

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 742**  
**93RD GENERAL ASSEMBLY**

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Reported from the Committee on Higher Education April 13, 2005, with recommendation that House Committee Substitute for House Bill No. 742 do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

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**AN ACT**

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

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*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**

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.

13 be the model for delivery of financial aid for any student for the first two years of  
14 postsecondary study;

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 July 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 subsection 1 of this section 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, except an otherwise eligible student who  
19 is a dependent of an active member of the military who is stationed in Missouri, enrolled  
20 at an approved public institution and who:

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

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

25 b. A student who is a resident of Missouri with a permanent physical address in  
26 Missouri for at least one year prior to admission, except an otherwise eligible student who  
27 is a dependent of an active member of the military who is stationed in Missouri, enrolled  
28 at an approved private institution and who:

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

30 (ii) Is a graduate of a Missouri high school, has successfully obtained a GED  
31 certificate, or has successfully completed a nonpublic home-based educational program as  
32 provided in section 167.031, RSMo;

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

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

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

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

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

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

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

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

52 **developing the higher education operating appropriations act.**

53 **(2) For an eligible student attending an approved public institution, the FTE rate**  
54 **for the first two years at any institution shall be an amount set annually by the general**  
55 **assembly, which in no case shall exceed the lowest tuition and required fees charged for a**  
56 **full-time student at a public community college and for junior level classes and above shall**  
57 **not exceed the lowest tuition and required fees charged for a full-time in-state student at**  
58 **an approved public four-year institution. The FTE rate shall be the same for each eligible**  
59 **student at each level, regardless of the approved institution that the student attends.**

60 **(3) The coordinating board shall annually request that the general assembly adjust**  
61 **the amount appropriated to reflect at least annual inflation reported by the United States**  
62 **Department of Labor, Bureau of Labor Statistics, or its successor agency, for the most**  
63 **recent calendar year as measured by the Consumer Price index for Urban Consumers, all**  
64 **items, for the midwest, and unfunded enrollment growth.**

65 **(4) The coordinating board in consultation with the approved public institutions**  
66 **shall review annually the FTE rate established under subdivision (2) of this subsection.**  
67 **Following the review, the coordinating board, in consultation with the approved public**  
68 **institutions, shall annually make recommendations regarding possible adjustments to the**  
69 **FTE rate to the governor and general assembly for consideration in preparing the higher**  
70 **education operating appropriations act.**

71 **(5) An approved institution shall not receive the payment of a higher FTE rate on**  
72 **behalf of an eligible student for those services listed in subsection 5 of this section.**  
73 **Additional funding shall be negotiated through a fee-for-services contract under subsection**  
74 **5 of this section.**

75 **4. (1) Each approved public institution shall negotiate a performance contract with**  
76 **the department of higher education that shall specify the performance goals the institution**  
77 **shall achieve during the period that it operates under the performance contract. The term**  
78 **of a performance contract may be up to five years. An approved public institution's**  
79 **compliance with the goals specified in the performance contract may be in lieu of the**  
80 **requirements of individual goals previously set in conjunction with its institutional mission**  
81 **review and performance funding for the period of the performance contract.**

82 **(2) If an approved private institution education plans to supply education services**  
83 **under subsection 5 of this section, the approved private institution shall negotiate a**  
84 **performance contract with the department of higher education, which shall specify the**  
85 **performance goals the institution shall achieve during the period that it operates under the**  
86 **performance contract.**

87 **(3) The specified procedures and goals set forth in the performance contract shall**

88 be measurable and tailored to the role and mission of each institution that submits a  
89 budget request to the coordinating board, and may include, but shall not be limited to:

90 (a) Improving residents' access to higher education;

91 (b) Improving quality and success in higher education;

92 (c) Improving the efficiency of operations; and

93 (d) Addressing the needs of the state.

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

96 (a) Appropriate levels of student enrollment, transfer, retention, and graduation  
97 rates and institutional programs specifically designed to assist students in achieving their  
98 academic and, in the case of community colleges, vocational goals;

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

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

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

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

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

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

112 c. Assessment of financial indicators compared to national benchmarks commonly  
113 used to measure financial performance in higher education according to the type of  
114 institution; and

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

118 (f) Notwithstanding any other provision of this section to the contrary, increasing  
119 enrollment of underserved students, including low-income individuals and minority  
120 groups, shall be addressed in each performance contract.

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

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

127           **(5) Notwithstanding any requirements of chapter 33, RSMo, a governing board of**  
128 **an approved public institution that operates under a performance contract negotiated**  
129 **under this section may negotiate with the department of higher education, after approval**  
130 **from the coordinating board for higher education, a provision in the performance contract**  
131 **to allow an exemption from the procurement code and such other state statutes or rules**  
132 **and regulations governing procurement and contracting as initially identified by the**  
133 **coordinating board by rule by August 28, 2006. The commissioner of higher education**  
134 **shall communicate in writing with the commissioner of the office of administration**  
135 **regarding any exemptions granted under this subdivision.**

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

146           **(b) Data collected and used to measure an approved public or private institution's**  
147 **progress towards the goals set forth in the institution's performance contract with the**  
148 **department of higher education shall be made available to the members of the education**  
149 **committees of the house of representatives and the senate, members of the budget and**  
150 **appropriations committees, and each approved institution of higher education covered by**  
151 **a performance contract. The department of higher education shall also provide copies of**  
152 **the data to other members of the general assembly and members of the public on request.**

153           **(7) While operating under a performance contract negotiated under this section,**  
154 **an approved public institution:**

155           **(a) May, at the request of its governing board, request the governor to appoint**  
156 **additional advisory members to the governing board to sustain and enhance the role and**  
157 **mission of the institution. Additional members of the governing board shall serve as**  
158 **nonvoting members of the board and shall serve without compensation. The role of the**  
159 **advisory members shall be to improve the governing board's opportunities to develop and**

160 **enrich the academic and research programs at the institution.**

161 **(b) 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, an appropriation**  
172 **provided by the general assembly for each approved public institution for the amount of**  
173 **unfunded enrollment 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, as defined in paragraph (b) of subdivision (1) of subsection 6 of this section, shall**  
183 **charge a student more for a basic skills course than the student would otherwise pay per**  
184 **credit hour for any general education course offered at the same 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 provided that such reports shall include, but not be limited  
20 to, a description of the methods for determining the need for postsecondary services and  
21 the means of ensuring the provision of services specified by subsection 6 of section  
22 173.1004;

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

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

27           **(5) Conduct such studies of any other education issues the committee deems**  
28 **relevant.**

29           **5. The committee may make reasonable requests for staff assistance from the**  
30 **research and appropriations staffs of the house and senate and the committee on legislative**  
31 **research, as well as the department of elementary and secondary education, the**  
32 **department of higher education, the coordinating board for higher education, the state tax**  
33 **commission, all public institutions of higher education, and such private higher education**  
34 **institutions and business and other commercial interests and any other interested persons**  
35 **as may be required.**

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