

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 745**  
89TH GENERAL ASSEMBLY

Reported from the Committee on Education - Higher, May 6, 1998, with recommendation that the House Committee Substitute for Senate Bill No. 745 Do Pass.

ANNE C. WALKER, Chief Clerk  
L3056.05C

**AN ACT**

To repeal sections 168.071, 173.005, 173.260, 174.620, 175.021, 375.091, 375.141 and 484.190, RSMo 1994, and sections 172.035, 174.055, 174.453 and 174.610, RSMo Supp. 1997, relating to higher education, and to enact in lieu thereof thirty-six new sections relating to the same subject.

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

Section A. Sections 168.071, 173.005, 173.260, 174.620, 175.021, 375.091, 375.141 and 484.190, RSMo 1994, and sections 172.035, 174.055, 174.453 and 174.610, RSMo Supp. 1997, are repealed and thirty-six new sections enacted in lieu thereof, to be known as sections 160.546, 161.098, 166.400, 166.410, 166.415, 166.420, 166.425, 166.430, 166.435, 166.440, 166.445, 166.450, 166.455, 168.071, 172.035, 172.036, 172.037, 173.005, 173.006, 173.117, 173.260, 174.055, 174.056, 174.057, 174.453, 174.610, 174.620, 174.622, 175.021, 175.022, 175.023, 375.091, 375.141, 484.190, 620.143 and 1, to read as follows:

**160.546. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority of this chapter, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after the effective date of this act. All rulemaking authority delegated prior to the effective date of this act is of no force and effect and repealed as of the effective date of this act, however nothing in this act shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to the effective date of this act. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to the effective date of this act.**

**161.098. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority of this chapter, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but**

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

not limited to, section 536.028, RSMo, if applicable, after the effective date of this act. All rulemaking authority delegated prior to the effective date of this act is of no force and effect and repealed as of the effective date of this act, however nothing in this act shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to the effective date of this act. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to the effective date of this act.

166.400. Sections 166.400 to 166.455 shall be known and may be cited as the "MOSTARS Higher Education Savings Program".

166.410. As used in sections 166.400 to 166.455, except where the context clearly requires another interpretation, the following terms mean:

(1) "Beneficiary", any individual designated by a participation agreement to benefit from payments for postsecondary education costs at an institution of postsecondary education;

(2) "Benefits", the payment of qualified postsecondary education costs on behalf of a beneficiary from a savings account during the beneficiary's attendance at an eligible institution of postsecondary education;

(3) "Board", the MOSTARS higher education savings board established in section 166.415;

(4) "Institution of postsecondary education", as defined in the Internal Revenue Code;

(5) "MOSTARS higher education savings program" or "savings program", the program created pursuant to sections 166.400 to 166.455;

(6) "Participant", a person who has entered into a participation agreement pursuant to sections 166.400 to 166.455 for the advance payment of postsecondary education costs on behalf of a beneficiary;

(7) "Participation agreement", an agreement between a participant and the board pursuant to and conforming with the requirements of sections 166.400 to 166.455; and

(8) "Postsecondary education costs", the qualified costs of tuition and fees and other expenses for attendance at an institution of postsecondary education, as defined in the Internal Revenue Code, as amended.

166.415. There is hereby created the "MOSTARS Higher Education Savings Program". The program shall be administered by the MOSTARS higher education savings board which shall consist of the Missouri state treasurer who shall serve as chairman, the commissioner of the department of higher education, the commissioner of the office of administration, the director of the department of economic development and a person from the investment community who is selected by the president pro tem of the senate and the speaker of the house of representatives. The members of the board shall be subject to the conflict of interest provisions of section 105.452, RSMo. Any member who violates the conflict of interest provisions shall be removed from the board. In order to establish and administer the savings program, the board, in addition to its other powers and authority, shall have the power and authority to:

(1) Develop and implement the MOSTARS higher education savings program and,

notwithstanding any provision of sections 166.400 to 166.455 to the contrary, the savings programs and services consistent with the purposes and objectives of sections 166.400 to 166.455;

(2) Promulgate reasonable rules and regulations and establish policies and procedures to implement sections 166.400 to 166.455 in conformance with the Internal Revenue Code and other applicable law;

(3) Develop and implement educational programs and related informational materials for participants and their families, including special programs and materials to inform families with young children regarding methods for financing education and training beyond high school;

(4) Enter into agreements with any financial institution, the state or any federal or other agency or entity as required for the operation of the savings program pursuant to sections 166.400 to 166.455;

(5) Enter into participation agreements with participants;

(6) Accept any grants, gifts, legislative appropriations, and other moneys from the state, any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the account of the savings program;

(7) Invest the funds received from participants in appropriate investment instruments to achieve long-term total return through a combination of capital appreciation and current income;

(8) Make appropriate payments and distributions on behalf of beneficiaries pursuant to participation agreements;

(9) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in sections 166.400 to 166.455 and the rules adopted by the board;

(10) Make provision for the payment of costs of administration and operation of the savings program;

(11) Effectuate and carry out all the powers granted by sections 166.400 to 166.455, and have all other powers necessary to carry out and effectuate the purposes, objectives and provisions of sections 166.400 to 166.455 pertaining to the savings program; and

(12) Procure insurance, guarantees or other protections against any loss in connection with the assets or activities of the savings program.

166.420. 1. The board may enter into savings program participation agreements with participants on behalf of beneficiaries pursuant to the provisions of sections 166.400 to 166.455, including the following terms and conditions:

(1) A participation agreement shall stipulate the terms and conditions of the savings program in which the participant makes deposits;

(2) A participation agreement shall specify the method for calculating the return on the deposit made by the participant;

(3) The execution of a participation agreement by the board shall not guarantee that the beneficiary named in any participation agreement will be admitted to an institution of postsecondary education, be allowed to continue to attend an institution of postsecondary education after having been admitted or will graduate from an institution of postsecondary education;

(4) A participation agreement shall clearly and prominently disclose to participants the

risk associated with depositing moneys with the board;

(5) Participation agreements shall be organized and presented in a way and with language that is easily understandable by the general public; and

(6) A participation agreement shall clearly and prominently disclose to participants the existence of any load charge or similar charge assessed against the accounts of the participants for administration or services.

2. The maximum amount which may be contributed annually by a participant with respect to a participation agreement shall be eight thousand dollars per year.

166.425. All money paid by a participant in connection with participation agreements shall be deposited as received and shall be promptly invested by the board. Deposits and earnings thereon accumulated on behalf of participants in the savings program may be used, as provided in the participation agreement, for eligible postsecondary education costs.

166.430. Any participant may cancel a participation agreement at will, and any return of funds from the participant's account shall be subject to terms and conditions established by the board, provided that any penalties levied as a result of such cancellation shall comply with the Internal Revenue Code's provisions relating to savings plans. The board may provide, by rule, that no termination penalty shall apply in certain circumstances.

166.435. The assets of the savings program held by the board and the assets of any similar plan qualified pursuant to Section 529 of the Internal Revenue Code and any income therefrom shall be exempt from all taxation by the state or any of its political subdivisions. Income earned or received from the fund by any participant or beneficiary shall not be subject to state income tax and shall be eligible for any benefits provided in accordance with the savings plan provisions of the Internal Revenue Code. The exemption from taxation pursuant to this section shall apply only to assets and income maintained, accrued, or expended pursuant to the requirements of the plan established pursuant to sections 166.400 to 155.455, the provisions of this section and the applicable provisions of the Internal Revenue Code, and no exemption shall apply to assets and income expended for any other purposes. Contributions made to the savings plan shall not be counted towards the calculation of gross income for state income tax purposes.

166.440. The assets of the savings program shall at all times be preserved, invested and expended only for the purposes set forth in this section and in accordance with the participation agreements, and no property rights therein shall exist in favor of the state.

166.445. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in sections 166.400 to 166.455 of this act shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to the effective date of this section is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to the effective date of this section if it fully complied with the provisions of chapter 536, RSMo. Sections 166.400 to 166.455 of this act and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

166.450. The director of investment of the state treasurer's office shall, on a semiannual

basis, review the financial status and investment policy of the program as well as the participation rate in the program. The director of investment shall also review the continued viability of the program and the administration of the program by the board. The director of investment shall report the findings annually to the board, which shall subsequently disclose such findings at a public meeting.

**166.455. Money accruing to and deposited in individual accounts shall not be part of "total state revenues" as defined in sections 17 and 18 of article X of the Constitution of the state of Missouri and the expenditure of such revenues shall not be an expense of state government under section 20 of article X of the Constitution of the state of Missouri.**

168.071. 1. The Missouri state board of education may refuse to issue or renew, or may suspend or revoke a certificate of license to teach upon satisfactory proof of incompetency, cruelty, immorality, drunkenness, neglect of duty, or the annulling of a written contract for reasons other than election to the general assembly, with the local board of education without the consent of the majority of the members of the board which is a party to the contract. All charges [must] **shall** be preferred in writing. They shall be signed by the chief administrative officer of the district or by the president of the board when so authorized by a majority of the board. The charges [must] **shall** be sworn to by the party or parties making the accusation, and filed with the respective certificating authority. The teacher [must] **shall** be given due notice of not less than ten days, and an opportunity to be heard, together with witnesses, except that where the underlying conduct or actions are the subject of a pending criminal charge against the person holding such certificate, and that person requests in writing a delayed hearing on advice of counsel under the fifth amendment of the Constitution of the United States, no hearing shall be held until after final disposition of the criminal charge. The complaint [must] **shall** plainly and fully specify what incompetency, immorality, neglect of duty or other charges are made against the teacher, and if after a hearing the certificate is refused, suspended, or revoked, the teacher may appeal to the circuit court at any time within ten days thereafter by filing a petition for review of the judgment of the certificating authority. On appeal the judge shall, with or without a jury at the option either of the teacher or the person making the complaint, try the matter de novo, affirming or denying the action of the certificating authority, and shall tax the cost against the appellant if the judgment of the certificating authority is affirmed. In those cases where the complaint alleges immorality by the teacher involving a minor child, such case shall be heard by the court without a jury and any testimony from the minor child involved in the complaint shall be taken directly from the hearing record taken on behalf of the state board of education. If the court disaffirms the judgment, then it shall assess the costs of the whole proceedings against the district making the complaint.

2. The state board of education may revoke a certificate of license to teach upon conviction of a felony or crime involving moral turpitude by any certificate holder, including any such person employed by a nonpublic school. The issuance of a certificate of license to teach to an individual who has been convicted of a felony or crime involving moral turpitude shall be issued only upon motion of the state board of education adopted by a unanimous affirmative vote of those members present and voting.

**3. The state board of education shall refuse to issue or renew, and shall suspend or revoke any certificate of license to teach upon satisfactory proof that the person is in default on the repayment of any student loan guaranteed by the department of higher education and has not made satisfactory arrangements to ensure voluntary repayment of the loan as determined by the department of higher education pursuant to section 173.117, RSMo. The**

**state board of education shall not refuse to issue or renew, nor shall the state board suspend or revoke, a certificate of license to teach to a person pursuant to this subsection for failure to make satisfactory arrangements to ensure voluntary repayment of a student loan administered by the department of higher education, if the most recent notice from the department of higher education, provided pursuant to section 173.117, RSMo, states that the person has made satisfactory arrangements to ensure voluntary repayment.**

172.035. 1. The governor shall, by and with the advice and consent of the senate, appoint a student representative to the board of curators of the University of Missouri, who shall attend all meetings and participate in all deliberations of the board[, except any meeting, record or vote closed under the provisions of section 610.025, RSMo]. Such student representative shall not have the right to vote on any matter before the board.

2. Such student representative shall be a full-time student at the university as defined by the board, selected from a panel of three names submitted to the governor by the student government presidents of the campuses of the university, a citizen of the United States, and a resident of the state of Missouri. No person may be appointed who is not actually enrolled during the term of [his] **such person's** appointment as a student at the University of Missouri.

3. The term of the student representative shall be two years, except that the person first appointed shall serve until January 1, 1986.

4. If a vacancy occurs for any reason in the position of student representative, the governor shall appoint a replacement who meets the qualifications set forth in subsection 2 of this section and who shall serve until [his] **the student representative's** successor is appointed and qualified.

5. If the student representative ceases to be a student at the University of Missouri, or a resident of the state of Missouri, or fails to follow the board's attendance policy, the student representative's position shall at once become vacant, unless [his] **such** absence is caused by sickness or some accident preventing [his] **such representative's** arrival at the time and place appointed for the meeting.

[6. The student representative while attending meetings of the board shall receive his actual expenses which shall be paid out of the ordinary revenues of the university.]

**6. The student representative shall receive the same reimbursement for expenses as other members of the board of curators receive pursuant to section 172.040.**

7. Appointments made under this section shall be made in rotation from each of the four campuses of the University of Missouri, beginning with a student from the Columbia campus, next from the Rolla campus, next from the Kansas City campus, and then from the St. Louis campus.

**8. Unless alternative arrangements for payment have been made and agreed to by the student and the university, the student representative shall have paid all student and tuition fees due prior to such appointment and shall pay all future student and tuition fees during the term of office when such fees are due.**

172.036. 1. The governor shall, by and with the advice and consent of the senate, appoint a faculty representative to the board of curators of the University of Missouri, who shall attend all meetings and participate in all deliberations of the board. Such faculty representative shall have the same powers as other members of the board of curators except that such faculty member representative shall not have the right to vote on any matter before the board.

2. Such faculty member representative shall be selected from a panel of three names submitted to the governor by the faculty government presidents of the campuses of the

university, be a full-time faculty member at the university, be a citizen of the United States, and a resident of the state of Missouri.

3. The term of the faculty member representative shall be two years.

4. If a vacancy occurs for any reason in the position of faculty member representative, the governor shall appoint a replacement who meets the qualifications set forth in subsection 2 of this section and who shall serve until such faculty member representative's successor is appointed and qualified.

5. If the faculty member representative ceases to be a full-time faculty member at such member's campus of the University of Missouri, or a resident of the state of Missouri, such position shall at once become vacant.

6. The faculty member representative shall receive the same reimbursement for expenses as other members of the board of curators receive pursuant to section 172.040.

7. Appointments made pursuant to this section shall be made in rotation from each of the four campuses of the University of Missouri, beginning with a faculty member from the Columbia campus, next from the Kansas City campus, next from the Rolla campus, and then from the St. Louis campus.

172.037. 1. For the purposes of this chapter, confidentiality, as determined by the board and as provided by law, shall apply to all members and representatives on the board.

2. Any member or representative on the board may recuse himself or herself from any deliberation or proceeding of the board.

3. Upon a unanimous affirmative vote of the members of the board who are present and who are not a student or faculty representative, a given meeting closed pursuant to sections 610.021 and 610.022, RSMo, shall be closed to the student representative, the faculty representative or both.

173.005. 1. There is hereby created a "Department of Higher Education", and the division of higher education of the department of education is abolished and all its powers, duties, functions, personnel and property are transferred as provided by this act.

2. The commission on higher education is abolished and all its powers, duties, personnel and property are transferred by type I transfer to the "Coordinating Board for Higher Education", which is hereby created, and the coordinating board shall be the head of the department. The coordinating board shall consist of nine members appointed by the governor with the advice and consent of the senate, and not more than five of its members shall be of the same political party. None of the members shall be engaged professionally as an educator or educational administrator at the time appointed or during his term. The other qualifications, terms and compensation of the coordinating board shall be the same as provided by law for the curators of the University of Missouri. The coordinating board may, in order to carry out the duties prescribed for it in subsections 1, 2, 3, 7, and 8 of this section, employ such professional, clerical and research personnel as may be necessary to assist it in performing those duties, but this staff shall not, in any fiscal year, exceed twenty-five full-time equivalent employees regardless of the source of funding. In addition to all other powers, duties and functions transferred to it, the coordinating board for higher education shall have the following duties and responsibilities:

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

(2) In consultation with the heads of the institutions of higher education affected and against a background of carefully collected data on enrollment, physical facilities, manpower needs,

institutional missions, the coordinating board for higher education shall establish guidelines for appropriation requests by those institutions of higher education; however, other provisions of this act notwithstanding, all funds shall be appropriated by the general assembly to the governing board of each public four-year institution of higher education which shall prepare expenditure budgets for the institution;

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

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

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

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

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

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

(9) If any institution of higher education in this state, public or private, willfully fails or refuses to follow any lawful guideline, policy or procedure established or prescribed by the coordinating board, or knowingly deviates from any such guideline, or knowingly acts without coordinating board approval where such approval is required, or willfully fails to comply with any other lawful order of the coordinating board, the coordinating board may, after a public hearing, withhold or direct to be withheld from that institution any funds the disbursement of which is subject to the control of the coordinating board, or may remove the approval of the institution as an "approved institution" within the meaning of section 173.205, but nothing in this section shall prevent any institution of higher education in this state from presenting additional budget requests or from explaining or further clarifying its budget requests to the governor or the general assembly[.]; **and**

**(10) The coordinating board shall not restrict any approved private institution of higher education, as defined in section 173.205, from creating or modifying a course or program of study or adding a new location.**

3. The coordinating board shall meet at least four times annually with an advisory committee who shall be notified in advance of such meetings. The coordinating board shall have exclusive voting privileges. The advisory committee shall consist of twenty-two members, who shall be the president or other chief administrative officer of the University of Missouri; the chancellor of each campus of the University of Missouri; the president of each state supported four-year college or university, including Harris-Stowe State College, Missouri Southern State College, Missouri Western State College, and Lincoln University; three representative public junior college presidents, selected by the public junior college presidents each biennium and representatives of each of five accredited private institutions selected biennially, under the supervision of the coordinating board, by the presidents of all of the state's privately supported institutions; but always to include at least one representative from one privately supported junior college, one privately supported four-year college,



and one privately supported university. The conferences shall enable the committee to advise the coordinating board of the views of the institutions on matters within the purview of the coordinating board.

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

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

6. The state anatomical board, chapter 194, RSMo, is transferred by type II transfer to the department of higher education.

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

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

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

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

**173.006. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority of this chapter, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after the effective date of this act. All rulemaking authority delegated prior to the effective date of this act is of no force and effect and repealed as of the effective date of this act, however nothing in this act shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to the effective date of this act. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking**

**authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to the effective date of this act.**

173.117. 1. The department of higher education shall provide to the director of the division of professional registration, state board of education, the clerk of the supreme court and the director of the department of insurance the name of any person who is in default on the repayment of any student loan guaranteed by the department of higher education and who has not made satisfactory arrangements to ensure voluntary repayment. Such notice shall be provided within sixty days of the determination.

2. The department of higher education shall, within sixty days of the effective date of this section, provide to the director of the division of professional registration, the state board of education, the clerk of the supreme court and the director of the department of insurance the name of every person who was in default on the repayment of any student loan guaranteed by the department of higher education on the effective date of this section and has not made satisfactory arrangements to ensure voluntary repayment.

**3. The department of higher education shall promulgate by rule a procedure for determining when a person in default on a student loan has made satisfactory arrangements to ensure voluntary repayment of the loan. Any person aggrieved by a decision of the department pursuant to this section may appeal such decision, and a hearing on such appeal shall be made as provided in section 173.115.**

**4. The department of higher education is authorized to garnish any state payment to a person who is in default on the repayment of a student loan administered by the department, including, but not limited to, state income tax refunds and lottery winnings.**

**5. The department of higher education shall provide to the director of the division of professional registration, the state board of education, the clerk of the supreme court and the director of the department of insurance the name of any person who has made satisfactory arrangements pursuant to subsection 3 of this section to ensure the repayment of a loan on which that person is in default within sixty days of the department's determination that such person has made satisfactory arrangements to ensure voluntary repayment.**

173.260. 1. As used in this section, unless the context clearly requires otherwise, the following terms mean:

- (1) "Board", the coordinating board for higher education;
- (2) "Eligible child", the natural, adopted or stepchild of a public safety officer or employee, as defined in this section, who is less than twenty-four years of age and who is a dependent of a public safety officer or employee or was a dependent at the time of death **or permanent and total disability** of a public safety officer or employee;
- (3) "Employee", any full-time employee of the department of highways and transportation engaged in the construction or maintenance of the state's highways, roads and bridges;
- (4) "Grant", the public safety officer or employee survivor grant as established by this section;
- (5) "Institution of postsecondary education", any approved public or private institution as defined in section 173.205;
- (6) "**Line of duty**", any action of a public safety officer, whose primary function is crime control or reduction, enforcement of the criminal law, or suppression of fires, is authorized or obligated by law, rule, regulation or condition of employment or service to perform;

[(6)] (7) "Public safety officer", any firefighter, police officer, **capitol police officer**, parole officer, probation officer, state correctional employee, water safety officer, **park ranger**, conservation officer or highway patrolman employed by the state of Missouri or a political subdivision thereof who is killed **or permanently and totally disabled** in the line of duty;

(8) "**Permanent and total disability**", a **disability which renders a person unable to engage in any gainful work**;

(9) "**Spouse**", the **husband, wife, widow or widower of a public safety officer or employee at the time of death or permanent and total disability of such public safety officer**;

[(7)] (10) "Tuition", any tuition or incidental fee or both charged by an institution of postsecondary education, as defined in this section, for attendance at that institution by a student as a resident of this state.

2. Within the limits of the amounts appropriated therefor, the coordinating board for higher education shall provide, as defined in this section, a grant for **either of the following to attend an institution of postsecondary education**:

(1) An eligible child of a public safety officer or employee killed **or permanently and totally disabled** in the line of duty [to attend an institution of postsecondary education.]; **or**

(2) **A spouse of a public safety officer killed or permanently and totally disabled in the line of duty.**

3. An eligible child **or spouse** may receive a grant under this section only so long as the child **or spouse** is enrolled in a program leading to a certificate, or an associate or baccalaureate degree. In no event shall a child **or spouse** receive a grant beyond the completion of the first baccalaureate degree or, **in the case of a child**, age twenty-four years, except that the child may receive a grant through the completion of the semester or similar grading period in which the child reaches his twenty-fourth year. No child **or spouse** shall receive more than one hundred percent of tuition when combined with similar funds made available to such child **or spouse**.

4. The coordinating board for higher education shall:

(1) Promulgate all necessary rules and regulations for the implementation of this section;

(2) Determine minimum standards of performance in order for a child **or spouse** to remain eligible to receive a grant under this program;

(3) Make available on behalf of an eligible child **or spouse** an amount toward the child's **or spouse's** tuition which is equal to the grant to which the child **or spouse** is entitled under the provisions of this section;

(4) Provide the forms and determine the procedures necessary for an eligible child **or spouse** to apply for and receive a grant under this program.

5. An eligible child **or spouse** who is enrolled or has been accepted for enrollment as an undergraduate postsecondary student at an approved institution of postsecondary education shall receive a grant in an amount not to exceed the least of the following:

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

(2) The amount of tuition charged a Missouri resident at the University of Missouri for attendance as a full-time student, as defined in section 173.205.

6. An eligible child **or spouse** who is a recipient of a grant may transfer from one approved public or private institution of postsecondary education to another without losing his entitlement under this section. The board shall make necessary adjustments in the amount of the grant. If a grant recipient at any time withdraws from the institution of postsecondary education so that under the

rules and regulations of that institution he is entitled to a refund of any tuition, fees, or other charges, the institution shall pay the portion of the refund to which he is entitled attributable to the grant for that semester or similar grading period to the board.

7. If an eligible child **or spouse** is granted financial assistance under any other student aid program, public or private, the full amount of such aid shall be reported to the board by the institution and the eligible child **or spouse**.

8. Nothing in this section shall be construed as a promise or guarantee that a person will be admitted to an institution of postsecondary education or to a particular institution of postsecondary education, will be allowed to continue to attend an institution of postsecondary education after having been admitted, or will be graduated from an institution of postsecondary education.

**9. A public safety officer who is permanently and totally disabled shall be eligible for a grant pursuant to the provisions of this section.**

**10. An eligible child of a public safety officer or employee, spouse of a public safety officer or public safety officer shall cease to be eligible for a grant pursuant to this section when such public safety officer or employee is no longer permanently and totally disabled.**

174.055. 1. The governor shall, by and with the advice and consent of the senate, appoint a student representative to the board of regents **or governors** of each educational institution referred to in section 174.020 who shall attend all meetings and participate in all deliberations of the board[, except any meeting, record or vote closed under the provisions of section 610.025, RSMo]. Such student representative shall not have the right to vote on any matter before the board.

2. Such student representative shall be a full-time student at the institution as defined by the board, selected from a panel of three names submitted to the governor by the student government president, a citizen of the United States, and a resident of the state of Missouri. No person may be appointed who is not actually enrolled during the term of [his] **such person's** appointment as a student at the institution.

3. The term of the student representative shall be two years, except that the person first appointed shall serve until January 1, 1986.

4. If a vacancy occurs for any reason in the position of student representative, the governor shall appoint a replacement who meets the qualifications set forth in subsection 2 of this section and who shall serve until [his] **such representative's** successor is appointed and qualified.

5. If the student representative ceases to be a student at the institution, or a resident of the state of Missouri, or fails to follow the board's attendance policy, the student representative's position shall at once become vacant, unless the student representative's absence is caused by sickness or some accident preventing the student representative's arrival at the time and place appointed for the meeting.

[6. The student representative shall receive no compensation or reimbursement for expenses.]

**6. The student representative shall receive the same reimbursement for expenses as other members of the board of regents receive pursuant to section 174.100.**

**7. Unless alternative arrangements for payment have been made and agreed to by the student and the educational institution, the student representative shall have paid all student and tuition fees due prior to such appointment and shall pay all future student and tuition fees during the term of office when such fees are due.**

**174.056. 1. There shall be a faculty representative to the board of regents or governors of each educational institution referred to in section 174.020, appointed by the governor with the advice and consent of the senate, who shall attend all meetings and participate in all**

deliberations of the board. Such faculty member representative shall have the same powers as the other members of the board, except that such faculty member representative shall not have the right to vote on any matter before the board.

2. Such faculty member representative shall be selected from a panel of three names submitted to the governor by the president of each institution's faculty government association, be a full-time faculty member at the institution, a citizen of the United States, and a resident of the state of Missouri.

3. The term of the faculty member representative shall be two years.

4. If a vacancy occurs for any reason in the position of faculty member representative, the governor shall appoint a replacement who meets the qualifications set forth in subsection 2 of this section and who shall serve until such faculty member representative's successor is appointed and qualified.

5. If the faculty member representative ceases to be a full-time faculty member at the institution, or a resident of the state of Missouri, such position shall at once become vacant.

6. The faculty member representative shall receive the same reimbursement for expenses as other members of the board of regents receive pursuant to section 174.100.

174.057. 1. For the purposes of this chapter, confidentiality, as determined by the board and as provided by law, shall apply to all members and representatives on the board.

2. Any member or representative on the board may recuse himself or herself from any deliberation or proceeding of the board.

3. Upon a unanimous affirmative vote of the members of the board who are present and who are not a student or faculty representative, a given meeting closed pursuant to sections 610.021 and 610.022, RSMo, shall be closed to the student representative, the faculty representative or both.

174.453. 1. The board of governors shall be appointed as follows:

(1) Four voting members shall be selected from the counties comprising the institution's historic statutory service region as described in section 174.010, [except that] not more than one member shall be appointed from any one county, **except for the county where the institution's main campus is located and except for a county with a population of more than two hundred thousand;**

(2) Three voting members shall be selected from any of the counties in the state which are outside of the institution's historic service region; except that not more than one **such** member shall be appointed from any one congressional district; **and**

(3) [Two nonvoting members whose residence is other than the state of Missouri and who are knowledgeable of the educational mission of such institution; and

(4)] One nonvoting member who is a student shall be selected in the same manner as prescribed in section 174.055.

2. The term of service of the governors shall be as follows:

(1) The voting members shall be appointed for terms of six years; [except, that of the voting members first appointed, two shall serve for terms of two years, two for terms of four years, and three for terms of six years;] **and**

(2) [The nonvoting members who are not students shall be appointed for terms of six years; except, that of the nonvoting members first appointed, one shall serve for a term of three years, and one shall serve a term of six years; and

(3)] The nonvoting student member shall serve a two-year term.

174.610. [1.] The governing board of the Truman State University shall be a board of governors consisting of [ten] **eleven** members, composed of seven voting members and [three] **four** nonvoting members as provided in section 174.620, who shall be appointed by the governor of Missouri, by and with the advice and consent of the senate. No person shall be appointed a voting governor who is not a citizen of the United States and who has not been a resident of the state of Missouri for at least two years [next] **immediately** prior to [his] **such person's** appointment. Not more than four voting governors shall belong to any one political party. The appointed members of the board of regents serving on January 1, 1986, shall become members of the board of governors on January 1, 1986, and serve until the expiration of the terms for which they were appointed.

[2. The board of regents of the Truman State University is abolished.]

174.620. 1. The board of governors shall be appointed as follows:

(1) Four voting members [shall be selected] from the counties of Adair, Audrain, Boone, Callaway, Chariton, Clark, Howard, Knox, Lewis, Lincoln, Linn, Marion, Macon, Monroe, Montgomery, Pike, Putnam, Ralls, Randolph, St. Charles, Schuyler, Scotland, Shelby, Sullivan, and Warren, provided that not more than one member shall be appointed from the same county [of these aforementioned counties];

(2) Three voting members [shall be selected] from any of the seven college districts as contained in section 174.010, provided that no more than one member shall be appointed from the same congressional district;

(3) Two nonvoting members whose residence is other than the state of Missouri and who are knowledgeable of the educational mission of liberal arts institutions [shall be selected]; [and]

(4) One nonvoting member who is a student [shall be selected as provided in section 174.055]. **Such student representative shall attend all meetings and participate in all deliberations of the board. Such student representative shall not have the right to vote on any matter before the board, but shall have all other powers and duties of section 174.055, and shall also meet the qualifications of section 174.055;**

(5) **One nonvoting member who is a full-time faculty member shall be selected as provided in section 174.622.**

2. The term of service of the governors shall be as follows:

(1) The voting members shall be appointed for terms of six years; except, that of the voting members first appointed, two shall serve for terms of two years, two for terms of four years, and three for terms of six years;

(2) The nonvoting members who are not students **or faculty members** shall be appointed for terms of six years; except, that of the nonvoting members first appointed, one shall serve for a term of three years, and one shall serve a term of six years; and

(3) The nonvoting student member shall serve a two-year term as provided in section 174.055, **and the nonvoting faculty member shall serve a two-year term as provided in section 174.622.**

3. The governors, **both nonvoting and voting**, while attending the meetings of the board shall receive their actual and necessary expenses, which shall be paid out of the ordinary revenues of the university. Vacancies in terms of office caused by death, resignation or removal shall be filled in the manner provided by law for such vacancies on the board of curators of the [State] University of Missouri.

**174.622. 1. The governor shall with the advice and consent of the senate appoint a faculty member representative to the board of governors of Truman State University, who**

shall attend all meetings and participate in all deliberations of the board. Such faculty member representative shall have the same powers and duties as the other members of the board of governors, except that such faculty member representative shall not have the right to vote on any matter before the board.

2. Such faculty member representative shall be selected from a panel of three names submitted to the governor by the president of the university's faculty senate, be a full-time faculty member at the university, a citizen of the United States, and a resident of the state of Missouri.

3. The term of the faculty member representative shall be two years.

4. If a vacancy occurs for any reason in the position of faculty member representative, the governor shall appoint a replacement who meets the qualifications set forth in subsection 2 of this section and who shall serve until such faculty member representative's successor is appointed and qualified.

5. If the faculty member representative ceases to be a full-time faculty member at the university, or a resident of the state of Missouri, such position shall at once become vacant.

175.021. 1. The governor shall, by and with the advice and consent of the senate, appoint a student representative to the board of curators of Lincoln University, who shall attend all meetings and participate in all deliberations of the board[, except any meeting, record or vote closed under the provisions of section 610.025, RSMo]. Such student representative shall not have the right to vote on any matter before the board.

2. Such student representative shall be a full-time student at the university as defined by the board, selected from a panel of three names submitted to the governor by the student government association of the university, a citizen of the United States, and a resident of the state of Missouri. No person may be appointed who is not actually enrolled during the term of [his] **such person's** appointment as a student at the university.

3. The term of the student representative shall be two years, except that the person first appointed shall serve until January 1, 1989.

4. If a vacancy occurs for any reason in the position of student representative, the governor shall appoint a replacement who meets the qualifications set forth in subsection 2 of this section and who shall serve until [his] **such student representative's** successor is appointed and qualified.

5. If the student representative ceases to be a student at the university, or a resident of the state of Missouri, or fails to attend any regularly called meeting of the board of which [he] **such representative** has due notice, [his] **the** position shall at once become vacant, unless [his] **such student representative's** absence is caused by sickness or some accident preventing [his] **such representative's** arrival at the time and place appointed for the meeting.

[6. The student representative shall receive no compensation or reimbursement for expenses.]

6. The student representative shall receive the same reimbursement for expenses as other members of the board of curators receive pursuant to section 175.030.

7. Unless alternative arrangements for payment have been made and agreed to by the student and the university, the student [representatives of all public colleges and universities] **representative** shall have paid all student and tuition fees due prior to [said appointments] **such appointment** and shall pay all future student and tuition fees during the term of office when [said] **such** fees are due.

175.022. 1. The governor shall with the advice and consent of the senate appoint a faculty member representative to the board of curators of Lincoln University, who shall attend

all meetings and participate in all deliberations of the board. Such faculty member representative shall have the same powers as the other members of the board of curators, except that such faculty member representative shall not have the right to vote on any matter before the board.

2. Such faculty member representative shall be selected from a panel of three names submitted to the governor by the chair of the university faculty senate, be a full-time faculty member at the university, a citizen of the United States, and a resident of the state of Missouri.

3. The term of the faculty member representative shall be two years.

4. If a vacancy occurs for any reason in the position of faculty member representative, the governor shall appoint a replacement who meets the qualifications set forth in subsection 2 of this section and who shall serve until such faculty member representative's successor is appointed and qualified.

5. If the faculty member representative ceases to be a full-time faculty member at the university, or a resident of the state of Missouri, such position shall at once become vacant.

6. The faculty member representative shall receive the same reimbursement for expenses as other members of the board of curators receive pursuant to section 175.030.

175.023. 1. For the purposes of this chapter, confidentiality, as determined by the board and as provided by law, shall apply to all members and representatives on the board.

2. Any member or representative on the board may recuse himself or herself from any deliberation or proceeding of the board.

3. Upon a unanimous affirmative vote of the members of the board who are present and who are not a student or faculty representative, a given meeting closed pursuant to sections 610.021 and 610.022, RSMo, shall be closed to the student representative, the faculty representative or both.

375.091. 1. Any license required by this chapter shall be issued to any person who is at least eighteen years of age, a citizen of the United States, and who is trustworthy and competent to act, and intends to hold himself or herself out in good faith as an insurance broker, and the license is not sought principally for the purpose of soliciting, negotiating or procuring insurance contracts covering [himself or his] such person or the person's spouse or insurance on property owned by the applicant.

2. No license required by this chapter shall be issued to any person who is in default on the repayment of any student loan guaranteed by the department of higher education and has not made satisfactory arrangements to ensure voluntary repayment of the loan as determined by the department of higher education pursuant to section 173.117, RSMo. No person shall be denied any license required by this chapter for failure to make satisfactory arrangements to ensure voluntary repayment of a student loan administered by the department of higher education, if the most recent notice from the department of higher education, provided pursuant to section 173.117, RSMo, states that the person has made satisfactory arrangements to ensure voluntary repayment.

375.141. 1. The director may revoke or suspend, for such period as he or she may determine, any license of any insurance agent, agency or broker if it is determined as provided by sections 621.045 to 621.198, RSMo, that the licensee or applicant has, at any time, or if an insurance agency, the officers, owners or managers thereof have:

(1) In their dealings as an agent, broker or insurance agency, knowingly violated any provisions of, or any obligation imposed by, the laws of this state, department of insurance rules and



regulations, or aided, abetted or knowingly allowed any insurance agent or insurance broker acting in behalf of an insurance agency to violate such laws, orders, rules or regulations which result in the revocation or suspension of the agent's or broker's license notwithstanding the same may provide for separate penalties;

(2) Obtained or attempted to obtain license by fraud, misrepresentation or made a material misstatement in the application for license;

(3) Been convicted of a felony or crime involving moral turpitude;

(4) Demonstrated lack of trustworthiness or competence;

(5) Misappropriated or converted to his, her or its own use or illegally withheld money belonging to an insurance company, its agent, or to an insured or beneficiary or prospective insurance buyer;

(6) Practiced or aided or abetted in the practice of fraud, forgery, deception, collusion or conspiracy in connection with any insurance transaction;

(7) Acted as an insurance agency through persons not licensed as insurance agents or insurance brokers;

(8) Acted as an insurance agent, insurance agency, or insurance broker when not licensed as such;

(9) Had revoked or suspended any insurance license by another state;

(10) Committed unfair practices as defined in section 375.936;

(11) Sought the license for the primary purpose of soliciting, negotiating or procuring insurance contracts covering himself or herself or his or her family or insurance on property owned by his or her employer or any person who is employed by him or her or by a corporation, partnership or association of which he or she shall own or control a majority of the voting stock or a controlling interest;

(12) Is a legal resident of another state, licensed pursuant to section 375.017 or 375.126, which other state does not allow legal residents of Missouri to obtain a license to act as an agent or broker and to transact the business of solicitation of, negotiation for, or procurement or making of, insurance or annuity contracts;

(13) Owned or operated an insurance business in this state if the agent, broker or agency knew, or should have known, that the result was, or was likely to have been, an illegal placement of insurance with an unauthorized "multiple employer self-insured health plan" as that term is defined in section 376.1000, RSMo, or the subsequent servicing of an insurance policy illegally placed with an unauthorized multiple employer self-insured health plan.

**2. The director shall not issue or renew any license to any insurance agent or broker if such person is in default on the repayment of any student loan guaranteed by the department of higher education and has not made satisfactory arrangement to ensure voluntary repayment of the loan as determined by the department of higher education pursuant to section 173.117, RSMo. The director may issue or renew any license which was denied or not renewed pursuant to this subsection, if the most recent notice from the department of higher education, provided pursuant to section 173.117, RSMo, states that the person has made satisfactory arrangements to ensure voluntary repayment.**

**3.** The director may refuse to issue any license to any insurance agent, agency or broker if he or she determines that the licensee or applicant has, at any time, or if an insurance agency, the officers, owners or managers thereof have violated any of the provisions set out in subsection 1 of this section.

[3.] **4.** Every agent or broker licensed in this state shall notify the director, in writing, within thirty days, of any change in his or her residence address, and any agency licensed in this state shall notify the director, in writing, within thirty days, of any change in its business address. If the failure to notify the director of such change in address results in an inability to serve an agent, broker or agency with a complaint as provided by sections 621.045 to 621.198, RSMo, then the director may immediately revoke the license of [said] **such** agent, broker or agency until such time as service may be obtained.

[4.] **5.** The director may also revoke or suspend [under] **pursuant to** subsection 1 of this section any license issued by the director where the licensee has failed to renew or has surrendered such license.

484.190. Any attorney or counselor at law may be removed or suspended from practice in the courts of this state for any of the following reasons:

(1) If [he be] **the attorney is** convicted of any criminal offense involving moral turpitude;  
(2) If [he] **the attorney** unlawfully [retain his] **retains the attorney's** client's money or if [he] **the attorney** is guilty of any malpractice, fraud, deceit or misdemeanor whatsoever in [his] **the attorney's** professional capacity;

(3) If [he] **the attorney** shall have been removed, suspended or disbarred from the practice of law in any other state or jurisdiction and shall fail to disclose such fact in [his] **the attorney's** application for license to practice law in this state[.];

(4) **If the attorney avoids in bad faith the repayment of any student loan guaranteed by the department of higher education; provided that while the lawful discharge of a student loan in bankruptcy proceeding shall not constitute bad faith pursuant to this section, such discharge shall not preclude a review of the attorney's conduct to determine if it constitutes bad faith.**

**620.143. 1.** The director of the division of professional registration shall notify each board and commission in the division of the name of every person regulated by such board or commission who is in default on the repayment of any student loan guaranteed by the department of higher education and shall also notify each board and commission in the division of the name of every person regulated by such board or commission who has made satisfactory arrangements to ensure voluntary repayment of a student loan on which that person is in default within thirty days of receiving such notice from the department pursuant to section 173.117, RSMo.

**2.** The director of the division of professional registration shall maintain as a part of the registry of licensees established pursuant to section 620.145, a special indicator which shows the status of the licensee with regard to repayment of student loans administered by the department of higher education.

**3.** No board or commission in the division of professional registration shall grant any license or license renewal to any person if that person is in default on the repayment of any student loan guaranteed by the department of higher education and has not made satisfactory arrangements to ensure voluntary repayment of the loan as determined by the department of higher education pursuant to section 173.117, RSMo.

**4.** No board or commission in the division of professional registration shall deny, pursuant to this section, any license or license renewal to any person in default on any student loan guaranteed by the department of higher education if the most recent notice from the department of higher education, provided pursuant to section 173.117, RSMo, states that the

person has made satisfactory arrangements to ensure voluntary repayment.

**Section 1. 1. The clerk of the supreme court shall not permit any person to take the bar examination if such person is in default on the repayment of any student loan guaranteed by the department of higher education and has not made satisfactory arrangement to ensure voluntary repayment of the loan as determined by the department of higher education pursuant to section 173.117, RSMo. No person shall be denied permission to take the bar examination pursuant to this section if the most recent notice from the department of higher education, provided pursuant to section 173.117, RSMo, states that the person has made satisfactory arrangements to ensure voluntary repayment.**

**2. No person shall be admitted to the Missouri Bar if such person is in default on the repayment of any student loan guaranteed by the department of higher education and has not made satisfactory arrangements to ensure voluntary repayment of the loan as determined by the department of higher education pursuant to section 173.117, RSMo. No person shall be denied eligibility to apply for admission to the Missouri Bar pursuant to this section if the most recent notice from the department of higher education, provided pursuant to section 173.117, RSMo, states that the person has made satisfactory arrangements to ensure voluntary repayment.**

**3. No attorney shall be permitted to pay the annual enrollment fee required by renewal of a license to practice law pursuant to supreme court rule 6.01 if such attorney is in default on the repayment of any student loan guaranteed by the department of higher education and has not made satisfactory arrangements to ensure voluntary repayment of the loan as determined by the department of higher education pursuant to section 173.117, RSMo, and in such case the attorney shall be automatically suspended. Any attorney thus suspended for failure to make satisfactory arrangements to ensure voluntary repayment of a student loan shall be retroactively reinstated as a matter of course upon receipt of the supreme court of notice from the department of higher education, provided pursuant to section 173.117, RSMo, stating that the attorney has made satisfactory arrangements to ensure voluntary repayment. No attorney shall be prohibited from paying the annual enrollment fee required by supreme court rule 6.01 if the most recent notice from the department of higher education, provided pursuant to section 173.117, RSMo, states that the attorney has made satisfactory arrangements to ensure voluntary repayment.**

**4. It shall be considered professional misconduct for an attorney to avoid in bad faith the repayment of any student loan guaranteed by the department of higher education; except that, the lawful discharge of a student loan in a bankruptcy proceeding shall not constitute bad faith. Such discharge shall not preclude a review of the attorney's conduct to determine if the attorney's conduct constitutes bad faith.**