

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 288

92ND GENERAL ASSEMBLY

Reported from the Committee on Education, April 28, 2003, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

0736S.08C

AN ACT

To repeal sections 160.534, 162.261, 162.431, 162.601, 164.303, 165.011, 165.016, and 393.310, RSMo, and to enact in lieu thereof eleven new sections relating to education, with an emergency clause.

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

Section A. Sections 160.534, 162.261, 162.431, 162.601, 164.303, 165.011, 165.016, 2 and 393.310, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be 3 known as sections 160.071, 160.534, 160.731, 162.261, 162.431, 162.601, 163.201, 4 164.303, 165.011, 165.016, and 393.310, to read as follows:

160.071. 1. A school district or districts as authorized pursuant to this 2 chapter may designate an educational service agency for the purpose of 3 developing, managing, and providing instructional services or programs to 4 the participating district or districts.

5 2. Designation of the educational service agency shall be by contract 6 authorized by the boards of education of the participating districts and shall 7 operate pursuant to standards adopted by the state board of education.

8 3. An educational service agency shall be organized as a nonprofit 9 corporation as provided in chapter 355, RSMo, with the method of selection 10 of officers pursuant to section 355.326, RSMo.

11 4. An educational service agency shall be considered a political 12 subdivision of the state as defined in section 105.450, RSMo, with the 13 governing board and employees subject to the conflict of interest prohibitions 14 provided in chapter 105, RSMo.

17 **5. Meetings of the governing board of the educational service agency**
18 **shall be subject to the provisions of sections 610.010 to 610.030, RSMo.**

19 **6. Nothing in this section shall relieve any participating school district**
20 **from any assurance or requirement upon which funding is received by the**
21 **educational service agency.**

 160.534. [For fiscal year 1996 and each subsequent fiscal year,] **1. Except as**
2 **provided in subsection 2 of this section,** any amount of the excursion gambling boat
3 proceeds deposited in the gaming proceeds for education fund in excess of the amount
4 transferred to the school district bond fund as provided in section 164.303, RSMo, shall
5 be transferred to the state school moneys fund. Such moneys shall be transferred on a
6 monthly basis and shall be distributed in the manner provided in section 163.031, RSMo.

7 **2. Except as otherwise provided in subsection 4 of this section, the**
8 **moneys transferred pursuant to this section shall be transferred on a monthly**
9 **basis as follows:**

10 **(1) For fiscal year 2005, five percent to the priority schools trust fund**
11 **created pursuant to section 163.201, RSMo, and ninety-five percent to the**
12 **state school moneys fund;**

13 **(2) For fiscal year 2006, ten percent to the priority schools trust fund**
14 **and ninety percent to the state school moneys fund; and**

15 **(3) For fiscal year 2007, and each fiscal year thereafter, fifteen percent**
16 **to the priority schools trust fund and eighty-five percent to the state school**
17 **moneys fund;**

18 **3. The amount transferred pursuant to subsection 2 of this section to**
19 **the priority schools trust fund shall be replaced in the state school moneys**
20 **fund from general revenue. The inclusion of appropriate transfer language**
21 **in the education appropriations bill shall be a condition to any transfers to**
22 **the priority schools trust fund.**

23 **4. The provisions of this section relating to transfers to the priority**
24 **schools trust fund shall not be implemented for any fiscal year unless the**
25 **chairs of the house budget committee and senate appropriations committee**
26 **and the commissioner of education jointly determine that the appropriation**
27 **for the school funding formula contained in subsection 6 of section 163.031,**
28 **RSMo, would have been sufficient to provide a proration factor on lines 1a**
29 **and 1b of 1.0 or greater if the aid were distributed pursuant to the school**
30 **funding formula contained in subsection 6 of section 163.031, RSMo, as such**
31 **formula existed in law on January 1, 2003. For fiscal year 2005 and**
32 **subsequent years during which the moneys originating from the gaming**

33 proceeds for education fund are being transferred to the priority schools
34 trust fund at less than fifteen percent of the total, in the fiscal year
35 immediately following any fiscal year in which the transfers were suspended,
36 the transfers shall be resumed, upon determination of the requisite proration
37 level pursuant to this subsection, at the percentage level specified for the
38 year in which the transfers were suspended. If the transfers are suspended
39 for two consecutive years or more, when transfers resume they shall be at the
40 level specified for the first year in the consecutive years in which the
41 transfers were suspended.

160.731. 1. The department of elementary and secondary education
2 shall be authorized, subject to appropriation, to award uniform salary
3 supplement grants to high quality teachers employed in priority schools, as
4 that term is defined in subsection 2 of section 160.720. A uniform, annual
5 salary supplement grant of up to three thousand dollars shall be granted to
6 the eligible teacher based upon full-time employment for the academic
7 year. The supplement paid pursuant to this section may be paid in a lump
8 sum at the beginning of the fiscal year to a school district in the amount
9 necessary to cover all of the salary supplements owed to teachers in the
10 district, to be held by the district for a pro rata disbursement to be included
11 in the teacher's regular salary payments. Any salary supplement received
12 pursuant to this section shall be in addition to the base salary to which the
13 teacher would otherwise be entitled. Teachers receiving the salary
14 supplement shall receive any pay and benefits received by teachers of similar
15 training, experience, and duties.

16 2. The state board of education shall establish by administrative rule
17 the qualifications for high quality teachers.

18 (1) The purpose of these criteria will be to determine eligibility for
19 salary supplements authorized under this section.

20 (2) This designation of high quality may be for a student attending a
21 Missouri teacher preparation institution or an existing teacher who meets the
22 qualifications for designation as a high quality teacher.

23 (3) Factors in determining eligibility shall include, but not be limited
24 to, cumulative grade point average, scores on standardized testing, and
25 teacher or faculty recommendations.

26 (4) Any teacher receiving certification from the National Board for
27 Professional Teaching Standards shall be considered as meeting the
28 qualifications for a high quality teacher pursuant to this section.

29 **3. No rule or portion of a rule promulgated pursuant to the authority**
30 **of this section shall become effective unless it has been promulgated pursuant**
31 **to chapter 536, RSMo.**

162.261. 1. The government and control of a seven-director school district, other
2 than an urban district, is vested in a board of education of seven members, who hold
3 their office for three years, except as provided in section 162.241, and until their
4 successors are duly elected and qualified. Any vacancy occurring in the board shall be
5 filled by the remaining members of the board; except that if there are more than two
6 vacancies at any one time, the county commission upon receiving written notice of the
7 vacancies shall fill the vacancies by appointment. The person appointed shall hold office
8 until the next municipal election, when a director shall be elected for the unexpired
9 term.

10 **2. No seven-director, urban, or metropolitan school district board of**
11 **education shall hire a spouse of any member of such board for a vacant or**
12 **newly created position unless the position has been advertised pursuant to**
13 **board policy and the superintendent of schools submits a written**
14 **recommendation for the employment of the spouse to the board of**
15 **education. The names of all applicants as well as the name of the applicant**
16 **hired for the position are to be included in the board minutes.**

162.431. 1. When it is necessary to change the boundary lines between
2 seven-director school districts, in each district affected, ten percent of the voters by
3 number of those voting for school board members in the last annual school election in
4 each district, may petition the district boards of education in the districts affected,
5 regardless of county lines, for a change in boundaries. The question shall be submitted
6 at the next municipal election.

7 2. The voters shall decide the question by a majority vote of those who vote upon
8 the question. If assent to the change is given by each of the various districts voting,
9 each voting separately, the boundaries are changed from that date.

10 3. If one of the districts votes against the change and the other votes for the
11 change, the matter may be appealed to the state board of education, in writing, within
12 fifteen days of the submission of the question by either one of the districts affected, or
13 in the above event by a majority of the signers of the petition requesting a vote on the
14 proposal. At the first meeting of the state board following the appeal, a board of
15 arbitration composed of three members, none of whom shall be a resident of any district
16 affected, shall be appointed. **In determining whether it is necessary to change**
17 **the boundary line between seven-director districts, the board of arbitration**

18 **must base its decision upon the following:**

- 19 **(1) The presence of school aged children in the affected area;**
20 **(2) The presence of actual educational harm to school-aged children,**
21 **either due to a significant difference in the time involved in transporting**
22 **students or educational deficiencies in the district which would have its**
23 **boundary adversely affected; and**
24 **(3) The presence of an educational necessity, not of a commercial**
25 **benefit to landowners or to the district benefitting for the purposed boundary**
26 **adjustment.**

27 4. Within twenty days after notification of appointment, the board of arbitration
28 shall meet and consider the necessity for the proposed changes and shall decide whether
29 the boundaries shall be changed as requested in the petition or be left unchanged, which
30 decision shall be final. The decision by the board of arbitration shall be rendered not
31 more than thirty days after the matter is referred to the board. The chairman of the
32 board of arbitration shall transmit the decision to the secretary of each district affected
33 who shall enter the same upon the records of his district and the boundaries shall
34 thereafter be in accordance with the decision of the board of arbitration. The members
35 of the board of arbitration shall be allowed a fee of fifty dollars each, to be paid at the
36 time the appeal is made by the district taking the appeal or by the petitioners should
37 they institute the appeal.

38 5. If the board of arbitration decides that the boundaries shall be left unchanged,
39 no new petition for the same, or substantially the same, boundary change between the
40 same districts shall be filed until after the expiration of two years from the date of the
41 municipal election at which the question was submitted to the voters of the districts.

162.601. 1. Elected members of the board in office on August 28, 1998, shall hold
2 office for the length of term for which they were elected, and any members appointed
3 pursuant to section 162.611 to fill vacancies left by elected members in office on August
4 28, 1998, shall serve for the remainder of the term to which the replaced member was
5 elected.

6 2. No board members shall be elected at the first municipal election in an
7 odd-numbered year next following August 28, 1998.

8 3. Three board members shall be elected at the second municipal election in an
9 odd-numbered year next following August 28, 1998, to serve four-year terms.

10 4. Four board members shall be elected at the third municipal election in an
11 odd-numbered year next following August 28, 1998, and two of such members shall be
12 elected to four-year terms and two of such members shall be elected to three-year terms.

13 5. Beginning with the fourth municipal election in an odd-numbered year next
14 following August 28, 1998, and at each succeeding municipal election in a year during
15 which board member terms expire, there shall be elected members of the board of
16 education, who shall assume the duties of their office at the first regular meeting of the
17 board of education after their election, and who shall hold office for four years, and until
18 their successors are elected and qualified.

19 6. Members of the board of directors shall be elected to represent seven
20 subdistricts. The subdistricts shall be established by the state board of education to be
21 compact, contiguous and as nearly equal in population as practicable. The subdistricts
22 shall be revised by the state board of education after each decennial census and at any
23 other time the state board determines that the district's demographics have changed
24 sufficiently to warrant redistricting.

25 7. A member shall reside in and be elected in the subdistrict which the member
26 is elected to represent. Subdistrict 1 shall be comprised of wards 1, 2, 22 and
27 27. Subdistrict 2 shall be comprised of wards 3, 4, 5 and 21. Subdistrict 3 shall be
28 comprised of wards 18, 19, 20 and 26. Subdistrict 4 shall be comprised of wards 6, 7, 17
29 and 28. Subdistrict 5 shall be comprised of wards 9, 10, 11 and 12. Subdistrict 6 shall
30 be comprised of wards 13, 14, 16 and 25. Subdistrict 7 shall be comprised of wards 8,
31 15, 23 and 24.

32 [8. No one may run for school board who is employed by the school district or who
33 is related to an employee of the school district within the second degree of affinity or
34 consanguinity.]

163.201. 1. For fiscal year 2005 and each subsequent fiscal year, the
2 "Priority Schools Trust Fund", which is hereby created in the state treasury,
3 shall be distributed by the state board of education. Fifty percent of the
4 moneys transferred in the current year to the fund shall be used to fund
5 uniform salary supplement grants to all high quality teachers employed in
6 priority schools, pursuant to section 160.731, RSMo; provided that the amount
7 distributed to fund such grants shall not exceed the amount needed to fund
8 salary grants to all eligible teachers in the amount of three thousand dollars
9 for every eligible teacher. The remaining moneys transferred in the current
10 year to the fund shall be distributed to all priority school districts, as defined
11 pursuant to section 160.720, RSMo, in an amount per eligible pupil that is
12 equal to the district current year formula amount per eligible pupil times the
13 quotient of the amount of funds to be appropriated pursuant to this
14 subsection to priority school districts divided by the total current year

15 **formula entitlement for all priority school districts. In districts in which**
16 **charter schools are permitted, each charter school shall receive its**
17 **disbursement of moneys from the priority schools trust fund on the same**
18 **basis that the district's share is calculated. For districts in which students**
19 **are participating in a voluntary interdistrict transfer program, such students**
20 **shall be counted for attendance in the receiving district which shall receive**
21 **the priority schools trust funds attributable to these students.**

22 **2. The moneys distributed to priority school districts shall be used by**
23 **the district to implement the district comprehensive strategy for addressing**
24 **areas of deficiency required pursuant to subsection 4 of section 160.720,**
25 **RSMo.**

26 **3. The priority schools trust fund shall consist of all moneys**
27 **transferred to it pursuant to section 160.534, RSMo, all moneys otherwise**
28 **appropriated or donated to it and, notwithstanding any other provision of law**
29 **to the contrary, all unclaimed lottery prize money.**

164.303. There is hereby established in the state treasury the "School District
2 Bond Fund". Such amounts as may be necessary to fund the annual requests submitted
3 by the health and educational facilities authority to fund the payment of costs and
4 grants as provided in subsection 7 of section 360.106 and sections 360.111 to 360.118,
5 RSMo, and necessary costs for administration of those provisions, but not to exceed seven
6 million dollars per year, shall be transferred by appropriation to the fund from the
7 gaming proceeds for education fund before any amounts in the gaming proceeds for
8 education fund are transferred [to the state school moneys fund,] as provided in section
9 160.534, RSMo. Moneys deposited in the school district bond fund shall be used by the
10 health and educational facilities authority, subject to appropriation, to fund the payment
11 of costs and grants as provided in subsection 7 of section 360.106 and sections 360.111
12 to 360.118, RSMo, and necessary costs for administration of those
13 provisions. Notwithstanding the provisions of section 33.080, RSMo, to the contrary,
14 moneys in the fund shall not be transferred to the credit of the general revenue fund at
15 the end of each biennium.

165.011. 1. The following funds are created for the accounting of all school
2 moneys: teachers' fund, incidental fund, free textbook fund, capital projects fund and
3 debt service fund. The treasurer of the school district shall open an account for each
4 fund specified in this section, and all moneys received from the county school fund and
5 all moneys derived from taxation for teachers' wages shall be placed to the credit of the
6 teachers' fund. All tuition fees, state moneys received under sections 162.975, RSMo,

7 and 163.031, RSMo, and all other moneys received from the state except as herein
8 provided shall be placed to the credit of the teachers' and incidental funds at the
9 discretion of the district board of education. The portion of state aid received by the
10 district pursuant to section 163.031, RSMo, based upon the portion of the tax rate in the
11 debt service or capital projects fund, respectively, which is included in the operating levy
12 for school purposes pursuant to section 163.011, RSMo, shall be placed to the credit of
13 the debt service fund or capital projects fund, respectively. Money received from other
14 districts for transportation and money derived from taxation for incidental expenses
15 shall be credited to the incidental fund. Money apportioned for free textbooks shall be
16 credited to the free textbook fund. All money derived from taxation or received from any
17 other source for the erection of buildings or additions thereto and the remodeling or
18 reconstruction of buildings and the furnishing thereof, for the payment of lease-purchase
19 obligations, for the purchase of real estate, or from sale of real estate, schoolhouses or
20 other buildings of any kind, or school furniture, from insurance, from sale of bonds other
21 than refunding bonds shall be placed to the credit of the capital projects fund. All
22 moneys derived from the sale or lease of sites, buildings, facilities, furnishings and
23 equipment by a school district as authorized under section 177.088, RSMo, shall be
24 credited to the capital projects fund. Money derived from taxation for the retirement of
25 bonds and the payment of interest thereon shall be credited to the debt service fund
26 which shall be maintained as a separate bank account. Receipts from delinquent taxes
27 shall be allocated to the several funds on the same basis as receipts from current taxes,
28 except that where the previous years' obligations of the district would be affected by such
29 distribution, the delinquent taxes shall be distributed according to the tax levies made
30 for the years in which the obligations were incurred. All refunds received shall be placed
31 to the credit of the fund from which the original expenditures were made. Money
32 donated to the school districts shall be placed to the credit of the fund where it can be
33 expended to meet the purpose for which it was donated and accepted. Money received
34 from any other source whatsoever shall be placed to the credit of the fund or funds
35 designated by the board.

36 2. [(1)] The school board may expend from the incidental fund the sum that is
37 necessary for the ordinary repairs of school property and an amount not to exceed the
38 sum of expenditures for classroom instructional capital outlay, as defined by the
39 department of elementary and secondary education by rule, in state-approved area
40 vocational-technical schools and the greater of twenty-five percent of the guaranteed tax
41 base for the preceding year or two and one-fourth percent of the district's entitlement for
42 the preceding school year as established pursuant to line 1 of subsection 6 of section

43 163.031, RSMo, as of June thirtieth of the preceding school year for classroom
44 instructional capital outlay, including but not limited to payments authorized pursuant
45 to section 177.088, RSMo. Any and all payments authorized under section 177.088,
46 RSMo, except as otherwise provided in this subsection, for the purchase or lease of sites,
47 buildings, facilities, furnishings and equipment and all other expenditures for capital
48 outlay shall be made from the capital projects fund. If a balance remains in the free
49 textbook fund after books are furnished to pupils as provided in section 170.051, RSMo,
50 it shall be transferred to the teachers' fund. The board may transfer the portion of the
51 balance remaining in the incidental fund to the teachers' fund that is necessary for the
52 total payment of all contracted obligations to teachers. If a balance remains in the debt
53 service fund, after the total outstanding indebtedness for which the fund was levied is
54 paid, the board may transfer the unexpended balance to the capital projects fund. If a
55 balance remains in the bond proceeds after completion of the project for which the bonds
56 were issued, the balance shall be transferred from the incidental or capital projects fund
57 to the debt service fund. After making all placements of interest otherwise provided by
58 law, a school district may transfer from the capital projects fund to the incidental fund
59 the interest earned from undesignated balances in the capital projects fund. All other
60 sections of the law notwithstanding, a school district may transfer from the incidental
61 fund to the capital projects fund an amount equal to the capital expenditures for school
62 safety and security purposes. A school district may borrow from one of the following
63 funds: teachers' fund, incidental fund or capital projects fund, as necessary to meet
64 obligations in another of those funds; provided that the full amount is repaid to the
65 lending fund within the same fiscal year.

66 [(2) No school district shall make any expenditure for any lease purchase
67 obligation authorized pursuant to section 177.088, RSMo, and incurred on or after
68 January 1, 1997, from the district's capital projects fund unless the district levies, in the
69 current year, a tax rate in the capital projects fund which is sufficient to generate
70 revenues equal to or greater than the amount of such expenditure and collects such
71 revenues and credits such revenues to the capital projects fund. For the purposes of
72 subsection 8 of this section, any expenditure made in violation of this subdivision shall
73 be considered a transfer of funds performed in violation of this section and that amount
74 shall be deducted from the school district's state aid calculated pursuant to section
75 163.031, RSMo, in the school year following the year such expenditure is made.]

76 3. Tuition shall be paid from either the teachers' or incidental funds.

77 4. Other provisions of law to the contrary notwithstanding, the school board of
78 a school district that satisfies the criteria specified in subsection 5 of this section may

79 transfer from the incidental fund to the capital projects fund the sum of:

80 (1) The amount to be expended for transportation equipment that is considered
81 an allowable cost under state board of education rules for transportation reimbursements
82 during the current year; plus

83 (2) Any amount necessary to satisfy obligations of the capital projects fund for
84 state-approved area vocational-technical schools; plus

85 (3) An amount not to exceed the greater of:

86 (a) The guaranteed tax base for the preceding year; or

87 (b) Nine percent of the district's entitlement for the preceding school year as
88 established pursuant to line 1 of subsection 6 of section 163.031, RSMo, as of June
89 thirtieth of the preceding school year, **less any amount expended from the**
90 **incidental fund for classroom instructional capital outlay pursuant to**
91 **subsection 2 of this section**; provided that transfer amounts authorized pursuant to
92 this subdivision may only be transferred by a resolution of the school board approved by
93 a majority of the board members in office when the resolution is voted upon and
94 identifying the specific capital projects to be funded **directly by the district** by the
95 transferred funds and an estimated expenditure date; and provided that if a district did
96 not maintain compliance with the requirements of section 165.016 the preceding year
97 without recourse to a waiver for that year or a base year adjustment received that year
98 or a fund balance exclusion unless the fund balance exclusion had also been used the
99 second preceding year, the transfer amount pursuant to this subdivision may be
100 transferred only to the extent required to meet current year obligations of the capital
101 projects fund.

102 5. In order to transfer funds pursuant to subsection 4 of this section, a school
103 district shall:

104 (1) Meet the minimum criteria for state aid and for increases in state aid for the
105 current year established pursuant to section 163.021, RSMo;

106 (2) Not incur a total debt, including short-term debt and bonded indebtedness in
107 excess of fifteen percent of the guaranteed tax base for the preceding payment year
108 multiplied by the number of resident and nonresident eligible pupils educated in the
109 district in the preceding year;

110 (3) Set tax rates pursuant to section 164.011, RSMo;

111 (4) First apply any voluntary rollbacks or reductions to the total tax rate levied
112 to the teachers' and incidental funds;

113 (5) In order to be eligible to transfer funds for paying lease purchase obligations:

114 (a) Incur such obligations, except for obligations for lease purchase for school

115 buses, prior to January 1, 1997;

116 (b) Limit the term of such obligations to no more than twenty years;

117 (c) Limit annual installment payments on such obligations to an amount no
118 greater than the amount of the payment for the first full year of the obligation, including
119 all payments of principal and interest, except that the amount of the final payment shall
120 be limited to an amount no greater than two times the amount of such first-year
121 payment;

122 (d) Limit such payments to leasing nonathletic, classroom, instructional facilities
123 as defined by the state board of education through rule; and

124 (e) Not offer instruction at a higher grade level than was offered by the district
125 on July 12, 1994.

126 6. A school district shall be eligible to transfer funds pursuant to subsection 7
127 of this section if:

128 (1) Prior to August 28, 1993:

129 (a) The school district incurred an obligation for the purpose of funding payments
130 under a lease purchase contract authorized under section 177.088, RSMo;

131 (b) The school district notified the appropriate local election official to place an
132 issue before the voters of the district for the purpose of funding payments under a lease
133 purchase contract authorized under section 177.088, RSMo; or

134 (c) An issue for funding payments under a lease purchase contract authorized
135 under section 177.088, RSMo, was approved by the voters of the district; or

136 (2) Prior to November 1, 1993, a school board adopted a resolution authorizing
137 an action necessary to comply with subsection 9 of section 177.088, RSMo. Any increase
138 in the operating levy of a district above the 1993 tax rate resulting from passage of an
139 issue described in paragraph (b) of subdivision (1) of this subsection shall be considered
140 as part of the 1993 tax rate for the purposes of subsection 1 of section 164.011, RSMo.

141 7. Prior to transferring funds pursuant to subsection 4 of this section, a school
142 district may transfer, pursuant to this subsection, from the incidental fund to the capital
143 projects fund an amount as necessary to satisfy an obligation of the capital projects fund
144 that satisfies at least one of the conditions specified in subsection 6 of this section, but
145 not to exceed its payments authorized under section 177.088, RSMo, for the purchase or
146 lease of sites, buildings, facilities, furnishings, equipment, and all other expenditures for
147 capital outlay, plus the amount to be expended for transportation equipment that is
148 considered an allowable cost under state board of education rules for transportation
149 reimbursements during the current year plus any amount necessary to satisfy obligations
150 of the capital projects fund for state-approved area vocational-technical schools. A school

151 district [with a levy for school purposes no greater than the minimum levy specified in
152 section 163.021, RSMo, and an obligation in the capital projects fund that satisfies at
153 least one of the conditions specified in subsection 6 of this section] **that is in**
154 **compliance with section 165.016 during the second preceding year or has paid**
155 **all penalties for the second preceding year**, may transfer from the incidental fund
156 to the capital projects fund the amount necessary to meet the obligation plus the
157 transfers pursuant to subsection 4 of this section.

158 8. Beginning in the 1995-96 school year, the department of elementary and
159 secondary education shall deduct from a school district's state aid calculated pursuant
160 to section 163.031, RSMo, an amount equal to the amount of any transfer of funds from
161 the incidental fund to the capital projects fund performed during the previous year in
162 violation of this section; except that the state aid shall be deducted in equal amounts
163 over the five school years following the school year of an unlawful transfer provided that:

164 (1) The district shall provide written notice to the state board of education, no
165 later than June first of the first school year following the school year of the unlawful
166 transfer, stating the district's intention to comply with the provisions of subdivisions (1)
167 to (4) of this subsection and have state aid deducted for that unlawful transfer over a
168 five-year period;

169 (2) On or before September first of the second school year following the school
170 year of the unlawful transfer, the district shall approve an increase to the district's
171 operating levy for school purposes to the greater of: two dollars and seventy-five cents
172 per one hundred dollars assessed valuation or the levy which produces an increase in
173 total state and local revenues, as determined by the department, in comparison to the
174 first school year following the school year of the unlawful transfer which is equal to or
175 greater than the amount of state aid to be deducted pursuant to this subsection each
176 school year for such unlawful transfer, provided that increases required pursuant to this
177 subdivision for subsequent unlawful transfers shall be made in comparison to the latter
178 tax rate described in this subdivision;

179 (3) During each school year after the school year in which the operating levy is
180 increased pursuant to subdivision (2) of this subsection and in which state aid is
181 deducted pursuant to subdivisions (1) to (4) of this subsection, the district shall maintain
182 an operating levy for school purposes which produces total state and local revenues for
183 the district which are no less than the total state and local revenues produced by the
184 levy required pursuant to subdivision (2) of this subsection;

185 (4) During each school year state aid is deducted pursuant to subdivisions (1) to
186 (4) of this subsection except for the 1998-99 school year, the district shall maintain

187 compliance with the requirements of section 165.016 without any recourse to waivers or
188 base-year adjustments and without the option to demonstrate compliance based upon the
189 district's fund balances; and

190 (5) If, in any school year state aid is deducted pursuant to subdivisions (1) to (4)
191 of this subsection, the district fails to comply with any requirement of subdivisions (1)
192 to (4) of this subsection, the full, remaining amount of state aid to be deducted pursuant
193 to this subsection shall be deducted from the district's state aid payments by the
194 department during such school year.

195 9. On or before June 30, 1999, a school district may transfer to the capital
196 projects fund from the balances of the teachers' and incidental funds any amount, but
197 only to the extent that the amount transferred is equal to or less than the amount that
198 the teachers' and incidental funds' unrestricted balances on June 30, 1995, exceeded
199 eight percent of expenditures from the teachers' and incidental funds for the year ending
200 June 30, 1995.

201 10. (1) Other provisions of law to the contrary notwithstanding, a school district
202 which satisfies all conditions specified in subdivision (2) of this subsection may make the
203 transfer allowed in subdivision (3) of this subsection.

204 (2) To make the transfer allowed under subdivision (3) of this subsection, a school
205 district shall:

206 (a) Have a membership count for school year 1997-98 which is at least sixteen
207 percent greater than the district's membership count for the 1991-92 school year; and

208 (b) Have passed a full waiver of Proposition C tax rate rollback pursuant to
209 section 164.013, RSMo, or approved an increase to the district's tax rate ceiling on or
210 after June 1, 1994; and

211 (c) Be in compliance or have paid all penalties required pursuant to section
212 165.016 for the 1994-95, 1995-96 and 1996-97 school years without waiver or adjustment
213 of the base school year certificated salary percentage; and

214 (d) After all transfers, have a remaining balance on June 30, 1998, in the
215 combined teachers' and incidental funds which is no less than ten percent of the
216 combined expenditures from those funds for the 1997-98 school year.

217 (3) A district which satisfies all of the criteria specified in paragraphs (a) to (d)
218 of subdivision (2) of this subsection may, on or before June 30, 1998, make a one-time
219 combined transfer from the teachers' and incidental funds to the capital projects fund
220 of an amount no greater than the sum of the following amounts:

221 (a) The product of the district's equalized assessed valuation for 1994 times the
222 difference of the district's equalized operating levy for school purposes for 1994 minus

223 the district's equalized operating levy for school purposes for 1993;

224 (b) The product of the district's equalized assessed valuation for 1995 times the
225 difference of the district's equalized operating levy for school purposes for 1995 minus
226 the district's equalized operating levy for school purposes for 1993;

227 (c) The product of the district's equalized assessed valuation for 1996 times the
228 difference of the district's equalized operating levy for school purposes for 1996 minus
229 the district's equalized operating levy for school purposes for 1993;

230 (d) The product of the district's equalized assessed valuation for 1997 times the
231 difference of the district's equalized operating levy for school purposes for 1997 minus
232 the district's equalized operating levy for school purposes for 1993; provided that the
233 remaining balance in the incidental fund shall be no less than twelve percent of the total
234 expenditures during that fiscal year from the incidental fund.

235 (4) A district which makes a transfer pursuant to subdivision (3) of this
236 subsection shall be subject to compliance with the requirements of section 165.016 for
237 fiscal years 1999, 2000 and 2001, without the option to request a waiver or an
238 adjustment of the base school year certificated salary percentage.

239 (5) Other provisions of section 165.016 to the contrary notwithstanding, the
240 transfer of an amount of funds from either the teachers' or incidental fund to the capital
241 projects fund pursuant to subdivision (3) of this subsection shall not be considered an
242 expenditure from the teachers' or incidental fund for the purpose of determining
243 compliance with the provisions of subsections 1 and 2 of section 165.016.

244 11. In addition to other transfers authorized under subsections 1 to 9 of this
245 section, a district may transfer from the teachers' and incidental funds to the capital
246 projects fund the amount necessary to repay costs of one or more guaranteed energy
247 savings performance contracts to renovate buildings in the school district; provided that
248 the contract is only for energy conservation measures, as defined in section 640.651,
249 RSMo, and provided that the contract specifies that no payment or total of payments
250 shall be required from the school district until at least an equal total amount of energy
251 and energy-related operating savings and payments from the vendor pursuant to the
252 contract have been realized by the school district.

253 12. In addition to other transfers authorized pursuant to subsections 1 to 9 of
254 this section, any school district that has undergone at least a twenty-percent increase
255 in assessed valuation from the preceding year because of the construction of a power
256 plant may make a one-time transfer on the basis of each such increase, to the capital
257 projects fund from the balances of the teachers' and incidental funds' unrestricted
258 balances in an amount equal to twice the amount of such transfer otherwise permitted

259 pursuant to this section for the year in which such one-time transfer is made; provided
260 that such transfer shall be made prior to the end of the second fiscal year following the
261 fiscal year in which the increase in assessed valuation is effective. Such one-time
262 transfer may be made without regard to whether the transferred funds are used for
263 current expenditures. No transfer shall be made pursuant to this subsection after June
264 30, 2003.

265 **13. In addition to other transfers authorized pursuant to this section,**
266 **an eligible school district may transfer from the incidental fund to the capital**
267 **projects fund to make expenditures which decrease the total interest cost of**
268 **payments for a lease-purchase obligation authorized by section 177.088, RSM.**
269 **eligible school district shall:**

- 270 (1) Have never made a previous transfer pursuant to this subsection;
271 (2) Have ending cash reserves during the year of the transfer in
272 incidental and teachers' funds combined equal to or greater than fifteen
273 percent of expenditures;
274 (3) Decrease the interest cost of all remaining lease-purchase payments
275 by at least the cost of refinancing plus ten percent;
276 (4) Make payments equal to or greater than the amount of the transfer
277 for a lease-purchase obligation meeting an eligibility requirement of
278 subsections 5 or 6 of this section;
279 (5) Levy in the incidental and teachers' funds a levy greater than two
280 dollars and seventy-five cents during the year of the transfer and each of the
281 two previous years;
282 (6) Demonstrate compliance with the requirements of section 165.016
283 or have paid all outstanding penalties to eligible staff for five consecutive
284 years prior to the year of the transfer; and
285 (7) Have an average salary for teachers in the district which equals or
286 exceeds for three consecutive years prior to the year of the transfer at least
287 one of the following:
288 (a) The average salary for teachers statewide; or
289 (b) The average salary for teachers in its senatorial district.

290 **14. A school district may transfer unrestricted funds from the capital**
291 **projects fund to the incidental fund in any year in which that year's June**
292 **thirtieth combined incidental and teachers funds unrestricted balance**
293 **compared to the combined incidental and teachers funds expenditures would**
294 **be less than ten percent without such transfer.**

165.016. 1. A school district shall expend as a percentage of current operating

2 cost, for tuition, teacher retirement and compensation of certificated staff, a percentage
3 that is for the 1994-95 and 1995-96 school years, no less than three percentage points
4 less than the base school year certificated salary percentage and for the 1996-97 school
5 year, no less than two percentage points less than the base school year certificated salary
6 percentage. A school district may exclude transportation and school safety and security
7 expenditures from the current operating cost calculation of the base year and the year
8 or years for which the compliance percentage is calculated. The base school year
9 certificated salary percentage shall be the two-year average percentage of the 1991-92
10 and 1992-93 school years except as otherwise established by the state board under
11 subsection 4 of this section; except that, for any school district experiencing, over a
12 period of three consecutive years, an average yearly increase in average daily attendance
13 of at least three percent, the base school year certificated salary percentage may be the
14 two-year average percentage of the last two years of such period of three consecutive
15 years, at the discretion of the school district.

16 2. Beginning with the 1997-98 school year, a school district shall:

17 (1) Expend, as a percentage of current operating cost, as determined in
18 subsection 1 of this section, for tuition, teacher retirement and compensation of
19 certificated staff, a percentage that is no less than two percentage points less than the
20 base school year certificated salary percentage; or

21 (2) For any year in which no payment of a penalty is required for the district
22 under subsection 6 of this section, have an unrestricted fund balance in the combined
23 incidental and teachers' funds on June thirtieth which is equal to or less than ten
24 percent of the combined expenditures for the year from those funds.

25 3. Beginning with the 1999-2000 school year:

26 (1) As used in this subsection, "fiscal instructional ratio of efficiency" or "FIRE"
27 means the quotient of the sum of the district's current operating costs, as defined in
28 section 163.011, RSMo, for all kindergarten through grade twelve direct instructional
29 and direct pupil support service functions plus the costs of improvement of instruction
30 and the cost of purchased services and supplies for operation of the facilities housing
31 those programs, and excluding student activities, divided by the sum of the district's
32 current operating cost for kindergarten through grade twelve, plus all tuition revenue
33 received from other districts minus all noncapital transportation and school safety and
34 security costs;

35 (2) A school district shall show compliance with this section in school year
36 1998-99 and thereafter by the method described in subsections 1 and 2 of this section,
37 or by maintaining or increasing its fiscal instructional ratio of efficiency compared to its

38 FIRE for the 1997-98 base year.

39 4. (1) The state board of education may exempt a school district from the
40 requirements of this section upon receiving a request for an exemption by a school
41 district. The request shall show the reason or reasons for the noncompliance, and the
42 exemption shall apply for only one school year. Requests for exemptions under this
43 subdivision may be resubmitted in succeeding years;

44 (2) A school district may request of the state board a one-time, permanent
45 revision of the base school year certificated salary percentage. The request shall show
46 the reason or reasons for the revision.

47 5. Any school district requesting an exemption or revision under subsection 4 of
48 this section must notify the certified staff of the district in writing of the district's
49 intent. Prior to granting an exemption or revision, the state board shall consider
50 comments from certified staff of the district. The state board decision shall be final.

51 6. Any school district which is determined by the department to be in violation
52 of the requirements of subsection 1 or 2 of this section, or both, shall compensate the
53 building-level administrative staff and nonadministrative certificated staff during the
54 year following the notice of violation by an additional amount which is equal to one
55 hundred ten percent of the amount necessary to bring the district into compliance with
56 this section for the year of violation. In any year in which a penalty is paid, the district
57 shall pay the penalty specified in this subsection in addition to the amount required
58 under this section for the current school year.

59 7. Any additional transfers from the teachers' or incidental fund to the capital
60 projects fund beyond the transfers authorized by state law and state board policy in
61 effect on January 1, 1996, shall be considered expenditures from the teachers' or
62 incidental fund for the purpose of determining compliance with the provisions of
63 subsections 1, 2 and 3 of this section.

64 8. The provisions of this section shall not apply to any district receiving state aid
65 pursuant to subsection 6 of section 163.031, RSMo, based on its 1992-93 payment amount
66 per eligible pupil, which is less than fifty percent of the statewide average payment
67 amount per eligible pupil paid during the previous year.

68 **9. The provisions of subsections 1 to 8 of this section shall not apply to**
69 **any district that has unrestricted fund balances in the combined incidental**
70 **and teacher funds on June thirtieth of the preceding year which are equal to**
71 **or less than seventeen percent of the combined expenditure for the preceding**
72 **year from these funds in any year in which state funds distributed pursuant**
73 **to section 163.031, RSMo, lines 1 to 10 plus line 14 are no more than ninety-six**

74 **percent of such state funds distributed in fiscal year 2002.**

75 **10. The provisions of subsections 1 to 8 of this section shall not apply**
76 **to any district which meets the following criteria:**

77 **(1) With ten percent or more of its assessed valuation that is owned by**
78 **one person or corporation as commercial or personal property who is**
79 **delinquent in a property tax payment;**

80 **(2) With unrestricted fund balances in the combined incidental and**
81 **teacher funds on June thirtieth of the preceding year which are equal to or**
82 **less than one half of the local property tax revenue for the previous year; and**

83 **(3) In any year in which state funds distributed pursuant to section**
84 **163.031, RSMo, lines 1 to 10 plus line 14 are no more than ninety-six percent**
85 **of such state funds distributed in fiscal year 2002.**

393.310. 1. This section shall only apply to gas corporations as defined in section
2 386.020, RSMo. This section shall not affect any existing laws and shall only apply to
3 the program established pursuant to this section.

4 2. As used in this section, the following terms mean:

5 (1) "Aggregate", the combination of natural gas supply and transportation
6 services, including storage, requirements of eligible school entities served through a
7 Missouri gas corporation's delivery system;

8 (2) "Commission", the Missouri public service commission; and

9 (3) "Eligible school entity" shall include any seven-director, urban or metropolitan
10 school district as defined pursuant to section 160.011, RSMo, and shall also include, one
11 year after July 11, 2002, and thereafter, any school for elementary or secondary
12 education situated in this state, whether a charter, private, or parochial school or school
13 district.

14 3. Each Missouri gas corporation shall file with the commission, by August 1,
15 2002, a set of experimental tariffs applicable the first year to public school districts and
16 applicable to all school districts, whether charter, private, public, or parochial,
17 thereafter.

18 4. The tariffs required pursuant to subsection 3 of this section shall, at a
19 minimum:

20 (1) Provide for the aggregate purchasing of natural gas supplies and pipeline
21 transportation services on behalf of eligible school entities in accordance with aggregate
22 purchasing contracts negotiated by and through a not-for-profit school association;

23 (2) Provide for the resale of such natural gas supplies, including related
24 transportation service costs, to the eligible school entities at the gas corporation's cost

25 of purchasing of such gas supplies and transportation, plus all applicable distribution
26 costs, plus an aggregation and balancing fee to be determined by the commission, not to
27 exceed four- tenths of one cent per therm delivered during the first year; and

28 (3) Not require telemetry or special metering, except for individual school meters
29 over one hundred thousand therms annually.

30 5. The commission may suspend the tariff as required pursuant to subsection 3
31 of this section for a period ending no later than November 1, 2002, and shall approve
32 such tariffs upon finding that implementation of the aggregation program set forth in
33 such tariffs will not have any negative financial impact on the gas corporation, its other
34 customers or local taxing authorities, and that the aggregation charge is sufficient to
35 generate revenue at least equal to all incremental costs caused by the experimental
36 aggregation program. **Except as may be mutually agreed by the gas corporation**
37 **and eligible school entities and approved by the commission, such tariffs shall**
38 **not require eligible school entities to be responsible for pipeline capacity**
39 **charges for longer than is required by the gas corporation's tariff for large**
40 **industrial or commercial customers.**

41 6. The commission **shall treat the gas corporation's pipeline capacity**
42 **costs for associated eligible school entities in the same manner as for large**
43 **industrial or commercial customers, which shall not be considered a negative**
44 **financial impact on the gas corporation, its other customers, or local taxing**
45 **authorities, and the commission** may adopt by order such other procedures not
46 inconsistent with this section which the commission determines are reasonable or
47 necessary to administer the experimental program.

48 7. This section shall terminate June 30, 2005.

Section B. Because of the need to adequately fund the public schools of this state,
2 section A of this act is deemed necessary for the immediate preservation of the public
3 health, welfare, peace and safety, and is hereby declared to be an emergency act within
4 the meaning of the constitution, and section A of this act shall be in full force and effect
5 upon its passage and approval.