special election upon the  
95 motion of the governing body of the city or county or upon the petition of fifteen  
96 percent of the qualified voters of the city or county determined on the basis of the  
97 number of votes cast for governor in the city or county at the last election held  
98 prior to the filing of the petition. The question shall be submitted in  
99 substantially the following form:

100           Shall the City (County) of ..... allow the licensing of excursion  
101 gambling boats or floating facilities as now or hereafter provided by Missouri  
102 gaming law in the city (county)?

103                            YES                            NO

104 If a majority of the votes cast on the question by the qualified voters voting  
105 thereon are in favor of the question, then the commission may license excursion  
106 gambling boats in that city or county and such boats may operate on the  
107 Mississippi River and the Missouri River. If a majority of the votes cast on the  
108 question by the qualified voters voting thereon are opposed to the question, then  
109 the commission shall not license such excursion gambling boats in such city or  
110 county unless and until the question is again submitted to and approved by a  
111 majority of the qualified voters of the city or county at a later election.

112 Excursion gambling boats may only dock in a city or unincorporated area of a  
113 county which approves licensing of such excursion gambling boats pursuant to  
114 this subsection, but gambling operations may be conducted at any point on the  
115 Mississippi River or the Missouri River during an excursion. Those cities and  
116 counties which have approved by election pursuant to this subsection, except  
117 those cities or counties which have subsequently rejected by election, the  
118 licensing of any type of excursion gambling boats in the city or county prior to  
119 April 6, 1994, are exempt from any local election requirement of this section as  
120 such previous election shall have the same effect as if held after May 20, 1994.

121           11. If a docking fee is charged by a city or a county, a licensee operating  
122 an excursion gambling boat shall pay the docking fee prior to the start of the  
123 excursion season.

124           12. Any licensee shall not be delinquent in the payment of property taxes  
125 or other taxes or fees or in the payment of any other contractual obligation or  
126 debt due or owed to the state or a political subdivision of the state.

127           13. An excursion gambling boat licensed by the state shall meet all of the  
128 requirements of chapter 306, RSMo, and is subject to an inspection of its sanitary  
129 facilities to protect the environment and water quality by the commission or its

130 designee before a license to operate an excursion gambling boat is issued by the  
131 commission. Licensed excursion gambling boats shall also be subject to such  
132 inspections during the period of the license as may be deemed necessary by the  
133 commission. The cost of such inspections shall be paid by the licensee.

134           14. A holder of any license shall be subject to imposition of penalties,  
135 suspension or revocation of such license, or if the person is an applicant for  
136 licensure, the denial of the application, for any act or failure to act by himself or  
137 his agents or employees, that is injurious to the public health, safety, morals,  
138 good order and general welfare of the people of the state of Missouri, or that  
139 would discredit or tend to discredit the Missouri gaming industry or the state of  
140 Missouri unless the licensee proves by clear and convincing evidence that it is not  
141 guilty of such action. The commission shall take appropriate action against any  
142 licensee who violates the law or the rules and regulations of the  
143 commission. Without limiting other provisions of this subsection, the following  
144 acts or omissions may be grounds for such discipline:

145           (1) Failing to comply with or make provision for compliance with sections  
146 313.800 to 313.850, the rules and regulations of the commission or any federal,  
147 state or local law or regulation;

148           (2) Failing to comply with any rule, order or ruling of the commission or  
149 its agents pertaining to gaming;

150           (3) Receiving goods or services from a person or business entity who does  
151 not hold a supplier's license but who is required to hold such license by the  
152 provisions of sections 313.800 to 313.850 or the rules and regulations of the  
153 commission;

154           (4) Being suspended or ruled ineligible or having a license revoked or  
155 suspended in any state of gaming jurisdiction;

156           (5) Associating with, either socially or in business affairs, or employing  
157 persons of notorious or unsavory reputation or who have extensive police records,  
158 or who have failed to cooperate with any officially constituted investigatory or  
159 administrative body and would adversely affect public confidence and trust in  
160 gaming;

161           (6) Employing in any gambling games' operation or any excursion  
162 gambling boat operation, any person known to have been found guilty of cheating  
163 or using any improper device in connection with any gambling game;

164           (7) Use of fraud, deception, misrepresentation or bribery in securing any  
165 permit or license issued pursuant to sections 313.800 to 313.850;

166 (8) Obtaining or attempting to obtain any fee, charge, or other  
167 compensation by fraud, deception, or misrepresentation;

168 (9) Incompetence, misconduct, gross negligence, fraud, misrepresentation  
169 or dishonesty in the performance of the functions or duties regulated by sections  
170 313.800 to 313.850.

171 **15. The commission shall be authorized to issue a maximum of**  
172 **thirteen licenses to operate excursion gambling boats in the state. The**  
173 **availability of these licenses shall be limited to those licenses which are**  
174 **valid on August 28, 2007, and including subsequent renewals of those**  
175 **licenses, and to any future licenses for which the commission has**  
176 **received an application and selected the applicant as a priority to be**  
177 **investigated to determine suitability for a license on or before**  
178 **December 31, 2006, and which applicants remain pending on August 28,**  
179 **2007. If one or more of the thirteen licenses issued under this**  
180 **subsection expires, is not renewed, is forfeited, or revoked, then the**  
181 **commission may issue a new license to replace the license that expired,**  
182 **was not renewed, was forfeited, or revoked, but such license shall only**  
183 **be issued for the same excursion gambling boat or another excursion**  
184 **gambling boat which will be located in the same city, county, or city**  
185 **not within a county as the excursion gambling boat whose license**  
186 **expired, was not renewed, was forfeited, or revoked.**

313.823. In addition to all other fees and taxes required or paid,  
2 an excursion gambling boat licensee shall pay an additional education  
3 allowance on all adjusted gross receipts in excess of thirty million  
4 dollars received from gambling games authorized under sections  
5 313.800 to 313.850 at the rate of one percent. The education allowance  
6 shall be paid to the commission under rules and regulations  
7 promulgated by the commission. All proceeds obtained from the  
8 education allowance shall be deposited in the state treasury to the  
9 credit of the smart start scholarship fund in section 173.950, RSMo.

Section B. Section A of this act shall become effective July 1, 2008.

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