

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 767

89TH GENERAL ASSEMBLY

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Reported from the Committee on Elections, Pensions and Veterans' Affairs, February 26, 1998, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

S3255.05C

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## AN ACT

To repeal sections 41.435, 42.105 and 173.215, RSMo 1994, and sections 173.239 and 313.835, RSMo Supp. 1997, and to enact in lieu thereof eight new sections relating to the disposition of revenue in the gaming commission fund, with penalty provisions.

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

Section A. Sections 41.435, 42.105 and 173.215, RSMo 1994, and sections 173.239 and 313.835, RSMo Supp. 1997, are repealed and eight new sections enacted in lieu thereof, to be known as sections 41.214, 41.215, 41.435, 41.958, 42.105, 173.215, 173.239 and 313.835, to read as follows:

**41.214. 1. There is established in the state treasury a special trust fund, to be known as the "Missouri National Guard Trust Fund". The state treasurer shall credit to and deposit in the Missouri national guard trust fund all amounts received pursuant to section 41.215 and section 313.835 and any other amounts which may be received from grants, gifts, bequests, the federal government or other sources granted or given for this specific purpose.**

**2. The state treasurer shall invest moneys in the Missouri national guard trust fund in the same manner as surplus state funds are invested pursuant to section 30.260, RSMo. All earnings resulting from the investment of moneys in the Missouri national guard trust fund shall be credited to the Missouri national guard trust fund.**

**3. Until the amount in the Missouri national guard trust fund exceeds one million dollars, not more than one-half of the money deposited in the Missouri national guard trust fund each year, plus all earnings from the investment of moneys in the trust**

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

**fund credited during the previous fiscal year, shall be available for disbursement by the office of the adjutant general in accordance with sections 41.010 to 41.1000. When the state treasurer certifies that the assets in the Missouri national guard trust fund exceed one million dollars, then, from that time on, all credited earnings plus all future annual deposits to the fund shall be available for disbursement by the office of the adjutant general within the limits of appropriations and for the purposes provided by sections 41.010 to 41.1000. The general assembly may appropriate moneys annually from the Missouri national guard trust fund to the department of revenue to offset costs incurred for collecting and transferring funds pursuant to section 41.215. Moneys appropriated to the department of revenue for such costs shall be reasonable and shall not exceed five percent of the revenues credited to the fund pursuant to subsections 1 and 2 of this section during the preceding fiscal year.**

**4. Except as provided in subsection 5 of this section, funds appropriated by the general assembly from the Missouri national guard trust fund shall only be used by the office of the adjutant general for purposes authorized pursuant to sections 41.010 to 41.1000.**

**5. Funds received from gifts, bequests, contributions, other than contributions made pursuant to section 41.215, grants and federal funds may, subject to appropriation, be used and expended by the office of the adjutant general for such purposes as may be specified in any requirements, terms or conditions attached thereto or, in the absence of any specific requirements, terms or conditions, as the office of the adjutant general may determine for any lawful purpose.**

**6. The provisions of section 33.080, RSMo, requiring all unexpended balances remaining in various state funds to be transferred and placed to the credit of the general revenue fund of this state at the end of each biennium shall not apply to the Missouri national guard trust fund.**

**41.215. 1. In each tax year beginning on or after January 1, 1998, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation pursuant to this section may designate that two dollars or any amount in excess of two dollars on a single return and four dollars or any amount in excess of four dollars on a combined return, of the refund due be credited to the Missouri national guard trust fund for the sole purpose of funding the uniformed honor detail pursuant to section 41.958 and educational assistance pursuant to section 173.239, RSMo. The contribution designation authorized by this section shall be clearly and unambiguously printed on each income tax return form provided by this state. If any individual or corporation which is not entitled to a tax refund in an amount sufficient to make a designation pursuant to this section wishes to make a contribution to the Missouri national guard trust fund, such individual or corporation may, by separate check, draft or other**

**negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the Missouri national guard trust fund, the individual or corporation wishes to contribute and the department of revenue shall forward such amount to the state treasurer for deposit to the Missouri national guard trust fund as provided in subsection 2 of this section.**

**2. The director of revenue shall transfer at least monthly all contributions designated by individuals and corporations pursuant to this section, less an amount sufficient to cover the cost of collection and handling by the department of revenue, to the state treasurer for deposit in the Missouri national guard trust fund for the sole purpose of funding the uniformed honor detail pursuant to section 41.958 and educational assistance pursuant to section 173.239, RSMo.**

**3. A contribution designated pursuant to this section shall only be transferred and deposited in the Missouri national guard trust fund after all other claims against the refund from which such contribution is to be made have been satisfied.**

**4. Notwithstanding any other law to the contrary, the names and addresses of individuals or corporations who designate a contribution to this fund may be supplied to the office of the adjutant general, for the purpose of sending an acknowledgment and written appreciation to those individuals and corporations. Under no circumstances shall the names and addresses be used for any purpose other than that expressed in this subsection. Any person who releases or uses any of the names and addresses for any other purpose is guilty of a class C felony.**

41.435. 1. The adjutant general of the state of Missouri may pay out of funds appropriated for [this] **the purpose provided in this section** to each individual who reenlists or extends [his] **the individual's initial** enlistment in the Missouri national guard the sum [of one hundred dollars] **equivalent to one month active base pay** for each year of such reenlistment or extension. **Persons who have performed other prior military service shall not be eligible for such payments.** The maximum payment made to any individual for any one reenlistment or extension shall be [six hundred dollars] **the sum equivalent to three months active base pay**, payable in sums of one [hundred dollars] **month active base pay** at the beginning of each year of service. No such payment shall be made until the individual satisfactorily completes all requirements established by the appropriate state and federal authorities for reenlistment or extension. Any reenlistment **or extension** in the Missouri national guard must be accomplished within thirty days of the expiration of the preceding enlistment in order **for the individual** to be eligible for **this** payment [of this gratuity]. Any member of the Missouri national guard who fails for any reason, except death or disability, to complete the period of reenlistment or extension for which [he] **the member** has received a [gratuity under] **payment pursuant to** the provisions of this section shall be required to repay that part of the [gratuity] **payment** represented by the uncompleted portion of the reenlistment or extension contract.

2. The adjutant general shall administer the provisions of this section.

3. The provisions of this section shall terminate upon the resumption of inductions by the federal government under the provisions of the Universal Military Training and Service Act.

**41.958. When requested by the commander of any recognized veterans' organization, military commander or by any friend or relative of a deceased person or the director of a funeral home for any deceased person who served in the armed forces of the United States during a time of war or is otherwise entitled to military honors at the person's burial, internment or memorial service, the adjutant general shall, subject to appropriation, order the appropriate requested uniformed honor detail to attend and render appropriate services or request and coordinate the appropriate detail with a recognized veterans' organization. Subject to appropriations, the adjutant general shall ensure that appropriate service records are collected authorizing the honor detail, shall ensure that the honor detail meets the appropriate military requirements for uniform and conduct, shall ensure that if a recognized veterans' organization renders the services, the organization is compensated for services through the Missouri national guard trust fund, shall provide assistance in training honor details for recognized veterans' organizations, and shall serve as the coordinator for military funerals and such details when requested. The amount paid veterans' organizations shall be determined by the adjutant general. The amount authorized by this section shall be paid from funds appropriated from the Missouri national guard trust fund.**

42.105. Citizens of the state of Missouri who meet the criteria established by the United States Department of Veterans' Affairs, or its successor organization, for veteran status **or who have an honorable discharge from the national guard** and who require institutional health care services shall be entitled to admission into a Missouri veterans' home. No spouse of a qualified veteran shall be required to vacate the premises of a Missouri veterans' home if the spouse was a resident of the home on August 28, 1989.

173.215. 1. An applicant shall be eligible for initial or renewed financial assistance only if, at the time of his application and throughout the period during which he is receiving such assistance, he

(1) Is a citizen or a permanent resident of the United States;

(2) Is a resident of the state of Missouri, as determined by reference to standards promulgated [pursuant to section 173.140] **by the coordinating board;**

(3) Is enrolled, or has been accepted for enrollment, as a full-time undergraduate student in an approved private or public institution;

(4) Establishes that he has financial need;

(5) Has never been convicted in any court of an offense which involved the use of force, disruption or seizure of property under the control of any institution of higher education to prevent officials or students in such institutions from engaging in their duties or pursuing their

studies; and

(6) No award shall be made under sections 173.200 to 173.230 to any applicant who is enrolled, or who intends to use the award to enroll, in a course of study leading to a degree in theology or divinity.

2. Financial assistance shall be allotted for one academic year, but a recipient shall be eligible for renewed assistance until he has obtained a baccalaureate degree, provided such financial assistance shall not exceed a total of ten semesters or fifteen quarters or their equivalent. Standards of eligibility for renewed assistance shall be the same as for an initial award of financial assistance.

173.239. 1. Any member of the Missouri national guard [who has served in the Missouri national guard for at least one year after December 31, 1983, and] who possesses the qualifications set forth in this section may be awarded [a scholarship] **an educational assistance grant** to an approved public institution or an approved private institution, as those terms are defined in section 173.205, of [his] **the member's** choice while [he is] a member of the Missouri national guard. Funding for [scholarships under] **educational assistance pursuant to** this section [shall] **may** be requested annually in the budget of the Missouri national guard. [Scholarships] **Educational assistance** provided [under] **pursuant to** this section shall not exceed funds appropriated for that purpose.

2. [Scholarships provided under this section shall not exceed the tuition amount nor shall any person receive a scholarship in excess of five hundred dollars per regular semester nor in excess of two hundred and fifty dollars per summer semester nor in excess of one thousand two hundred and fifty dollars per school year] **Educational assistance provided pursuant to this section shall not exceed the least of the following:**

**(1) The actual tuition, as defined in section 173.260, charged at an approved institution where the individual is enrolled or accepted for enrollment; or**

**(2) The amount of tuition charged a Missouri resident at the University of Missouri for attendance.**

3. A member of the Missouri national guard seeking [a scholarship] **educational assistance** pursuant to this section shall provide a certificate of satisfactory service of [his] **the member's** Missouri national guard duties from [his] **the member's** commanding officer and shall possess all other necessary entrance requirements of the school of [his] **the member's** choice and shall [have maintained] **maintain** a cumulative grade point average (GPA) of two point five on a four point scale, or the equivalent on another scale approved by the program administrator, while [in secondary school] **attending the approved public or private institution.**

**4. If the grade point average (GPA) of a member who is receiving educational assistance pursuant to this section falls below two point five on a four point scale, or the equivalent on another scale, such member shall retain the educational assistance**

**and shall be placed on probation under the educational assistance program. Failure to achieve a current grade point average (GPA) of two point five on a four point scale, or the equivalent on another scale for future semesters or equivalent academic terms shall result in termination of the educational assistance effective as of the next academic term. The member shall be removed from probation status upon achieving a cumulative grade point average (GPA) of at least two point five on a four point scale or the equivalent on another scale.**

[4.] **5.** If a recipient of [a scholarship] **educational assistance** pursuant to this section ceases to be a member of the Missouri national guard while enrolled in a course of study [or within three years after the completion of a course of study, the scholarship] **for any reason except death or disability, the educational assistance** shall be terminated [as of the date membership in the Missouri national guard ended] and the recipient shall repay any amounts awarded pursuant to this section.

[5.] **6.** Applicants for [scholarship] **educational assistance** pursuant to this section shall meet [all] **the** qualifications established by section 173.215, **except the provisions of subdivisions (2) and (4) of subsection 1 of section 173.215**, and shall be qualified, full-time **or part-time** students. [Applicants for scholarship assistance pursuant to this section shall have composite scores on the American College Testing Program (ACT) of twenty or higher.]

[6.] **7.** The [scholarship] **educational assistance** program established [under] **pursuant to** this section shall be administered by the office of the adjutant general of the Missouri national guard. The Missouri national guard shall establish guidelines for equitable distribution of [scholarships considering need and ability] **educational assistance**.

313.835. **1.** All revenue received by the commission from license fees, penalties, administrative fees, reimbursement by any excursion gambling boat operators for services provided by the commission and admission fees authorized [under] **pursuant to** the provisions of sections 313.800 to 313.850 shall be deposited in the state treasury to the credit of the "Gaming Commission Fund" which is hereby created for the sole purpose of funding the administrative costs of the commission, subject to appropriation. Moneys deposited into this fund shall not be considered proceeds of [excursion] gambling [boat] operations. Moneys deposited into the gaming commission fund shall be considered state funds pursuant to article IV, section 15 of the Missouri Constitution. All interest received on the gaming commission fund shall be credited to the gaming commission fund. [Any appropriation from the state general revenue fund to fund expenses of the state gaming commission, other than funds from the gaming commission fund, shall be reimbursed to the general revenue fund by July 1, 1995. Beginning July 1, 1995, any excess moneys not already encumbered at the end of any fiscal year] **In each fiscal year, total revenues to the gaming commission fund for the preceding fiscal year shall be compared to total expenditures and transfers from the gaming commission fund for the preceding fiscal**

**year. The remaining net proceeds** in the gaming commission fund shall be distributed in the following manner:

(1) The first five hundred thousand dollars shall be appropriated on a per capita basis to cities and counties that match the state portion and have demonstrated a need for funding community neighborhood organization programs for the homeless and to deter gang-related violence and crimes;

(2) [Until July 1, 2000, the remaining unencumbered funds] **The remaining net proceeds in the gaming commission fund for fiscal year 1998 and prior years** shall be transferred to the "Veterans' Commission Capital Improvement Trust Fund", as hereby created in the state treasury. The state treasurer shall administer the veterans' commission capital improvement trust fund, and the moneys in such fund shall be used solely, upon appropriation, by the Missouri veterans' commission for:

(a) The construction, maintenance or renovation **or equipment needs** of veterans' homes [and] **in this state;**

(b) **The construction, maintenance, renovation, equipment needs and operation of veterans'** cemeteries in this state;

(c) **Fund transfers to Missouri veterans' homes fund established pursuant to the provisions of section 42.121 as necessary to maintain solvency of the fund; and**

(d) **Fund transfers to any municipality with a population greater than four hundred thousand and containing part of a county with a population greater than six hundred thousand in this state which has established a fund for the sole purpose of the restoration, renovation and maintenance of a memorial or museum or both dedicated to World War One, and appropriations from the veterans' commission capital improvement trust fund to such memorial fund shall not exceed five million dollars in any one fiscal year and not to exceed seven million dollars total appropriation from the veterans' commission capital improvement trust fund.**

Any interest which accrues to the fund shall remain in the fund and shall be used in the same manner as moneys which are transferred to the fund pursuant to this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the veterans' commission capital improvement trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund[. Beginning July 1, 2000, the remaining unencumbered funds shall be transferred from the gaming commission fund to the state general revenue fund.];

(3) **The remaining net proceeds in the gaming commission fund for fiscal year 1999 and each fiscal year thereafter shall be distributed as follows:**

(a) **Three million dollars shall be transferred to the veterans' commission capital improvement trust fund;**

(b) **Three million dollars shall be transferred to the Missouri national guard**

trust fund created in section 41.214, RSMo;

(c) All remaining net proceeds in the gaming commission fund shall be transferred to an "Education Fund for Early Childhood Programs Fund" which is hereby created. Any moneys deposited in this fund shall be used to support activities that prepare children from birth until they are eligible to enroll in kindergarten pursuant to section 160.053, RSMo, to enter school ready to learn. No less than eighty percent of the funds deposited in the early childhood education fund shall annually be appropriated to the department of elementary and secondary education for voluntary, school district-linked, pre-kindergarten education and care programs for children from age three until they are eligible to enroll in kindergarten pursuant to section 160.053, RSMo. The department shall award these funds to school districts through competitive grants. These school districts may contract with private pre-kindergarten education and care programs for children from age three until they are eligible to enroll in kindergarten pursuant to section 160.053, RSMo. Grants will be provided for on-going operating funds to support those children whose family incomes would qualify them for participation in the federal free or reduced priced lunch program and for start-up funds for necessary materials, supplies, equipment, and facilities. School districts' grant applications shall, at a minimum, include:

- a. A business plan that demonstrates how the program will be funded from a variety of sources including parent fees;
- b. Commitment to state licensure within one year of the initial grant;
- c. Identification of any partner agencies, organizations, or contractual service providers; and
- d. Documentation of community input into program development.

No less than ten percent of the funds deposited in the early childhood education fund shall annually be appropriated to the department of social services to increase by twenty percent reimbursements to child care facilities for low income children served in facilities that are accredited by a recognized, early childhood accrediting organization. All interest received on the early childhood education fund shall be credited to the early childhood education fund. Notwithstanding the provisions of section 33.080, RSMo, moneys in the early childhood education fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

2. Upon request by the veterans' commission, the general assembly may appropriate moneys from the veterans' commission capital improvements trust fund to the Missouri national guard trust fund to support the activities described in section 41.958.

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