

FIRST REGULAR SESSION

SENATE BILL NO. 29

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NODLER.

Pre-filed December 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0443S.011

AN ACT

To repeal sections 173.005 and 173.616, RSMo, and to enact in lieu thereof three new sections relating to higher education, with penalty provisions.

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

Section A. Sections 173.005 and 173.616, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 173.005, 173.125,
3 and 173.616, to read as follows:

173.005. 1. There is hereby created a "Department of Higher Education",
2 and the division of higher education of the department of education is abolished
3 and all its powers, duties, functions, personnel and property are transferred as
4 provided by the Reorganization Act of 1974, Appendix B, RSMo.

5 2. The commission on higher education is abolished and all its powers,
6 duties, personnel and property are transferred by type I transfer to the
7 "Coordinating Board for Higher Education", which is hereby created, and the
8 coordinating board shall be the head of the department. The coordinating board
9 shall consist of nine members appointed by the governor with the advice and
10 consent of the senate, and not more than five of its members shall be of the same
11 political party. None of the members shall be engaged professionally as an
12 educator or educational administrator with a public or private institution of
13 higher education at the time appointed or during his term. The other
14 qualifications, terms and compensation of the coordinating board shall be the
15 same as provided by law for the curators of the University of Missouri. The
16 coordinating board may, in order to carry out the duties prescribed for it in
17 subsections 1, 2, 3, 7, and 8 of this section, employ such professional, clerical and
18 research personnel as may be necessary to assist it in performing those duties,

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

19 but this staff shall not, in any fiscal year, exceed twenty-five full-time equivalent
20 employees regardless of the source of funding. In addition to all other powers,
21 duties and functions transferred to it, the coordinating board for higher education
22 shall have the following duties and responsibilities:

23 (1) The coordinating board for higher education shall have approval of
24 proposed new degree programs to be offered by the state institutions of higher
25 education;

26 (2) The coordinating board for higher education may promote and
27 encourage the development of cooperative agreements between Missouri public
28 four-year institutions of higher education which do not offer graduate degrees and
29 Missouri public four-year institutions of higher education which do offer graduate
30 degrees for the purpose of offering graduate degree programs on campuses of
31 those public four-year institutions of higher education which do not otherwise
32 offer graduate degrees. Such agreements shall identify the obligations and duties
33 of the parties, including assignment of administrative responsibility. Any
34 diploma awarded for graduate degrees under such a cooperative agreement shall
35 include the names of both institutions inscribed thereon. Any cooperative
36 agreement in place as of August 28, 2003, shall require no further approval from
37 the coordinating board for higher education. Any costs incurred with respect to
38 the administrative provisions of this subdivision may be paid from state funds
39 allocated to the institution assigned the administrative authority for the
40 program. The provisions of this subdivision shall not be construed to invalidate
41 the provisions of subdivision (1) of this subsection;

42 (3) In consultation with the heads of the institutions of higher education
43 affected and against a background of carefully collected data on enrollment,
44 physical facilities, manpower needs, institutional missions, the coordinating board
45 for higher education shall establish guidelines for appropriation requests by those
46 institutions of higher education; however, other provisions of the Reorganization
47 Act of 1974 notwithstanding, all funds shall be appropriated by the general
48 assembly to the governing board of each public four-year institution of higher
49 education which shall prepare expenditure budgets for the institution;

50 (4) No new state-supported senior colleges or residence centers shall be
51 established except as provided by law and with approval of the coordinating board
52 for higher education;

53 (5) The coordinating board for higher education shall establish admission
54 guidelines consistent with institutional missions;

55 (6) The coordinating board shall establish policies and procedures for
56 institutional decisions relating to the residence status of students;

57 (7) The coordinating board shall establish guidelines to promote and
58 facilitate the transfer of students between institutions of higher education within
59 the state;

60 (8) The coordinating board shall collect the necessary information and
61 develop comparable data for all institutions of higher education in the state. The
62 coordinating board shall use this information to delineate the areas of competence
63 of each of these institutions and for any other purposes deemed appropriate by
64 the coordinating board;

65 (9) Compliance with requests from the coordinating board for institutional
66 information and the other powers, duties and responsibilities, herein assigned to
67 the coordinating board, shall be a prerequisite to the receipt of any funds for
68 which the coordinating board is responsible for administering; and

69 (10) If any **public** institution of higher education in this state[, public or
70 private,] willfully fails or refuses to follow any lawful guideline, policy or
71 procedure established or prescribed by the coordinating board, or knowingly
72 deviates from any such guideline, or knowingly acts without coordinating board
73 approval where such approval is required, or willfully fails to comply with any
74 other lawful order of the coordinating board, the coordinating board may, after
75 a public hearing, withhold or direct to be withheld from that institution any funds
76 the disbursement of which is subject to the control of the coordinating board, or
77 may remove the approval of the institution as an "approved institution" within
78 the meaning of section 173.205[, but]. **If any such public institution**
79 **willfully disregards board policy, the commissioner of higher education**
80 **may order such institution to remit a fine in an amount not to exceed**
81 **one percent of the institution's current fiscal year state appropriation**
82 **to the board. The board shall hold such funds until such time that the**
83 **institution, as determined by the commissioner of higher education,**
84 **corrects the violation, at which time the board shall refund such**
85 **amount to the institution. Should the commissioner determine that the**
86 **institution has not redressed said violation within one year, the fine**
87 **amount shall be deposited into the general revenue fund, unless the**
88 **institution appeals such decision to the full coordinating board, which**
89 **shall have the authority to make a binding and final decision, by means**
90 **of a majority vote, regarding the matter. However, nothing in this section**

91 shall prevent any institution of higher education in this state from presenting
92 additional budget requests or from explaining or further clarifying its budget
93 requests to the governor or the general assembly[.]; and

94 **(11) (a) As used in this subdivision, the term "out-of-state public**
95 **institution of higher education" shall mean an education institution**
96 **located outside of Missouri that:**

97 **a. Is controlled or administered directly by a public agency or**
98 **political subdivision;**

99 **b. Receives appropriations for operating expenses directly or**
100 **indirectly from a state other than Missouri;**

101 **c. Provides a postsecondary course of instruction at least six**
102 **months in length leading to or directly creditable toward a degree or**
103 **certificate;**

104 **d. Meets the standards for accreditation by an accrediting body**
105 **recognized by the United States Department of Education or any**
106 **successor agency;**

107 **e. Permits faculty members to select textbooks without influence**
108 **or pressure by any religious or sectarian source.**

109 **(b) No later than December 31, 2007, the coordinating board shall**
110 **promulgate rules regarding:**

111 **a. The board's approval process of proposed new degree**
112 **programs and course offerings by any out-of-state public institutions of**
113 **higher education seeking to offer degree programs or course work**
114 **within the state of Missouri; and**

115 **b. The board's approval process of degree programs and course**
116 **offering by any out-of-state public institutions of higher education that,**
117 **prior to July 1, 2008, were approved by the board to operate a school**
118 **in compliance with the provisions of sections 173.600 to 173.618;**

119 **The rules shall ensure that, as of July 1, 2008, all out-of-state public**
120 **institutions seeking to offer courses within the state of Missouri are**
121 **evaluated in a manner similar to Missouri public higher education**
122 **institutions. Such out-of-state public institutions shall be held to**
123 **standards no lower than the standards established by the board for**
124 **Missouri institutions of higher education under this section. Beginning**
125 **July 1, 2008, the board shall revoke all certificates of approval**
126 **previously granted to out-of-state public institutions of higher**
127 **education under sections 173.600 to 173.618. Any such schools wishing**

128 **to continue operating within this state must be approved by the board**
129 **under the rules promulgated under this subdivision. Any rule or**
130 **portion of a rule, as that term is defined in section 536.010, RSMo, that**
131 **is created under the authority delegated in this section shall become**
132 **effective only if it complies with and is subject to all of the provisions**
133 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This**
134 **section and chapter 536, RSMo, are nonseverable and if any of the**
135 **powers vested with the general assembly pursuant to chapter 536,**
136 **RSMo, to review, to delay the effective date, or to disapprove and annul**
137 **a rule are subsequently held unconstitutional, then the grant of**
138 **rulemaking authority and any rule proposed or adopted after August**
139 **28, 2007, shall be invalid and void.**

140 3. The coordinating board shall meet at least four times annually with an
141 advisory committee who shall be notified in advance of such meetings. The
142 coordinating board shall have exclusive voting privileges. The advisory
143 committee shall consist of thirty-two members, who shall be the president or
144 other chief administrative officer of the University of Missouri; the chancellor of
145 each campus of the University of Missouri; the president of each state-supported
146 four-year college or university, including Harris-Stowe State University, Missouri
147 Southern State University, Missouri Western State University, and Lincoln
148 University; the president of Linn State Technical College; the president or
149 chancellor of each public community college district; and representatives of each
150 of five accredited private institutions selected biennially, under the supervision
151 of the coordinating board, by the presidents of all of the state's privately
152 supported institutions; but always to include at least one representative from one
153 privately supported junior college, one privately supported four-year college, and
154 one privately supported university. The conferences shall enable the committee
155 to advise the coordinating board of the views of the institutions on matters within
156 the purview of the coordinating board.

157 4. The University of Missouri, Lincoln University, and all other
158 state-governed colleges and universities, chapters 172, 174 and 175, RSMo, and
159 others, are transferred by type III transfers to the department of higher education
160 subject to the provisions of subsection 2 of this section.

161 5. The state historical society, chapter 183, RSMo, is transferred by type
162 III transfer to the University of Missouri.

163 6. The state anatomical board, chapter 194, RSMo, is transferred by type

164 II transfer to the department of higher education.

165 7. All the powers, duties and functions vested in the division of public
166 schools and state board of education relating to community college state aid and
167 the supervision, formation of districts and all matters otherwise related to the
168 state's relations with community college districts and matters pertaining to
169 community colleges in public school districts, chapters 163 and 178, RSMo, and
170 others, are transferred to the coordinating board for higher education by type I
171 transfer. Provided, however, that all responsibility for administering the
172 federal-state programs of vocational-technical education, except for the 1202a
173 post-secondary educational amendments of 1972 program, shall remain with the
174 department of elementary and secondary education. The department of
175 elementary and secondary education and the coordinating board for higher
176 education shall cooperate in developing the various plans for vocational-technical
177 education; however, the ultimate responsibility will remain with the state board
178 of education.

179 8. The administration of sections 163.171 and 163.181, RSMo, relating to
180 teacher-training schools in cities, is transferred by type I transfer to the
181 coordinating board for higher education.

182 9. All the powers, duties, functions, personnel and property of the state
183 library and state library commission, chapter 181, RSMo, and others, are
184 transferred by type I transfer to the coordinating board for higher education, and
185 the state library commission is abolished. The coordinating board shall appoint
186 a state librarian who shall administer the affairs of the state library under the
187 supervision of the board.

188 10. All the powers, duties, functions, and properties of the state poultry
189 experiment station, chapter 262, RSMo, are transferred by type I transfer to the
190 University of Missouri, and the state poultry association and state poultry board
191 are abolished. In the event the University of Missouri shall cease to use the real
192 estate of the poultry experiment station for the purposes of research or shall
193 declare the same surplus, all real estate shall revert to the governor of the state
194 of Missouri and shall not be disposed of without legislative approval.

**173.125. As a condition of receiving state funds, every public
2 institution of higher education shall agree to submit to binding dispute
3 resolution with regard to disputes among public institutions of higher
4 education that involve jurisdictional boundaries or the use or
5 expenditure of any state resources whatsoever, as determined by the**

6 coordinating board. In all cases, the arbitrator shall be the
7 commissioner of higher education or his or her designee, whose
8 decision shall be binding on all parties. Any institution aggrieved by
9 a decision of the commissioner may appeal such decision, in which
10 instance the case shall be reviewed by the full coordinating board, at
11 which time the full coordinating board shall have the authority to make
12 a binding and final decision, by means of a majority vote, regarding the
13 matter.

173.616. 1. The following schools, training programs, and courses of
2 instruction shall be exempt from the provisions of sections 173.600 to 173.618:

- 3 (1) A public institution;
- 4 (2) Any college or university represented directly or indirectly on the
5 advisory committee of the coordinating board for higher education as provided in
6 subsection 3 of section 173.005;
- 7 (3) An institution that is certified by the board as an "approved private
8 institution" under subdivision (2) of section 173.205;
- 9 (4) A not-for-profit religious school that is accredited by the American
10 Association of Bible Colleges, the Association of Theological Schools in the United
11 States and Canada, or a regional accrediting association, such as the North
12 Central Association, which is recognized by the Council on Postsecondary
13 Accreditation and the United States Department of Education; **and**
- 14 **(5) Beginning July 1, 2008, all out-of-state public institutions of**
15 **higher education, as such term is defined in subdivision (11) of**
16 **subsection 2 of section 173.005.**

2. The coordinating board shall exempt the following schools, training
18 programs and courses of instruction from the provisions of sections 173.600 to
19 173.618:

- 20 (1) A not-for-profit school owned, controlled and operated by a bona fide
21 religious or denominational organization which offers no programs or degrees and
22 grants no degrees or certificates other than those specifically designated as
23 theological, bible, divinity or other religious designation;
- 24 (2) A not-for-profit school owned, controlled and operated by a bona fide
25 eleemosynary organization which provides instruction with no financial charge
26 to its students and at which no part of the instructional cost is defrayed by or
27 through programs of governmental student financial aid, including grants and
28 loans, provided directly to or for individual students;

29 (3) A school which offers instruction only in subject areas which are
30 primarily for avocational or recreational purposes as distinct from courses to
31 teach employable, marketable knowledge or skills, which does not advertise
32 occupational objectives and which does not grant degrees;

33 (4) A course of instruction, study or training program sponsored by an
34 employer for the training and preparation of its own employees;

35 (5) A course of study or instruction conducted by a trade, business or
36 professional organization with a closed membership where participation in the
37 course is limited to bona fide members of the trade, business or professional
38 organization, or a course of instruction for persons in preparation for an
39 examination given by a state board or commission where the state board or
40 commission approves that course and school;

41 (6) A school or person whose clientele are primarily students aged sixteen
42 or under.

43 3. A school which is otherwise licensed and approved under and pursuant
44 to any other licensing law of this state shall be exempt from sections 173.600 to
45 173.618, but a state certificate of incorporation shall not constitute licensing for
46 the purpose of sections 173.600 to 173.618.

47 4. Any school, training program or course of instruction exempted herein
48 may elect by majority action of its governing body or by action of its director to
49 apply for approval of the school, training program or course of instruction under
50 the provisions of sections 173.600 to 173.618. Upon application to and approval
51 by the coordinating board, such school training program or course of instruction
52 may become exempt from the provisions of sections 173.600 to 173.618 at any
53 subsequent time, except the board shall not approve an application for exemption
54 if the approved school is then in any status of noncompliance with certification
55 standards and a reversion to exempt status shall not relieve the school of any
56 liability for indemnification or any penalty for noncompliance with certification
57 standards during the period of the school's approved status.

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