

SECOND REGULAR SESSION

# HOUSE BILL NO. 856

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES HOLAND (Sponsor), DAVIS (122), MORRIS, WALKER,  
BARNITZ AND WALLACE (Co-sponsors).

Pre-filed December 15, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2899L.011

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### AN ACT

To amend chapter 162, RSMo, by adding thereto eleven new sections relating to school district tax alternatives.

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

Section A. Chapter 162, RSMo, is amended by adding thereto eleven new sections, to  
2 be known as sections 162.1150, 162.1152, 162.1154, 162.1156, 162.1158, 162.1160, 162.1162,  
3 162.1164, 162.1166, 162.1168, and 162.1170, to read as follows:

**162.1150. Sections 162.1150 to 162.1164 shall be known and may be cited as the**  
2 **"School District Income Tax Surcharge Act", and the following terms mean:**

3 **(1) "Director of revenue", the director of revenue of the state of Missouri;**

4 **(2) "Income tax", the tax imposed by chapter 143, RSMo, excluding withholding**  
5 **taxes pursuant to sections 143.191 to 143.265, RSMo;**

6 **(3) "Residents of the district", persons residing in the school district; except that**  
7 **if during a tax year a person moves from one district to another district, the district in**  
8 **which the person resides on December thirty-first of such tax year shall be deemed to be**  
9 **the district of residence for such tax year for the purposes of sections 162.1150 to 162.1164**  
10 **and shall be credited with all the tax paid by such person pursuant to sections 162.1150 to**  
11 **162.1164. An estate or trust shall be a "resident of the district" if:**

12 **(a) In the case of a decedent, the decedent was at the time of death residing in the**  
13 **district;**

14 **(b) In the case of a trust created by will of a decedent, the decedent was at the time**  
15 **of death residing in the district; and**

16 (c) In the case of a trust created by, or consisting of property of a person, the  
17 person was residing in the district on the date the trust or portion of the trust became  
18 irrevocable;

19 (4) "School board", the governing body of a school district;

20 (5) "School district", seven-director, urban, and metropolitan school districts.

162.1152. 1. Any school district, by a majority vote of its school board, may impose  
2 for the benefit of the school district a surcharge on the income tax of residents of the school  
3 district in increments of five percent at a rate not to exceed fifteen percent; provided that,  
4 no resolution or order enacted pursuant to this section shall be effective unless the school  
5 board of the district submits to the qualified voters of the district, at a general or primary  
6 election, a proposal to authorize the school board of the school district to impose an income  
7 tax surcharge.

8 2. The question shall be submitted in substantially the following form:

9 Shall the ..... (School district's name) impose a school district-wide income tax  
10 surcharge of ..... (Insert amount) for a period not to exceed ..... (Insert number) years  
11 for the purpose of ..... (Insert educational purpose)?

12  YES

NO

13  
14 If you are in favor of the question, place an "X" in the box opposite "YES". If you are  
15 opposed to the question, place an "X" in the box opposite "NO".

16 3. If a majority of the votes cast on the proposal is in favor of the proposal, then the  
17 surcharge on the income tax of residents of the district shall be imposed and shall take  
18 effect as provided in this section. If a majority of the votes cast by the qualified voters  
19 voting is opposed to the proposal, then the school board of the district shall have no power  
20 to impose the income tax surcharge as authorized pursuant to sections 162.1150 to 162.1164  
21 unless and until the school board has again submitted a proposal to authorize the  
22 imposition of the income tax surcharge pursuant to sections 162.1150 to 162.1164 and such  
23 proposal is approved by a majority of the qualified voters voting thereon. However, in no  
24 event shall a proposal for approval of an income tax surcharge be submitted to the voters  
25 pursuant to sections 162.1150 to 162.1164 sooner than ten months from the date of the last  
26 proposal submitted pursuant to sections 162.1150 to 162.1164 in the school district.

27 4. The tax authorized by this section shall terminate not more than three years from  
28 the effective date of such tax, unless sooner abolished by the school board. Once the tax  
29 authorized by this section is abolished or is terminated by any means, the school boards  
30 shall have no power to impose the tax unless and until the school boards shall again have  
31 submitted another proposal to authorize the imposition of the tax authorized by this section

32 and such proposal is approved by a majority of the qualified voters voting thereon, but no  
33 proposal for the tax shall be submitted to the voters to be effective in less than one calendar  
34 year of the date the tax was abolished or terminated.

35 5. Within ten days after the certification of the vote approving any resolution or  
36 order imposing an income tax surcharge by the voters of a school district, the secretary of  
37 the school board shall forward to the director of revenue a certified copy of the resolution  
38 or order of the school board. The tax shall become effective for the tax year beginning on  
39 or after January first of the year immediately succeeding the approval.

40 6. On and after the effective date of any income tax surcharge imposed pursuant  
41 to sections 162.1150 to 162.1164, the director of revenue shall perform all functions  
42 incident to the administration, collection, enforcement, and operation of the income tax  
43 surcharge, and the director of revenue shall collect in addition to the income tax for the  
44 state of Missouri the additional income tax surcharge imposed pursuant to sections  
45 162.1150 to 162.1164. The income tax surcharge imposed hereunder and the tax imposed  
46 pursuant to chapter 143, RSMo, shall be collected together and reported upon such forms  
47 and pursuant to such rules and regulations as may be prescribed by the director of  
48 revenue.

162.1154. 1. In lieu of imposing the income tax surcharge pursuant to section  
2 162.1152, any school district may impose a surcharge on the income tax of residents of the  
3 school district at a rate not to exceed fifteen percent for the purpose of property tax  
4 reduction, provided that no resolution or order enacted pursuant to this section shall be  
5 effective unless the school board of the district submits to the voters of the district at a  
6 primary or general election a proposal to authorize the school board to impose the income  
7 tax surcharge and further provided that no such property tax reduction shall reduce the  
8 district's operating levy below the minimum levy required by section 163.021, RSMo.

9 2. The question shall be submitted in substantially the following form:

10 Shall the ..... (School district's name) impose a school district-wide income tax  
11 surcharge of ..... (Insert amount) for a period not to exceed ..... (Insert number) years  
12 for the purpose of reducing property tax?

13  YES

NO

14  
15 If you are in favor of the question, place an "X" in the box opposite "YES". If you are  
16 opposed to the question, place an "X" in the box opposite "NO".

17 3. If a majority of the votes cast on the proposal is in favor of the proposal, then the  
18 surcharge on the income tax of residents of the district shall be imposed and shall take  
19 effect as provided in section 162.1152. If a majority of the votes cast by the qualified voters

20 voting is opposed to the proposal, then the school board of the district shall have no power  
21 to impose the income tax surcharge as authorized pursuant to sections 162.1150 to 162.1164  
22 unless and until the school board shall again have submitted a proposal to authorize the  
23 imposition of the income tax surcharge pursuant to sections 162.1150 to 162.1164 and such  
24 proposal is approved by a majority of the qualified voters voting thereon. However, in no  
25 event shall a proposal for approval of an income tax surcharge be submitted to the voters  
26 pursuant to sections 162.1150 to 162.1164 sooner than ten months from the date of the last  
27 proposal submitted pursuant to sections 162.1150 to 162.1164 in the school district.

28       4. The department of elementary and secondary education shall calculate a  
29 property tax equivalent figure for such portion of the district's operating levy which shall  
30 be used on lines 1 and 2 of the state school aid formula during the effective period of the  
31 income tax surcharge as specified in this subsection, using the average of the first and  
32 second prior year's assessed valuation and averages of income tax estimates and historical  
33 data as follows:

34       (1) By June fifteenth of the first year in which the tax is effective, the director of  
35 revenue shall furnish to the district imposing the tax and to the department of elementary  
36 and secondary education historical data concerning the estimated amount of income tax  
37 that would have been derived from an income tax surcharge in the district for the previous  
38 three years to be used in calculating the property tax equivalent to be used in the  
39 calculation of state aid and for the purpose of determining the reduced operational levy for  
40 the district for the second year of the tax;

41       (2) For the second year in which the tax is effective, the director of revenue shall  
42 furnish preliminary data on the first year's collections to the department of elementary and  
43 secondary education and the district imposing the tax by June fifteenth;

44       (3) For the third year in which the tax is effective, the director of revenue shall  
45 furnish data on actual collections for the first year and preliminary data on collections for  
46 the second year to the department of elementary and secondary education and to the  
47 district imposing the tax;

48       (4) In subsequent years, the director of revenue shall furnish data based on actual  
49 collections for the two next prior years and preliminary data based on the immediately  
50 prior year's collections.

51

52 The department of elementary and secondary education may make adjustments in the  
53 property tax equivalent in subsequent years as needed to compensate for overpayments or  
54 underpayments for calculations based on estimated revenues and shall assist the district  
55 imposing the tax in calculating the correct amount of the property tax reduction. If any

56 district is notified after the surcharge is no longer in effect that the actual revenues it  
57 received from income tax surcharge collections were under the estimated amount used in  
58 calculation of the property tax equivalent, the district may raise its operating levy for one  
59 year to an amount sufficient to recoup the revenues but not to exceed its levy before the  
60 property tax reduction.

61 5. The tax authorized by this section shall terminate not more than five years from  
62 the effective date of the tax, unless sooner abolished by the school board. Once the tax  
63 authorized by this section is abolished or is terminated by any means, the school boards  
64 shall have no power to impose the tax unless and until the school boards shall again have  
65 submitted another proposal to authorize the imposition of the tax authorized by this section  
66 and such proposal is approved by a majority of the qualified voters voting thereon, but no  
67 proposal for the tax shall be submitted to the voters to be effective in less than one calendar  
68 year of the date the tax was abolished or terminated.

162.1156. 1. Notwithstanding section 143.773, RSMo, to the contrary, no penalty  
2 shall be imposed on any taxpayer in a school district which has imposed an income tax  
3 surcharge pursuant to section 162.1152 or 162.1154 who fails to include the correct  
4 information about the taxpayer's school district on the tax return for the first taxable year  
5 in which the school district has imposed the income tax surcharge.

6 2. For all taxable years after the taxable year in which the school district has  
7 imposed an income tax surcharge pursuant to section 162.1152 or 162.1154, a penalty of  
8 not more than fifty dollars shall be imposed on a taxpayer in a school district which has  
9 imposed the income tax surcharge who fails to include the correct information about the  
10 taxpayer's school district on the tax return. Any penalty imposed pursuant to this section,  
11 including any additions to tax and interest assessed and collected on the income tax  
12 surcharge due but not paid as a result of failing to include the correct school district  
13 information on the tax return shall be transferred to the school district in which the  
14 taxpayer lives.

162.1158. The following provisions shall govern the collection by the director of  
2 revenue of the income tax surcharge imposed pursuant to sections 162.1150 to 162.1164:

3 (1) All applicable provisions contained in chapter 143, RSMo, governing the state  
4 income tax shall apply to the collection of the income tax surcharge imposed pursuant to  
5 sections 162.1150 to 162.1164, except as modified in sections 162.1150 to 162.1164;

6 (2) The income tax surcharge shall be imposed on the tax due before credits,  
7 withholdings, and payments pursuant to chapter 143, RSMo, and shall be paid annually;

8 (3) The penalties provided in chapter 143, RSMo, for a violation of that chapter are  
9 hereby made applicable to violations of sections 162.1150 to 162.1164.

162.1160. 1. All school district income tax surcharges, including tax, interest, penalties, and additions to tax, collected by the director of revenue pursuant to sections 162.1150 to 162.1164 on behalf of any school district, less one percent for cost of collection which shall be retained by the department of revenue after payment of premiums for surety bonds as provided in sections 162.1150 to 162.1164, shall be deposited by the director in a special trust fund, which is hereby created, to be known as the "School District Income Tax Surcharge Trust Fund". The moneys in such fund shall be deemed not to be state funds. Moneys in the trust fund shall be invested by the director of revenue in the same deposits and obligations in which state funds are authorized by law to be invested, except that the deposits and obligations shall mature and become payable by June fifteenth of each year for distribution of the funds as provided by sections 162.1150 to 162.1164. The director of revenue shall keep accurate records of the amount of money in the trust fund which was collected on behalf of each school district imposing an income tax surcharge, and the records shall be open to the inspection of officers of the school district and to the public, within the requirements of chapter 610, RSMo. On or before June fifteenth of each year the director of revenue shall distribute to the treasurer of each school district imposing an income tax surcharge the amount in the fund due the school district. Districts shall deposit moneys from the trust fund in the teachers', incidental, or capital projects fund, at the discretion of the board, based on the purpose of the tax as reflected in the ballot language. Such moneys may be transferred between such funds by the board, within the limits prescribed by section 165.011, RSMo.

2. The director of revenue may make refunds from amounts in the trust fund credited to the appropriate school district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of a school district. After three years have elapsed after the effective period of the income tax surcharge in a school district, the director of revenue shall remit the balance in the account to the school district and close the account of that school district. Any refunds paid or checks redeemed after the close of the account of any school district shall be charged against the amounts payable to the school district pursuant to chapter 163, RSMo, according to mutual agreement of the department of revenue and the district.

3. The director of revenue shall annually report on management of the trust fund and administration of such school district income tax surcharge. The director of revenue shall provide each school district imposing the tax authorized by sections 162.1150 to 162.1164 with an accounting of the funds received for the school district. A copy of the director's report shall be forwarded to each school district imposing the tax.

36           **4. The director of revenue, and any deputies, assistants, and employees who have**  
37 **any duties or responsibilities in connection with the collection, deposit, transfer,**  
38 **transmittal, disbursement, safekeeping, accounting, or recording of funds which come into**  
39 **the hands of the director of revenue pursuant to sections 162.1150 to 162.1164, shall enter**  
40 **a surety bond or bonds that cover any and all school districts in whose behalf such funds**  
41 **have been collected pursuant to sections 162.1150 to 162.1164 in the amount of one**  
42 **hundred thousand dollars; but the director of revenue may enter into a blanket bond or**  
43 **bonds covering the director and all such deputies, assistants, and employees. The cost of**  
44 **the premium or premiums for the surety bond or bonds shall be paid by the director of**  
45 **revenue from the share of the collections retained by the director of revenue for the benefit**  
46 **of the state.**

**162.1162. 1. If, in any school district in which the income tax surcharge has been**  
2 **imposed, any person is delinquent in the payment of the amount required to be paid**  
3 **pursuant to sections 162.1150 to 162.1164, or in the event a determination has been made**  
4 **against such person for taxes and penalty pursuant to sections 162.1150 to 162.1164, the**  
5 **limitation for bringing suit for the assessment and collection of the delinquent tax and**  
6 **penalty shall be the same as that provided in chapter 143, RSMo. If the director of revenue**  
7 **determines that suit must be filed against any person for the collection of delinquent taxes**  
8 **due the state pursuant to the state income tax law, and if such person is also delinquent in**  
9 **payment of the income tax surcharge pursuant to sections 162.1150 to 162.1164, the**  
10 **director of revenue shall notify the treasurer of the school district to which the delinquent**  
11 **income tax surcharge is due at least ten days before turning the case over to the attorney**  
12 **general. The school district, acting through its attorney, may join in such suit as a party**  
13 **plaintiff to seek a judgment for the delinquent income tax surcharge and penalty due the**  
14 **school district. In the event any person fails or refuses to pay the amount of any income**  
15 **tax surcharge due, the director of revenue shall promptly notify the treasurer of the school**  
16 **district to which the surcharge would be due so that appropriate action may be taken by**  
17 **the school district.**

18           **2. If property is seized by the director of revenue pursuant to any law authorizing**  
19 **seizure of the property of a taxpayer who is delinquent in payment of the tax imposed by**  
20 **the state income tax law, and where such taxpayer is also delinquent in payment of any**  
21 **income tax surcharge imposed pursuant to sections 162.1150 to 162.1164, the director of**  
22 **revenue shall permit the school district to join in any sale of property to pay the delinquent**  
23 **taxes and penalties due the state and the surcharge due the school district. The proceeds**  
24 **from such sale shall first be applied to all sums due the state, and the remainder, if any,**  
25 **shall be applied to all sums due the school district.**

162.1164. 1. Unidentified moneys which have remained in the trust fund for a  
 2 period of three years shall be distributed to each school district participating in the then  
 3 current distribution of the identified moneys in the trust fund in the following manner:  
 4 Each school district shall receive the same proportion of the unidentified funds that it  
 5 receives of the identified funds.

6 2. The income tax surcharge imposed by sections 162.1150 to 162.1164 shall not  
 7 apply to the tax on the income of corporations.

8 3. Except as provided in section 162.1154, no revenue received by a school district  
 9 from the tax authorized pursuant to the provisions of sections 162.1150 to 162.1164 shall  
 10 be included in calculating state aid pursuant to section 163.031, RSMo.

162.1166. 1. A school district may impose, by order, a sales tax on all retail sales  
 2 of up to one cent, in one-eighth cent increments, made in such district which are subject  
 3 to taxation pursuant to sections 144.010 to 144.525, RSMo. The tax authorized by this  
 4 section shall be in addition to any and all other sales taxes allowed by law, except that no  
 5 order imposing a sales tax pursuant to this section shall be effective unless there is  
 6 submitted to the qualified voters of the district, at a state general or primary election, a  
 7 proposal to authorize the school board to impose a tax.

8 2. The ballot of submission shall contain, but need not be limited to, the following  
 9 language:

10 Shall the school district of ..... (District name) impose a district-wide sales tax  
 11 of ..... (Insert amount) for a period not to exceed ..... (Insert number) years  
 12 for the purpose of ..... (Insert educational purpose)?

13  YES  NO

14  
 15 If you are in favor of the question, place an "X" in the box opposite "YES". If you are  
 16 opposed to the question, place an "X" in the box opposite "NO".

17  
 18 If a majority of the votes cast on the proposal by the qualified voters voting thereon is in  
 19 favor of the proposal, then the order and any amendments thereto shall become effective  
 20 on the first day of the second calendar quarter after the director of revenue receives notice  
 21 of adoption of the tax. If a majority of the votes cast by the qualified voters voting is  
 22 opposed to the proposal, then the school board shall have no power to impose the sales tax  
 23 authorized pursuant to this section unless and until the school board has submitted another  
 24 proposal to authorize the imposition of the sales tax authorized by sections 162.1166 to  
 25 162.1170 and such proposal is approved by a majority of the qualified voters voting  
 26 thereon.



27           **3. All revenue received by the school districts from the tax authorized pursuant to**  
28 **sections 162.1166 to 162.1170 shall be deposited in special trust funds for each school**  
29 **district and shall be used by the school districts solely for the purpose described in the**  
30 **ballot for so long as the tax remains in effect. Once the tax authorized by sections 162.1166**  
31 **to 162.1170 is abolished or is terminated by any means, all funds remaining in the special**  
32 **trust funds shall be used solely for activities initiated with revenues raised by the tax**  
33 **authorized by sections 162.1166 to 162.1170. Any funds in such special trust funds which**  
34 **are not needed for current expenditures may be invested by the school boards in**  
35 **accordance with applicable laws relating to the investment of other school funds.**

36           **4. The tax authorized by sections 162.1166 to 162.1170 shall terminate not more**  
37 **than three years from the date on which such tax was initially imposed by the school**  
38 **boards, unless sooner abolished by the school boards. After termination of a tax imposed**  
39 **pursuant to sections 162.1166 to 162.1170, a school district may again submit a proposal**  
40 **of approval of a sales tax pursuant to sections 162.1166 to 162.1170, but the proposal shall**  
41 **not be submitted sooner than one year from the date of the termination of the previous**  
42 **sales tax.**

**162.1168. 1. All sales taxes collected by the director of revenue pursuant to sections**  
2 **162.1166 to 162.1170 on behalf of any school district, less one percent for cost of collection**  
3 **which shall be deposited in the state's general revenue fund after payment of premiums for**  
4 **surety bonds as provided in section 32.087, RSMo, shall be deposited with the state**  
5 **treasurer in a special trust fund, which is hereby created, to be known as the "School**  
6 **District Sales Tax Trust Fund". The moneys in the trust fund shall be deemed not to be**  
7 **state funds and shall not be commingled with any funds of the state. The director of**  
8 **revenue shall keep accurate records of the amount of money in the trust fund which was**  
9 **collected in each school district imposing a sales tax pursuant to sections 162.1166 to**  
10 **162.1170, and the records shall be open to the inspection of officers of the district and the**  
11 **public. Not later than the tenth day of each month, the director of revenue shall distribute**  
12 **all moneys deposited in the trust fund during the preceding month to the school district**  
13 **which levied the tax. Such funds shall be deposited with the treasurer of each such school**  
14 **district, and all expenditures of funds arising from the trust fund shall be by an**  
15 **appropriation act to be enacted by the school board. Districts shall deposit moneys from**  
16 **the trust fund in the teachers', incidental, or capital projects fund, at the discretion of the**  
17 **board, in accordance with the purpose of the tax as reflected in the ballot language. Such**  
18 **moneys may be transferred between such funds by the board, within the limits prescribed**  
19 **in section 165.011, RSMo.**

20           **2. The director of revenue may authorize the state treasurer to make refunds from**  
21 **the amounts in the trust fund and credited to any school district for erroneous payments**  
22 **and overpayments made, and may redeem dishonored checks and drafts deposited to the**  
23 **credit of such school districts. If any school district abolishes the tax, the school board**  
24 **shall notify the director of revenue of the action at least ninety days prior to the effective**  
25 **date of the repeal and the director of revenue may order retention in the trust fund, for a**  
26 **period of one year, of two percent of the amount collected after receipt of such notice to**  
27 **cover possible refunds or overpayment of the tax and to redeem dishonored checks and**  
28 **drafts deposited to the credit of such accounts. After one year has elapsed after the**  
29 **effective date of abolition of the tax in such school district, the director of revenue shall**  
30 **authorize the state treasurer to remit the balance in the account to the school district and**  
31 **close the account of that school district.**

32           **3. Except as modified in sections 162.1166 to 162.1170, all provisions of sections**  
33 **32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to sections 162.1166 to**  
34 **162.1170.**

**162.1170. No revenue received by a school district from the tax authorized pursuant**  
2 **to sections 162.1166 to 162.1170 shall be included in calculating state aid pursuant to**  
3 **section 163.031, RSMo.**