

FIRST REGULAR SESSION

# HOUSE BILL NO. 54

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES DIXON (Sponsor) AND DENISON (Co-sponsor).

Pre-filed December 1, 2004 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0401L.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 under 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 under 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**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (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 under this section shall be effective unless the school board  
5 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 under 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 under 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 under sections 162.1150 to 162.1164 sooner than ten months from the date of the last  
26 proposal submitted under 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 under  
41 sections 162.1150 to 162.1164, the director of revenue shall perform all functions incident  
42 to the administration, collection, enforcement, and operation of the income tax surcharge,  
43 and the director of revenue shall collect in addition to the income tax for the state of  
44 Missouri the additional income tax surcharge imposed under sections 162.1150 to 162.1164.  
45 The income tax surcharge imposed under the school district income tax surcharge act  
46 under chapter 143, RSMo, shall be collected together and reported upon such forms and  
47 under such rules and regulations as may be prescribed by the director of revenue.

162.1154. 1. In lieu of imposing the income tax surcharge under section 162.1152,  
2 any school district may impose a surcharge on the income tax of residents of the school  
3 district at a rate not to exceed fifteen percent for the purpose of property tax reduction,  
4 provided that no resolution or order enacted under this section shall be effective unless the  
5 school board of the district submits to the voters of the district at a primary or general  
6 election a proposal to authorize the school board to impose the income tax surcharge and  
7 further provided that no such property tax reduction shall reduce the district's operating  
8 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 under 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 under 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 under sections 162.1150 to 162.1164 sooner than ten months from the date of the last  
27 proposal submitted under 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 under section 162.1152 or 162.1154 who fails to include the correct information  
4 about the taxpayer's school district on the tax return for the first taxable year in which the  
5 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 under section 162.1152 or 162.1154, a penalty of not**  
8 **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 under 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 under 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 under sections**  
5 **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 under 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,

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

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

31       3. The director of revenue shall annually report on management of the trust fund  
32 and administration of such school district income tax surcharge. The director of revenue  
33 shall provide each school district imposing the tax authorized by sections 162.1150 to  
34 162.1164 with an accounting of the funds received for the school district. A copy of the  
35 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 under sections 162.1150 to 162.1164, shall enter a  
40 surety bond or bonds that cover any and all school districts in whose behalf such funds  
41 have been collected under sections 162.1150 to 162.1164 in the amount of one hundred  
42 thousand dollars; but the director of revenue may enter into a blanket bond or bonds  
43 covering the director and all such deputies, assistants, and employees. The cost of the  
44 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 under  
3 sections 162.1150 to 162.1164, or in the event a determination has been made against such  
4 person for taxes and penalty under sections 162.1150 to 162.1164, the limitation for  
5 bringing suit for the assessment and collection of the delinquent tax and penalty shall be  
6 the same as that provided in chapter 143, RSMo. If the director of revenue determines that  
7 suit must be filed against any person for the collection of delinquent taxes due the state  
8 under the state income tax law, and if such person is also delinquent in payment of the  
9 income tax surcharge under sections 162.1150 to 162.1164, the director of revenue shall  
10 notify the treasurer of the school district to which the delinquent income tax surcharge is  
11 due at least ten days before turning the case over to the attorney general. The school  
12 district, acting through its attorney, may join in such suit as a party plaintiff to seek a  
13 judgment for the delinquent income tax surcharge and penalty due the school district. In  
14 the event any person fails or refuses to pay the amount of any income tax surcharge due,  
15 the director of revenue shall promptly notify the treasurer of the school district to which  
16 the surcharge would be due so that appropriate action may be taken by the school district.

17 2. If property is seized by the director of revenue under any law authorizing seizure  
18 of the property of a taxpayer who is delinquent in payment of the tax imposed by the state  
19 income tax law, and where such taxpayer is also delinquent in payment of any income tax  
20 surcharge imposed under sections 162.1150 to 162.1164, the director of revenue shall  
21 permit the school district to join in any sale of property to pay the delinquent taxes and  
22 penalties due the state and the surcharge due the school district. The proceeds from such  
23 sale shall first be applied to all sums due the state, and the remainder, if any, shall be  
24 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 under the provisions of sections 162.1150 to 162.1164 shall be  
10 included in calculating state aid under 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 under sections 144.010 to 144.525, RSMo. The tax authorized by this section  
4 shall be in addition to any and all other sales taxes allowed by law, except that no order  
5 imposing a sales tax under this section shall be effective unless there is submitted to the  
6 qualified voters of the district, at a state general or primary election, a proposal to  
7 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 under 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 under  
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 under sections 162.1166 to 162.1170, a school district may again submit a proposal of  
40 approval of a sales tax under sections 162.1166 to 162.1170, but the proposal shall not be  
41 submitted sooner than one year from the date of the termination of the previous sales tax.

162.1168. 1. All sales taxes collected by the director of revenue under 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 under sections 162.1166 to 162.1170,  
10 and the records shall be open to the inspection of officers of the district and the public. Not  
11 later than the tenth day of each month, the director of revenue shall distribute all moneys  
12 deposited in the trust fund during the preceding month to the school district which levied  
13 the tax. Such funds shall be deposited with the treasurer of each such school district, and  
14 all expenditures of funds arising from the trust fund shall be by an appropriation act to be  
15 enacted by the school board. Districts shall deposit moneys from the trust fund in the  
16 teachers', incidental, or capital projects fund, at the discretion of the board, in accordance  
17 with the purpose of the tax as reflected in the ballot language. Such moneys may be  
18 transferred between such funds by the board, within the limits prescribed in section  
19 165.011, 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 under sections 162.1166 to**  
34 **162.1170.**

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