

FIRST REGULAR SESSION

HOUSE BILL NO. 742

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BEARDEN (Sponsor), RUPP AND KINGERY (Co-sponsors).

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STEPHEN S. DAVIS, Chief Clerk

1991L.011

AN ACT

To amend chapter 173, RSMo, by adding thereto five new sections relating to state support for higher education.

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

Section A. Chapter 173, RSMo, is amended by adding thereto five new sections, to be known as sections 173.999, 173.1000, 173.1002, 173.1004, and 173.1006, to read as follows:

173.999. The provisions of sections 173.1000 to 173.1006 shall be known as the "Higher Education Student Funding Act".

173.1000. 1. Beginning August 28, 2005, the department of higher education shall review the feasibility of and develop proposals for consolidating existing state grant, scholarship, and related programs to simplify financial aid in order to increase participation in higher education. The proposals shall include, but not be limited to, legislative proposals and department policy initiatives to produce consistent student eligibility criteria and a schedule for the phase-in of such proposals. The department of higher education shall ensure broad participation by stakeholders in the planning process and may request staff and other assistance from other state departments and from the research agencies of the general assembly.

2. The proposals required by subsection 1 of this section shall be predicated on the following assumptions:

(1) The A+ tuition reimbursement program set out in section 160.545, RSMo, shall be the model for delivery of financial aid for any student for the first two years of postsecondary study;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 **(2) The Gallagher student grant eligibility criteria developed under sections 173.200**
16 **to 173.230, in force on August 28, 2004, shall be the model for development of a need-based**
17 **component for financial aid. The higher education academic "Bright Flight" scholarship**
18 **program created in section 173.250 shall be the model for the development of a merit-based**
19 **component. Consideration shall be given to the creation of system whereby a lesser, but**
20 **still rigorous, ACT score qualifies a student to receive a smaller award level.**

21 **3. Financial aid shall be portable from one institution to another within the state**
22 **to the extent permitted by law and by the Constitution of the state.**

23 **4. No form of financial aid ultimately originating from public funds or combination**
24 **of forms that includes public funds shall result in a combined offer of aid that exceeds a**
25 **student's tuition, fees, book costs, and, where applicable, documented living expenses.**
26 **Private institutions participating in the portability of state financial aid shall undertake to**
27 **comply with this subsection and shall, when requested by the department of higher**
28 **education, supply financial information to confirm their compliance.**

29 **5. In their budget request materials, approved public institutions shall provide**
30 **information that discloses sources of aid offered by the institution from funds other than**
31 **state-supplied funds into the overall financial aid package offered to any given student.**
32 **If necessary to respect the requests of donors for anonymity, generic labels may be used**
33 **in reporting.**

34 **(1) Beginning with the effective date of FTE rate funding as described in section**
35 **173.1004, twenty percent of the additional gross revenue from any tuition increases at such**
36 **institutions shall be devoted to institutional-based financial aid, with at least seventy-five**
37 **percent of the twenty percent going to need-based aid.**

38 **(2) The department of higher education shall consider institutional sources of**
39 **institutional funding for student financial aid in its determination of any proposed**
40 **statewide institutional aid formula policy under section 173.1002.**

41 **(6) The implementation of any legislative proposals under this section shall be**
42 **planned to begin on January 1, 2008.**

43 **(7) The department of higher education shall report its legislative proposals to the**
44 **governor, general assembly, and the joint committee on higher education created in section**
45 **173.1008 by August 28, 2006. Each year thereafter, the annual report required by section**
46 **173.040 shall contain measures developed by the department of higher education to track**
47 **the effectiveness of financial aid reform.**

173.1002. 1. Each public institution of higher education shall receive additional
2 **funding above the fiscal year 2002 operating budget appropriation level only upon**
3 **completion of the following requirements, as negotiated by each institution through the**

4 **department of higher education:**

5 (1) **Establishment of performance measures for:**

6 (a) **Enrollment levels; transfers; retention; and graduation rates;**

7 (b) **Student satisfaction and performance;**

8 (c) **Comparative cost and productivity data with peer institutions;**

9 (d) **Assessment of program quality, such as but not limited to accreditation and**
10 **external review;**

11 (2) **Establishment of performance contracts that permit negotiation of state**
12 **operational funding increases predicated on meeting performance goals;**

13 (3) **Establishment of institutional fee-for-services contracts for programs that are**
14 **deemed by the department of higher education to be essential but that may not be**
15 **self-supporting, such as but not limited to higher education services in hard-to-serve areas,**
16 **remediation, and graduate and professional programs. Proposals for remediation that**
17 **push remedial learning to earlier grades shall be given additional consideration.**

18 2. **The commissioner of the office of administration shall provide notice to the**
19 **governor, the house budget chair, the senate appropriations chair, and the revisor of**
20 **statutes no later than November fifteenth of each fiscal year's expenditures reported from**
21 **the year of adoption of sections 173.999 to 173.1006 up to and including the year in which**
22 **the expenditure level contemplated in this subsection is achieved.**

173.1004. 1. As used in this section, unless the context otherwise requires:

2 (1) **"Approved institution", a postsecondary institution that is approved for**
3 **participation in the Gallagher financial aid program under sections 173.200 to 173.230 or**
4 **any other Missouri private institution that:**

5 (a) **Is required by statute to be certified to operate by the board;**

6 (b) **Is institutionally accredited by a United States Department of Education**
7 **recognized accrediting commission;**

8 (c) **Has operated continuously in the state of Missouri for five or more years;**

9 (d) **Has no more than fifty percent of its students in correspondence programs; and**

10 (e) **Offers a one-year or two-year certificate, associate or baccalaureate degree**
11 **programs, or graduate or professional degree programs;**

12 (2) **"Coordinating board", the coordinating board for higher education established**
13 **under section 173.005;**

14 (3) **"Department", the department of higher education established under section**
15 **173.005;**

16 (4) (a) **"Eligible student":**

17 a. **A student who is a resident of Missouri with a permanent physical address in**

18 Missouri for at least one year prior to admission, enrolled at an approved public institution
19 and who:

20 (i) Is classified as an in-state student for tuition purposes;

21 (ii) Is a graduate of a Missouri high school or has successfully completed a
22 nonpublic home-based educational program as provided in section 167.031, RSMo; or

23 b. A student who is a resident of Missouri with a permanent physical address in
24 Missouri for at least one year prior to admission, enrolled at an approved private
25 institution and who:

26 (i) Is classified as an in-state student for tuition purposes;

27 (ii) Is a graduate of a Missouri high school or has successfully completed a
28 nonpublic home-based educational program as provided in section 167.031, RSMo;

29 (iii) Demonstrates financial need through the student's eligibility for the Gallagher
30 program under sections 173.200 to 173.250; and

31 (iv) Meets any other eligibility requirements established by the coordinating board;

32 (b) "Eligible student" shall not mean a student enrolled in an off-campus, extended
33 campus, or continuing education class, that is not supported by state moneys, except as
34 approved by the coordinating board;

35 (5) "FTE rate", the amount of money per full-time equivalent student appropriated
36 for approved public institutions;

37 (6) "Governing board", the governing body of an approved public institution;

38 (7) "Unfunded enrollment growth", the amount of enrollment growth of eligible
39 students as defined in subparagraph a. of paragraph (a) of subdivision (4) of this
40 subsection, calculated from the baseline of fiscal year 2002.

41 2. The provisions of this section will become effective as provided in subsection 1
42 of section 173.1002, unless an earlier effective date is specified for a particular subsection.

43 3. (1) The coordinating board, in consultation with the approved public
44 institutions, shall annually estimate the number of full-time equivalent students at each
45 approved public institution, based on the most recently completed school year's data. The
46 coordinating board shall report the numbers during the budget cycle to the governor and
47 the senate appropriations and house budget committee of the general assembly for use in
48 developing the higher education operating appropriations act.

49 (2) For an eligible student attending an approved public institution, the FTE rate
50 for the first two years at any institution shall be an amount set annually by the general
51 assembly, which in no case shall exceed the lowest tuition charged for a full-time student
52 at a public community college and for junior level classes and above shall not exceed the
53 lowest tuition charged for a full-time in-state student at an approved public four-year

54 institution. The FTE rate shall be the same for each eligible student at each level,
55 regardless of the approved institution that the student attends.

56 (3) The coordinating board shall annually request that the general assembly adjust
57 the amount appropriated to reflect at least inflation and unfunded enrollment growth.

58 (4) The coordinating board in consultation with the approved public institutions
59 shall review annually the FTE rate established under subdivision (2) of this subsection.
60 Following the review, the coordinating board, in consultation with the approved public
61 institutions, shall annually make recommendations regarding possible adjustments to the
62 FTE rate to the governor for consideration in preparing the higher education operating
63 appropriations act.

64 (5) An approved institution shall not receive the payment of a higher FTE rate on
65 behalf of an eligible student for those services listed in subsection 5 of this section.
66 Additional funding shall be negotiated through a fee-for-services contract under subsection
67 5 of this section.

68 4. (1) Each approved public institution shall negotiate a performance contract with
69 the department of higher education that shall specify the performance goals the institution
70 shall achieve during the period that it operates under the performance contract. The term
71 of a performance contract may be up to five years. An approved public institution's
72 compliance with the goals specified in the performance contract may be in lieu of the
73 requirements of individual goals previously set in conjunction with its institutional mission
74 review and performance funding for the period of the performance contract.

75 (2) If an approved private institution education plans to supply education services
76 under subsection 5 of this section, the approved private institution shall negotiate a
77 performance contract with the department of higher education, which shall specify the
78 performance goals the institution shall achieve during the period that it operates under the
79 performance contract.

80 (3) The specified procedures and goals set forth in the performance contract shall
81 be measurable and tailored to the role and mission of each institution that submits a
82 budget request to the coordinating board, and may include, but shall not be limited to:

- 83 (a) Improving residents' access to higher education;
- 84 (b) Improving quality and success in higher education;
- 85 (c) Improving the efficiency of operations; and
- 86 (d) Addressing the needs of the state.

87 (4) To measure progress toward the goals specified in the performance contract,
88 the following issues may be addressed:

- 89 (a) Appropriate levels of student enrollment, transfer, retention, and graduation

90 rates and institutional programs specifically designed to assist students in achieving their
91 academic and, in the case of community colleges, vocational goals;

92 (b) Student satisfaction and student performance after graduation, measured by
93 indicators appropriate to the institutional role and mission, such as employment or
94 enrollment in graduate programs;

95 (c) Comparative cost and productivity data in relation to peer institutions;

96 (d) Assessment of the quality of the institution's academic and, where relevant,
97 vocational programs, including assessment by external reviewers, such as accreditation
98 boards and employers, and consideration of student performance on national
99 examinations; and

100 (e) Increasing financial support to sustain and enhance essential functions that may
101 be partially state funded, including but not limited to:

102 a. The provision of need-based and other student financial aid;

103 b. In the case of an approved public institution, capital construction, which shall
104 be reflected in the capital outlay appropriations bill;

105 c. Assessment of financial indicators compared to national benchmarks commonly
106 used to measure financial performance in higher education according to the type of
107 institution; and

108 d. Increasing financial support to sustain and enhance the educational mission of
109 the institution and, in the case of institutions with a research mission, increasing public and
110 private research capabilities and competitiveness.

111 f. Notwithstanding any other provision of this section to the contrary, increasing
112 enrollment of underserved students, including low-income individuals, males, and minority
113 groups, shall be addressed in each performance contract.

114 g. Notwithstanding any provision of this subsection to the contrary, the provisions
115 of this subsection shall not apply to any performance contract that extends into a fiscal
116 year for which appropriations fall below the level set in subsection 1 of section 173.1002.

117 (4) All performance contracts between the department of higher education and any
118 approved institution shall be reviewed and approved by the coordinating board for higher
119 education before the contract may become effective.

120 (5) Notwithstanding any requirements of chapter 33, RSMo, a governing board of
121 an approved public institution that operates under a performance contract negotiated
122 under this section may negotiate with the department of higher education, after approval
123 from the coordinating board for higher education, a provision in the performance contract
124 to allow an exemption from the procurement code and such other state statutes or rules
125 and regulations governing procurement and contracting as initially identified by the

126 coordinating board by rule by August 28, 2006. The commissioner of higher education
127 shall communicate in writing with the commissioner of the office of administration
128 regarding any exemptions granted under this subdivision.

129 (6) (a) The department of higher education shall report to the members of the
130 relevant education committees of the senate and the house of representatives and the
131 members of the budget and appropriations committees of the general assembly the
132 financial effect of the provisions of each performance contract with regard to funding for
133 the affected public institution and overall funding for the statewide system of higher
134 education, any exemptions granted under subdivision (5) of this subsection, and a review
135 of each approved public or private institution's operations under the institution's
136 performance contract in the annual report required under section 173.040. The
137 department of higher education may renew a performance contract at its discretion, with
138 the agreement of the governing board.

139 (b) Data collected and used to measure an approved public or private institution's
140 progress towards the goals set forth in the institution's performance contract with the
141 department of higher education shall be made available to the members of the education
142 committees of the house of representatives and the senate, members of the budget and
143 appropriations committees, and each approved institution of higher education covered by
144 a performance contract. The department of higher education shall also provide copies of
145 the data to other members of the general assembly and members of the public on request.

146 (7) While operating under a performance contract negotiated under this section,
147 an approved public institution:

148 (a) May, at the request of its governing board, request the governor to appoint
149 additional advisory members to the governing board to sustain and enhance the role and
150 mission of the institution. Additional members of the governing board shall serve as
151 nonvoting members of the board and shall serve without compensation. The role of the
152 advisory members shall be to improve the governing board's opportunities to develop and
153 enrich the academic and research programs at the institution.

154 (b) Need not consult with nor obtain approval from the coordinating board for
155 higher education to create, modify, or eliminate academic and vocational programs offered
156 by the institution, so long as such creations, modifications, and eliminations are consistent
157 with the institution's statutory role and mission. The coordinating board for higher
158 education shall have the authority to override any creation or modification of an academic
159 or vocational program if the change made is inconsistent with the institution's statutory
160 role and mission.

161 (c) Shall report to the coordinating board for higher education its plans for any

162 tuition increases for the following academic year for the board to forward to the general
163 assembly during the budget process.

164 (8) While operating pursuant to a performance contract negotiated under this
165 section, an approved public institution shall remain eligible for state-funded capital
166 construction projects and maintenance projects through the budget process.

167 (9) The coordinating board for higher education, in consultation with the approved
168 public institutions, shall calculate the amount of unfunded enrollment growth at approved
169 public institutions. During the period that an approved public institution is operating
170 pursuant to a performance contract negotiated under this section, the coordinating board
171 for higher education may request, as part of the annual budget cycle, a general fund
172 appropriation for each approved public institution for the amount of unfunded enrollment
173 growth.

174 (10) An approved institution while operating under a performance contract may
175 negotiate with the coordinating board for higher education for exemptions consistent with
176 the provisions of subdivision (5) of this subsection.

177 5. (1) Beginning July 1, 2006, an approved institution may annually negotiate a
178 fee-for-service contract with the department for the delivery of higher education services
179 by the institution to the residents of the state. These services may include, but need not be
180 limited to those enumerated in subdivision (1) of subsection 6 of this section.

181 (2) No approved institution that enters into a fee-for-service contract for basic skills
182 courses shall charge a student more for a basic skills course than the student would
183 otherwise pay per credit hour for any general education course offered at the same
184 institution.

185 6. (1) Beginning July 1, 2006, the coordinating board shall be responsible for
186 ensuring the provision of certain postsecondary educational services in the state. These
187 educational services shall include but are not limited to:

188 (a) Educational services in rural areas or communities in which the cost of
189 delivering such services is not sustained by the amount received in student tuition;

190 (b) Basic skills courses, which are prerequisites to the level of work expected at a
191 postsecondary institution and include academic skills courses and preparatory courses;

192 (c) Educational services required of the coordinating board to meet its obligations
193 under reciprocal agreements under section 173.030; and

194 (d) Educational services that may increase economic development opportunities in
195 the state, including courses to assist students in career development and retraining.

196 (2) The department of higher education on behalf of the coordinating board may
197 annually enter into fee-for-service contracts with one or more approved institutions to

198 provide the higher education services specified in subdivision (1) of this subsection. The
199 department of higher education may contract with an approved institution only to the
200 extent that the contract remains consistent with any contract entered into under subsection
201 4 of this section.

202 (3) The coordinating board shall make annual funding recommendations to the
203 general assembly and the governor regarding the funding necessary for the department of
204 higher education to contract on the board's behalf for the provision of higher education
205 services in the state, including but not limited to the services specified in subdivision (1) of
206 this subsection.

173.1006. 1. There is hereby established a joint committee of the general assembly,
2 which shall be known as the "Joint Committee on Higher Education", which shall be
3 composed of seven members of the senate and seven members of the house of
4 representatives. The senate members of the committee shall be appointed by the president
5 pro tem of the senate and the house members by the speaker of the house of
6 representatives.

7 2. The committee may meet and function in any year that the president pro tem of
8 the senate and the speaker of the house of representatives appoint members to serve on the
9 committee, but in no case shall it meet less frequently than once every two years, beginning
10 in 2006.

11 3. The committee shall select either a chairman or cochair, one of whom shall be
12 a member of the senate and one a member of the house of representatives. A majority of
13 the members shall constitute a quorum. Meetings of the committee may be called at such
14 time and place as the chairman or cochair designate.

15 4. The committee shall:

16 (1) Review and monitor the progress of education reform in the state's public
17 institutions of higher education;

18 (2) Receive reports from the commissioner of higher education concerning the
19 condition of higher education;

20 (3) Conduct studies and analysis of the system of financing public higher education
21 and the provision of financial aid for higher education, monitoring the progress of the
22 changes required by sections 173.999 to 173.1006;

23 (4) Make recommendations to the general assembly for legislative action; and

24 (5) Conduct such studies of any other education issues the committee deems
25 relevant.

26 5. The committee may make reasonable requests for staff assistance from the
27 research and appropriations staffs of the house and senate and the committee on legislative

28 research, as well as the department of elementary and secondary education, the
29 department of higher education, the coordinating board for higher education, the state tax
30 commission, all public institutions of higher education, and such private higher education
31 institutions and business and other commercial interests and any other interested persons
32 as may be required.

33 **6. Members of the committee shall receive no compensation but may be reimbursed**
34 **for reasonable and necessary expenses associated with the performance of their official**
35 **duties.**