

SECOND REGULAR SESSION

SENATE BILL NO. 862

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOUSE.

Read 1st time February 3, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S3389.02I

AN ACT

To amend chapter 166, RSMo, by adding thereto eleven new sections relating to higher education savings programs.

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

Section A. Chapter 166, RSMo, is amended by adding thereto eleven new sections, to be known as sections 166.400, 166.410, 166.415, 166.420, 166.425, 166.430, 166.435, 166.440, 166.445, 166.450 and 166.455, to read as follows:

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 166.410 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", an institution 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 officer 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. 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;

(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; and

(5) Participation agreements shall be organized and presented in a way and with language that is easily understandable by the general public. 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 board shall establish, by rule, the maximum amount which may be contributed annually by a participant with respect to a participation agreement, but in no case shall such amount exceed 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 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 under 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 under 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 166.455, 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 solely and 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 semi-

annual 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.

Unofficial

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