

SECOND REGULAR SESSION

# HOUSE BILL NO. 1519

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES HOLLAND (Sponsor), VILLA AND SHOEMAKER (Co-sponsors).

Read 1<sup>st</sup> time February 19, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4230L.011

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### AN ACT

To repeal sections 163.036 and 167.131, RSMo, and to enact in lieu thereof ten new sections relating to equal opportunity education contract program.

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

Section A. Sections 163.036 and 167.131, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 160.740, 160.745, 160.750, 160.755, 160.760, 160.765, 160.770, 160.775, 163.036, and 167.131, to read as follows:

**160.740. As used in sections 160.740 to 160.775, the following terms mean:**

- (1) "Charter school", a school operating pursuant to sections 160.400 to 160.420;**
- (2) "Commissioner", the commissioner of education;**
- (3) "Eligible student", includes income-eligible students and otherwise eligible students, defined as follows:**
  - (a) "Income eligible student", any elementary or secondary school student who:**
    - a. Attends a government-established school in a school district that is currently unaccredited or provisionally accredited; or**
    - b. Attends an individual government-established school that is in the third or subsequent consecutive year of failure to achieve adequate yearly progress under the terms of the no child left behind act; or**
    - c. Attends an individual government-established school that has been designated as academically deficient pursuant to section 160.538, and whose parents' income is no more than one hundred twenty-five percent of the level that would make the student eligible for a reduced price school lunch pursuant to the national school lunch act; provided that:**
      - (i) Once a student has begun attending a qualified school and the student's school**

18 **district of residence has regained accredited status or the student's assigned government-**  
19 **established school has concluded its status as not meeting adequate yearly progress or**  
20 **academically deficient, the student may finish his or her education under the equal**  
21 **opportunity education contract program established pursuant to this section; and**

22 **(ii) A subsequent increase in a student's parents' income to more than the level**  
23 **prescribed in this subsection shall not disqualify the student from finishing his or her**  
24 **education under the equal opportunity education contract program established pursuant**  
25 **to this section.**

26

27 **Children with disabilities who are receiving special education services under an**  
28 **individualized education plan pursuant to section 162.670 to 162.999, RSMo, are not**  
29 **required to meet the income eligible student definition if the child's parents have**  
30 **unreimbursed medical expenses in excess of seven and one-half percent of their federal**  
31 **adjusted gross income;**

32 **(b) "Otherwise eligible student", any elementary or secondary school student in a**  
33 **government-established school whose parent is currently incarcerated or has been**  
34 **incarcerated in a state penal institution in this state or under the authority of this state;**

35 **(4) "Equal opportunity education contract", a contract entered into by a parent for**  
36 **a qualified student to attend a qualified school;**

37 **(5) "Government-established school", any elementary or secondary school**  
38 **operating under the authority of a school board elected pursuant to chapter 162, RSMo;**

39 **(6) "Parent" means a qualified student's parent or legal guardian, or person who**  
40 **holds a power of attorney relating to a qualified student for educational purposes;**

41 **(7) "Qualified school", any elementary or secondary school situated in this state**  
42 **which is not a government-established school or charter school, which a child may attend**  
43 **to satisfy the requirements of section 167.031, RSMo, and which:**

44 **(a) Is not in violation of the federal Civil Rights Act of 1964;**

45 **(b) Has at least ten regular full-time students for the majority of the academic year**  
46 **who are not related to each other within the third degree of affinity or consanguinity;**

47 **(c) Maintains an academic year that includes no fewer hours of instructional time**  
48 **than the number of hours required in a school term, as such term is defined in section**  
49 **160.011;**

50 **(d) Conducts a criminal background check on any employee in a position that**  
51 **permits regular student contact;**

52 **(e) Supplies the information required of such schools pursuant to subsection 5 of**  
53 **this section for its initial qualification and annually meets the requirements for**

54 **requalification by the required date;**

55 **(f) Agrees to calculate the difference between the tuition charged per pupil and the**  
56 **amount of the equal opportunity education contract amount and return any difference to**  
57 **the school district; and**

58 **(g) Demonstrates fiscal soundness by:**

59 **a. Being in operation without a planned or operational deficit for one complete**  
60 **school year before the year in which it seeks initial qualification; or**

61 **b. Providing:**

62 **(i) A statement by a certified public accountant confirming that the school desiring**  
63 **to qualify is insured against errors and omissions, loss and damage, and the owner has**  
64 **sufficient capital or credit to operate the school for the upcoming year serving the number**  
65 **of students anticipated with expected revenues from tuition and other sources that may be**  
66 **reasonably expected; or, in lieu of such statement;**

67 **(ii) A surety bond or letter of credit equal to the amount of tuition expected to be**  
68 **generated from the equal opportunity education contracts for that school;**

69 **(8) "Qualified student", an eligible student who in the previous school year was**  
70 **enrolled in a government-established or charter school and is not enrolled in a government-**  
71 **established or charter school in the school year for which the parent has signed an equal**  
72 **opportunity education contract or a student who attended a qualified school during the**  
73 **previous school year by using an equal opportunity education contract who has completed**  
74 **the qualification process for an initial contract or who has renewed a previous contract.**  
75 **Qualified student shall include incoming kindergarten students.**

**160.745. 1. For all school years beginning on or after July 1, 2005, any parent of**  
2 **an eligible student may enter a contract with a qualified school for the upcoming school**  
3 **year in an amount equal to fifty percent of the average amount per pupil expended by the**  
4 **school district of residence of the eligible student during the last completed school year,**  
5 **which amount shall be certified by the commissioner of education. Any grant funds**  
6 **attributable to a grant application by a teacher for one particular classroom project shall**  
7 **not be included in calculating the average amount per pupil.**

8 **2. Any eligible student who receives special education services under an**  
9 **individualized education plan pursuant to sections 162.670 to 162.999, RSMo, may enter**  
10 **into a contract for an amount equal to the cost of services provided under the student's**  
11 **individualized education plan as calculated by the district and reported to the**  
12 **commissioner of education or fifty percent of the average amount per pupil expended by**  
13 **the school district of residence during the last completed school year if the cost of services**  
14 **does not exceed fifty percent of the average amount per pupil expended by the district.**

15           **3. No parent shall sign a contract pursuant to this section for any qualified student**  
16 **when that parent's children constitute a majority of the students in the qualified school.**

**160.750. 1. School districts shall notify their patrons of the district's or an**  
2 **individual school's eligibility for participation in the program by November fifteenth, using**  
3 **a standard notice form developed by the commissioner of education that clearly states the**  
4 **reason for eligibility. The parent of a student who seeks initially to participate in the equal**  
5 **opportunity education contract program shall apply to the school district in which the**  
6 **student resides by January fifteenth preceding the school year in which the student intends**  
7 **to attend a qualified school. The school district shall notify each applying parent whose**  
8 **child meets the criteria of subdivision (a) or (b) of subdivision (3) of section 160.740 by**  
9 **February twenty-eighth that the child meets eligibility criteria. The parent of an eligible**  
10 **student shall provide annual written notice of intent to participate for the upcoming school**  
11 **year and to renew the contract by a date set by the local board of education.**

12           **2. On or after April first but prior to June first, a parent shall submit an**  
13 **application to the qualified school on a form supplied by the school district. If the qualified**  
14 **school has an application procedure with an earlier deadline, a parent shall submit a**  
15 **separate application to the qualified school by the school's deadline. A qualified school**  
16 **shall notify the applicant within thirty days after receiving the application of its acceptance**  
17 **or rejection of the application. The qualified school shall determine which eligible students**  
18 **are accepted on the basis of the order in which their applications are received. The**  
19 **qualified school shall use a lottery if the number of applications exceeds the number of**  
20 **available spaces.**

21           **3. The parent of an eligible student who is accepted by a qualified school may enter**  
22 **into an equal opportunity education contract with the school district. The contract shall**  
23 **set forth the responsibilities of the parties, which shall include, but not be limited to, the**  
24 **following:**

25           **(1) The terms and procedures of the payment made by the school district to the**  
26 **parent, which shall be sent to the qualified school where the parent shall endorse the**  
27 **payment for the sole use of the qualified school;**

28           **(2) The consequences of failure to abide by the terms of the contract by either**  
29 **party.**

**160.755. The parent of an eligible student shall be deemed to have relinquished the**  
2 **right to receive tuition payments pursuant to the equal opportunity education contract**  
3 **program if:**

4           **(1) The parent voluntarily notifies the school district in writing of his or her intent**  
5 **to relinquish the right;**

6           (2) The parent fails to submit an initial application or a renewal application to a  
7 qualified school by August first of the school year;

8           (3) The eligible student does not enroll in a qualified school by August first of the  
9 school year;

10          (4) The qualified student fails to attend the qualified school on at least ninety  
11 percent of the school days in two payment periods, unless the lack of attendance is caused  
12 by illness, injury, or other reason mutually acceptable to the qualified school and school  
13 district;

14          (5) The qualified student moves outside the school district to a district that does not  
15 meet the conditions for eligibility of its students; or

16          (6) The qualified student fails to take the assessment required in section 160.760.  
160.760. The commissioner shall determine annually which schools may be  
2 classified as qualified schools. The commissioner may require a school seeking  
3 classification as a qualified school to provide any information reasonably necessary to  
4 make such a determination, not to exceed the equivalent information provided by charter  
5 schools or government-established schools. A qualified school shall provide at least the  
6 following information:

7           (1) The legal and, if different, operating name of the school, the address of the  
8 principal place of instruction and all other permanent locations of instruction;

9           (2) A description of the academic program;

10          (3) What methods of evaluation the school uses. A school shall provide at least one  
11 standardized assessment yearly, which may include the statewide assessment developed  
12 pursuant to section 160.518, either administered by the qualified school at the expense of  
13 the qualified school as a regular part of the qualified school's assessment program or  
14 administered at the government-established school that student would have attended, at  
15 the expense of the government-established school. A parent may instead choose to have the  
16 statewide assessment administered at the qualified school at the parent's expense if the  
17 qualified school does not offer to administer the statewide assessment to all its students;

18          (4) Whether the school has conducted the required criminal background checks on  
19 its employees;

20          (5) The qualifications of the school's teachers and administrators;

21          (6) The school's policy on refunds of tuition fees and any other charges and fees;

22          (7) A brief history of the school, including the number of years the school has been  
23 in operation;

24          (8) The number of eligible students for which the school has space in each grade  
25 level;

26           **(9) Whether the financial statements of the school are available to the parent who**  
27 **is considering enrolling or has enrolled a student in the school; and**

28           **(10) An assurance that a school that provides separate classes in denominational**  
29 **doctrine instruction will permit the qualified student, upon request, to be exempt from**  
30 **such instruction; provided that such exemption shall not operate to lower the number of**  
31 **credits required for promotion or graduation.**

**160.765. Within ninety days of receipt of the required information, the**  
2 **commissioner shall:**

3           **(1) Provide certification to the qualified school when such school meets the**  
4 **qualifications specified in section 160.760;**

5           **(2) Notify the school district in which the qualified school is located of the school's**  
6 **qualification for the program; and**

7           **(3) Post a list of qualified schools on the Internet on the web page of the department**  
8 **of elementary and secondary education.**

**160.770. Any school district not meeting the conditions specified in subdivision (a)**  
2 **of subdivision (3) of section 160.740 may opt to participate in the equal opportunity**  
3 **education contract program authorized in this section upon the adoption of a resolution**  
4 **by the school board and submission of the resolution to the department of elementary and**  
5 **secondary education, if the district meets one of the following criteria:**

6           **(1) A cumulative decrease in enrollment of five percent or more over a period of**  
7 **two years;**

8           **(2) A cumulative increase in enrollment of five percent or more over a period of two**  
9 **years;**

10           **(3) An average class size for kindergarten through grade 3 in excess of the**  
11 **acceptable levels prescribed for the Missouri school improvement program or successor**  
12 **accreditation program; or**

13           **(4) A failure of the patrons of the district to pass two consecutive proposed**  
14 **operational or capital funding tax increases within the last three years.**

**160.775. The department of elementary and secondary education may promulgate**  
2 **rules for the administration of sections 160.740 to 160.770. Any rule or portion of a rule,**  
3 **as that term is defined in section 536.010, RSMo, that is created under the authority**  
4 **delegated in sections 160.740 to 160.770 shall become effective only if it complies with and**  
5 **is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,**  
6 **RSMo. Sections 160.740 to 160.770 and chapter 536, RSMo, are nonseverable and if any**  
7 **of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review,**  
8 **to delay the effective date, or to disapprove and annul a rule are subsequently held**

9 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**  
10 **after August 28, 2004, shall be invalid and void.**

163.036. 1. In computing the amount of state aid a school district is entitled to receive  
2 under section 163.031, a school district may use an estimate of the number of eligible pupils for  
3 the ensuing year, the number of eligible pupils for the immediately preceding year or the number  
4 of eligible pupils for the second preceding school year, whichever is greater; **except that the**  
5 **eligible pupil count shall be adjusted such that a school district shall continue to receive aid**  
6 **for any pupil who is no longer enrolled in the school district as the result of using the**  
7 **proceeds of an equal opportunity education contract to transfer to a qualified school**  
8 **pursuant to sections 160.740 to 160.775, RSMo, for the length of time the pupil remains in**  
9 **the equal opportunity education contract program.** Except as otherwise provided in  
10 subsection 3 of this section, any error made in the apportionment of state aid because of a  
11 difference between the actual number of eligible pupils and the estimated number of eligible  
12 pupils shall be corrected as provided in section 163.091, except that if the amount paid to a  
13 district estimating eligible pupils exceeds the amount to which the district was actually entitled  
14 by more than five percent, interest at the rate of six percent shall be charged on the excess and  
15 shall be added to the amount to be deducted from the district's apportionment the next  
16 succeeding year.

17 2. Notwithstanding the provisions of subsection 1 of this section or any other provision  
18 of law, the state board of education shall make an adjustment for the immediately preceding year  
19 for any increase in the actual number of eligible pupils above the number on which the state aid  
20 in section 163.031 was calculated. Said adjustment shall be made in the manner providing for  
21 correction of errors under subsection 1 of this section.

22 3. (1) For any district which has, for at least five years immediately preceding the year  
23 in which the error is discovered, adopted a calendar for the school term in which elementary  
24 schools are in session for twelve months of each calendar year, any error made in the  
25 apportionment of state aid to such district because of a difference between the actual number of  
26 eligible pupils and the estimated number of eligible pupils shall be corrected as provided in  
27 section 163.091 and subsection 1 of this section, except that if the amount paid exceeds the  
28 amount to which the district was actually entitled by more than five percent and the district  
29 provides written application to the state board requesting that the deductions be made pursuant  
30 to subdivision (2) of this subsection, then the amounts shall be deducted pursuant to subdivision  
31 (2) of this subsection.

32 (2) For deductions made pursuant to this subdivision, interest at the rate of six percent  
33 shall be charged on the excess and shall be included in the amount deducted and the total amount  
34 of such excess plus accrued interest shall be deducted from the district's apportionment in equal

35 monthly amounts beginning with the succeeding school year and extending for a period of  
36 months specified by the district in its written request and no longer than sixty months.

37 4. For the purposes of distribution of state school aid pursuant to section 163.031, a  
38 school district may elect to use the district's equalized assessed valuation for the preceding year,  
39 or an estimate of the current year's assessed valuation if the current year's equalized assessed  
40 valuation is estimated to be more than ten percent less than the district's equalized assessed  
41 valuation for the preceding year. A district shall give prior notice to the department of its  
42 intention to use the current year's assessed valuation pursuant to this subsection. Any error made  
43 in the apportionment of state aid because of a difference between the actual equalized assessed  
44 valuation for the current year and the estimated equalized assessed valuation for the current year  
45 shall be corrected as provided in section 163.091, except that if the amount paid to a district  
46 estimating current equalized assessed valuation exceeds the amount to which the district was  
47 actually entitled, interest at the rate of six percent shall be charged on the excess and shall be  
48 added to the amount to be deducted from the district's apportionment the next succeeding year.

49 5. For the purposes of distribution of state school aid pursuant to section 163.031, a  
50 school district with ten percent or more of its assessed valuation that is owned by one person or  
51 corporation as commercial or personal property who is delinquent in a property tax payment may  
52 elect, after receiving notice from the county clerk on or before March fifteenth, except in the year  
53 enacted, that more than ten percent of its current taxes due the preceding December thirty-first  
54 by a single property owner are delinquent, to use on line 2 of the state aid formula the district's  
55 equalized assessed valuation for the preceding year or the actual assessed valuation of the year  
56 for which the taxes are delinquent less the assessed valuation of property for which the current  
57 year's property tax is delinquent. To qualify for use of the actual assessed valuation of the year  
58 for which the taxes are delinquent less the assessed valuation of property for which the current  
59 year's property tax is delinquent, a district must notify the department of elementary and  
60 secondary education on or before April first, except in the year enacted, of the current year  
61 amount of delinquent taxes, the assessed valuation of such property for which delinquent taxes  
62 are owed and the total assessed valuation of the district for the year in which the taxes were due  
63 but not paid. Any district giving such notice to the department of elementary and secondary  
64 education shall present verification of the accuracy of such notice obtained from the clerk of the  
65 county levying delinquent taxes. When any of the delinquent taxes identified by such notice are  
66 paid during a four- year period following the due date, the county clerk shall give notice to the  
67 district and the department of elementary and secondary education, and state aid paid to the  
68 district shall be reduced by an amount equal to the delinquent taxes received plus interest. The  
69 reduction in state aid shall occur over a period not to exceed five years and the interest rate on  
70 excess state aid not refunded shall be six percent annually.



71           6. If a district receives state aid based on equalized assessed valuation as determined by  
72 subsection 5 of this section and if prior to such notice the district was paid state aid pursuant to  
73 subdivision (2) of subsection 5 of section 163.031, the amount of state aid paid during the year  
74 of such notice and the first year following shall equal the sum of state aid paid pursuant to line  
75 1 minus line 10 as defined in subsections 1, 2, 3 and 6 of section 163.031 plus the difference  
76 between the state aid amount being paid after such notice minus the amount of state aid the  
77 district would have received pursuant to line 1 minus line 10 as defined in subsections 1, 2, 3 and  
78 6 of section 163.031 before such notice. To be eligible to receive state aid based on this  
79 provision the district must levy during the first year following such notice at least the maximum  
80 levy permitted school districts by article X, section 11(b) of the Missouri Constitution and have  
81 a voluntary rollback of its tax rate which is no greater than one cent per one hundred dollars  
82 assessed valuation.

          167.131. 1. The board of education of each district in this state that does not maintain  
2 an accredited school pursuant to the authority of the state board of education to classify schools  
3 as established in section 161.092, RSMo, shall pay the tuition of and provide transportation  
4 consistent with the provisions of section 167.241, RSMo, for each pupil resident therein who  
5 attends an accredited school in another district of the same or an adjoining county, **except as**  
6 **further provided in sections 160.740 to 160.775.**

7           2. The rate of tuition to be charged by the district attended and paid by the sending  
8 district is the per pupil cost of maintaining the district's grade level grouping which includes the  
9 school attended. The cost of maintaining a grade level grouping shall be determined by the board  
10 of education of the district but in no case shall it exceed all amounts spent for teachers' wages,  
11 incidental purposes, debt service, maintenance and replacements. The term "debt service", as  
12 used in this section, means expenditures for the retirement of bonded indebtedness and  
13 expenditures for interest on bonded indebtedness. Per pupil cost of the grade level grouping  
14 shall be determined by dividing the cost of maintaining the grade level grouping by the average  
15 daily pupil attendance. If there is disagreement as to the amount of tuition to be paid, the facts  
16 shall be submitted to the state board of education, and its decision in the matter shall be final.  
17 Subject to the limitations of this section, each pupil shall be free to attend the public school of  
18 his or her choice.