

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 437**  
93RD GENERAL ASSEMBLY

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Reported from the Committee on Pensions, Veterans' Affairs and General Laws, April 21, 2005, with recommendation that the Senate Committee Substitute do pass.

1412S.07C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal section 173.239, RSMo, and to enact in lieu thereof four new sections relating to Missouri military family relief.

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

Section A. Section 173.239, RSMo, is repealed and four new sections enacted in lieu thereof, to be known as sections 41.216, 41.218, 143.822, and 173.239, to read as follows:

**41.216. 1. Subject to appropriation, the adjutant general shall have the power to make grants from the Missouri military family relief fund to families of persons who are members of the Missouri national guard or Missouri residents who are members of the reserves of the armed forces of the United States and who have been called to active duty as a result of the September 11, 2001, terrorist attacks. A command sergeants major of the Missouri national guard, a command sergeants major of a reserve component or its equivalent, and a representative of the Missouri veterans commission shall establish eligibility criteria for the grants by the promulgation of rules and regulations.**

**2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**

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

17 to review, to delay the effective date, or to disapprove and annul a rule are  
18 subsequently held unconstitutional, then the grant of rulemaking authority  
19 and any rule proposed or adopted after August 28, 2005, shall be invalid and  
20 void.

41.218. The "Missouri Military Family Relief Fund" is hereby created in  
2 the state treasury and shall consist of all gifts, donations, appropriations,  
3 transfers, and bequests to the fund. The adjutant general shall have the  
4 power to make grants from the fund. Notwithstanding the provisions of  
5 section 33.080, RSMo, to the contrary, moneys in the Missouri military family  
6 relief fund shall not be transferred to the credit of the general revenue fund  
7 at the end of the biennium. Interest and moneys earned on the fund shall be  
8 credited to the fund. Moneys in the fund shall be used for the purpose of  
9 funding the provisions of section 41.216.

143.822. 1. In each taxable year beginning on or after January 1, 2005,  
2 each individual or corporation entitled to a tax refund in an amount  
3 sufficient to make a designation under this section may designate that one  
4 dollar or any amount in excess of one dollar on a single return, and two  
5 dollars or any amount in excess of two dollars on a combined return, of the  
6 refund due be credited to the Missouri military family relief fund. If any  
7 individual or corporation that is not entitled to a tax refund in an amount  
8 sufficient to make a designation under this section wishes to make a  
9 contribution to the Missouri military family relief fund, such individual or  
10 corporation may, by separate check, draft, or other negotiable instrument,  
11 send in with the payment of taxes, or may send in separately, that amount,  
12 clearly designated for the Missouri military family relief fund, the individual  
13 or corporation wishes to contribute. The department of revenue shall deposit  
14 such amount to the Missouri military family relief fund as provided in  
15 subsection 2 of this section.

16 2. The director of revenue shall transfer at least monthly all  
17 contributions designated by individuals under this section to the state  
18 treasurer for deposit to the Missouri military family relief fund. The fund  
19 shall be administered by a command sergeants major of the Missouri national  
20 guard, a command sergeants major of a reserve component or its equivalent,  
21 and a representative of the Missouri veterans commission.

22 3. The director of revenue shall transfer at least monthly all  
23 contributions designated by the corporations under this section, less an  
24 amount sufficient to cover the cost of collection, handling, and administration

25 **by the department of revenue during fiscal year 2006, to the state treasurer**  
26 **for deposit to the Missouri military family relief fund, not to exceed seventy**  
27 **thousand dollars.**

28 **4. A contribution designated under this section shall only be**  
29 **transferred and deposited in the Missouri military family relief fund after all**  
30 **other claims against the refund from which such contribution is to be made**  
31 **have been satisfied.**

32 **5. The state treasurer shall distribute moneys deposited in the Missouri**  
33 **military family relief fund in accordance with the provisions of sections**  
34 **41.216 and 41.218, RSMo.**

35 **6. The state treasurer shall invest moneys in the fund in the same**  
36 **manner as other funds are invested. Any interest and moneys earned on such**  
37 **investments shall be credited to the fund.**

38 **7. Pursuant to section 23.253, RSMo, of the Missouri sunset act:**

39 **(1) The provisions of the new program authorized under this section**  
40 **shall automatically sunset six years after the effective date of this section**  
41 **unless reauthorized by an act of the general assembly; and**

42 **(2) If such program is reauthorized, the program authorized under this**  
43 **section shall automatically sunset twelve years after the effective date of the**  
44 **reauthorization of this section; and**

45 **(3) This section shall terminate on December thirty-first of the**  
46 **calendar year immediately following the calendar year in which the program**  
47 **authorized under this section is sunset.**

173.239. 1. Any member of the Missouri national guard who possesses the  
2 qualifications set forth in this section may be awarded an educational assistance grant  
3 to an approved public institution or an approved private institution, as those terms are  
4 defined in either section 173.205 or section 173.778, of his or her choice while he or she  
5 is a member of the Missouri national guard. Funding for educational assistance  
6 pursuant to this section may be requested annually in the budget of the Missouri  
7 national guard. Educational assistance provided pursuant to this section shall not  
8 exceed funds appropriated for that purpose.

9 **2. Educational assistance provided under this section shall not exceed the least**  
10 **of the following:**

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

13 **(2) The amount of tuition charged a Missouri resident at the University of**

14 Missouri for attendance;

15 (3) The grants provided under this section may be prorated subject to  
16 appropriations in an amount no less than fifty percent of the limits set forth in this  
17 section.

18 3. A member of the Missouri national guard seeking educational assistance  
19 pursuant to this section shall provide a certificate of satisfactory service of his or her  
20 Missouri national guard duties from his or her commanding officer and shall possess all  
21 other necessary entrance requirements of the school of his or her choice and shall  
22 maintain a cumulative grade point average (GPA) of at least two point five on a four  
23 point scale, or the equivalent on another scale approved by the program administrator,  
24 while attending the approved public or private institution.

25 4. If the grade point average of a member who is receiving educational assistance  
26 pursuant to this section falls below two point five on a four point scale, or the equivalent  
27 on another scale, such member shall retain the educational assistance and shall be  
28 placed on probation under the educational assistance program. Failure to achieve a  
29 current grade point average of at least two point five on a four point scale, or the  
30 equivalent on another scale for future semesters or equivalent academic terms shall  
31 result in termination of the scholarship effective as of the next academic term. The  
32 member shall be removed from probation status upon achieving a cumulative grade point  
33 average of two point five on a four point scale or the equivalent on another scale.

34 5. If a recipient of educational assistance pursuant to this section ceases to [be  
35 a member of the Missouri national guard] **maintain their military affiliation** while  
36 enrolled in a course of study or within three years after the completion of a course of  
37 study for any reason except death [or], disability, **or medical disqualification** the  
38 educational assistance shall be terminated and the recipient shall repay any amounts  
39 awarded pursuant to this section.

40 [6. State educational assistance on behalf of Missouri national guard members  
41 pursuant to this section shall be used only after all available federal Department of  
42 Defense educational assistance funds have been expended.

43 **7.] For the purposes of this section, individuals who are called to active**  
44 **duty will be credited for time served in fulfillment of their three-year**  
45 **obligation.**

46 6. Applicants for educational assistance pursuant to this section shall meet the  
47 qualifications established by section 173.215, except the provisions of subdivisions (2)  
48 and (4) of subsection 1 of section 173.215, and shall be qualified, full-time or part-time  
49 students.

50            [8.] 7. The educational assistance program established pursuant to this section  
51 shall be administered by the office of the adjutant general of the Missouri national  
52 guard. The Missouri national guard shall establish guidelines for equitable distribution  
53 of educational assistance.

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