

SECOND REGULAR SESSION

HOUSE BILL NO. 2439

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES KOENIG (Sponsor), FUNDERBURK, PARKINSON, TRACY, SCHOELLER, ZERR, McNARY, SCHARNHORST, DIECKHAUS, NOLTE AND DUGGER (Co-sponsors).

5459L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 166.415, RSMo, and to enact in lieu thereof one new section relating to the Missouri higher education savings program.

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

Section A. Section 166.415, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 166.415, to read as follows:

166.415. 1. There is hereby created the "Missouri Higher Education Savings Program".

2 The program shall be administered by the Missouri higher education savings program board

3 which shall consist of the Missouri state treasurer who shall serve as chairman, the commissioner

4 of the department of higher education, the commissioner of the office of administration, the

5 director of the department of economic development, two persons having demonstrable

6 experience and knowledge in the areas of finance or the investment and management of public

7 funds, one of whom is selected by the president pro tem of the senate and one of whom is

8 selected by the speaker of the house of representatives, and one person having demonstrable

9 experience and knowledge in the area of banking or deposit rate determination and placement

10 of depository certificates of deposit or other deposit investments. Such member shall be

11 appointed by the governor with the advice and consent of the senate. The three appointed

12 members shall be appointed to serve for terms of four years from the date of appointment, or

13 until their successors shall have been appointed and shall have qualified. The members of the

14 board shall be subject to the conflict of interest provisions of section 105.452, RSMo. Any

15 member who violates the conflict of interest provisions shall be removed from the board. In

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.

16 order to establish and administer the savings program, the board, in addition to its other powers
17 and authority, shall have the power and authority to:

18 (1) Develop and implement the Missouri higher education savings program and,
19 notwithstanding any provision of sections 166.400 to 166.455 to the contrary, the savings
20 programs and services consistent with the purposes and objectives of sections 166.400 to
21 166.455;

22 (2) Promulgate reasonable rules and regulations and establish policies and procedures
23 to implement sections 166.400 to 166.455, to permit the savings program to qualify as a
24 "qualified state tuition program" pursuant to Section 529 of the Internal Revenue Code and to
25 ensure the savings program's compliance with all applicable laws;

26 (3) Develop and implement educational programs and related informational materials
27 for participants, either directly or through a contractual arrangement with a financial institution
28 for investment services, and their families, including special programs and materials to inform
29 families with young children regarding methods for financing education and training beyond high
30 school;

31 (4) Enter into agreements with any financial institution, the state or any federal or other
32 agency or entity as required for the operation of the savings program pursuant to sections
33 166.400 to 166.455;

34 (5) Enter into participation agreements with participants;

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

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

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

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

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

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

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

52 2. Any member of the board may designate a proxy for that member who will enjoy the
53 full voting privileges of that member for the one meeting so specified by that member. No more
54 than three proxies shall be considered members of the board for the purpose of establishing a
55 quorum.

56 3. Four members of the board shall constitute a quorum. No vacancy in the membership
57 of the board shall impair the right of a quorum to exercise all the rights and perform all the duties
58 of the board. No action shall be taken by the board except upon the affirmative vote of a
59 majority of the members present.

60 4. The board shall meet within the state of Missouri at the time set at a previously
61 scheduled meeting or by the request of any four members of the board. Notice of the meeting
62 shall be delivered to all other trustees in person or by depositing notice in a United States post
63 office in a properly stamped and addressed envelope not less than six days prior to the date fixed
64 for the meeting. The board may meet at any time by unanimous mutual consent. There shall be
65 at least one meeting in each quarter.

66 5. The funds shall be invested only in those investments which a prudent person acting
67 in a like capacity and familiar with these matters would use in the conduct of an enterprise of a
68 like character and with like aims, as provided in section 105.688, RSMo. **Notwithstanding the**
69 **provisions of any rule, regulation, or any other law, investments shall not be limited to a**
70 **specified grouping or list of investment vehicles; any investment vehicle shall qualify so**
71 **long as it meets the requirements of this section and section 105.688.** The board may
72 delegate to duly appointed investment counselors authority to act in place of the board in the
73 investment and reinvestment of all or part of the moneys and may also delegate to such
74 counselors the authority to act in place of the board in the holding, purchasing, selling, assigning,
75 transferring or disposing of any or all of the securities and investments in which such moneys
76 shall have been invested, as well as the proceeds of such investments and such moneys. Such
77 investment counselors shall be registered as investment advisors with the United States
78 Securities and Exchange Commission. In exercising or delegating its investment powers and
79 authority, members of the board shall exercise ordinary business care and prudence under the
80 facts and circumstances prevailing at the time of the action or decision. No member of the board
81 shall be liable for any action taken or omitted with respect to the exercise of, or delegation of,
82 these powers and authority if such member shall have discharged the duties of his or her position
83 in good faith and with that degree of diligence, care and skill which a prudent person acting in
84 a like capacity and familiar with these matters would use in the conduct of an enterprise of a like
85 character and with like aims.

86 6. No investment transaction authorized by the board shall be handled by any company
87 or firm in which a member of the board has a substantial interest, nor shall any member of the
88 board profit directly or indirectly from any such investment.

89 7. No trustee or employee of the savings program shall receive any gain or profit from
90 any funds or transaction of the savings program. Any trustee, employee or agent of the savings
91 program accepting any gratuity or compensation for the purpose of influencing such trustee's,
92 employee's or agent's action with respect to the investment or management of the funds of the
93 savings program shall thereby forfeit the office and in addition thereto be subject to the penalties
94 prescribed for bribery.

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