

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 539**  
93RD GENERAL ASSEMBLY

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Reported from the Committee on Education, May 3, 2005, with recommendation that the Senate Committee Substitute do pass.

0149S.06C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 162.675, 162.725, 162.735, 162.740, 168.110, and 168.126, RSMo, and to enact in lieu thereof five new sections relating to education.

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

Section A. Sections 162.675, 162.725, 162.735, 162.740, 168.110, and 168.126, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 162.675, 162.740, 162.974, 168.110, and 168.126, to read as follows:

162.675. As used in sections 162.670 to 162.995, unless the context clearly indicates otherwise, the following terms mean:

(1) "Gifted children", children who exhibit precocious development of mental capacity and learning potential as determined by competent professional evaluation to the extent that continued educational growth and stimulation could best be served by an academic environment beyond that offered through a standard grade level curriculum;

(2) "Handicapped children", children under the age of twenty-one years who have not completed an approved high school program and who, because of mental, physical, emotional or learning problems, require special educational services;

(3) "Severely handicapped children", handicapped children under the age of twenty-one years who[, because of the extent of the handicapping condition or conditions, as determined by competent professional evaluation, are unable to benefit from or meaningfully participate in programs in the public schools for handicapped children. The term "severely handicapped" is not confined to a separate and specific category but pertains to the degree of disability which permeates a variety of handicapping conditions and education programs] **meet the eligibility criteria for state schools for severely handicapped children, identified in state regulations that implement the Individuals with Disabilities Education Act;**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 (4) "Special educational services", programs designed to meet the needs of  
20 handicapped or severely handicapped children and which include, but are not limited to,  
21 the provision of diagnostic and evaluation services, student and parent counseling,  
22 itinerant, homebound and referral assistance, organized instructional and therapeutic  
23 programs, transportation, and corrective and supporting services.

162.740. The district of residence of each child attending a state school for  
2 severely handicapped children[, an institution providing contractual services arranged  
3 pursuant to section 162.735,] or an educational program for a full-time patient or  
4 resident at a facility operated by the department of mental health, except school districts  
5 which are a part of a special district and except special school districts, shall pay toward  
6 the cost of the education of the child an amount equal to the average sum produced per  
7 child by the local tax effort of the district. The district of residence shall be notified each  
8 year, not later than December fifteenth, of the names and addresses of pupils enrolled  
9 in such schools. In the case of a special district, said special district shall be responsible  
10 for an amount per child not to exceed the average sum produced per child by the local  
11 tax efforts of the component districts. The district of residence of the child's parents or  
12 guardians shall be the district responsible for local tax contributions required by this  
13 section.

**162.974. 1. The state department of elementary and secondary  
2 education shall reimburse school districts, including special school districts,  
3 for the educational costs of high-need children with an individualized  
4 education program exceeding three times the current expenditure per  
5 average daily attendance as calculated on the district annual secretary of the  
6 board report for the year in which expenditures are claimed.**

**7 2. A school district shall submit, through timely application, as  
8 determined by the state department of elementary and secondary education,  
9 the cost of serving any student, as provided in subsection 1 of this section.**

168.110. The board of education of a school district may modify an indefinite  
2 contract annually on or before the fifteenth day of May in the following particulars:

- 3 (1) Determination of the date of beginning and length of the next school year;
- 4 (2) Fixing the amount of annual compensation for the following school year as  
5 provided by the salary schedule adopted by the board of education applicable to all  
6 teachers. **Districts may provide a salary that includes hiring incentives or  
7 salary schedule modifications, which may include but are not limited to credit  
8 for all prior years of service in another district, in order to attract and retain  
9 teachers. In order to offer such incentives, a district shall submit any**

10 **proposed salary incentives or modifications for approval by the**  
11 **department. The department shall, within thirty days, either approve or**  
12 **reject the district's request. The department shall base the decision on**  
13 **factors including, but not limited to, the district's demonstrated need to**  
14 **attract teachers certified in department of elementary and secondary**  
15 **education identified shortage areas or the district's demonstrated need to**  
16 **attract and retain teachers possessing the qualities, experience, or credentials**  
17 **that are exceptionally well suited to a district's needs for academic**  
18 **improvement. In exchange for such incentives, teachers may be required to**  
19 **teach in the district offering the incentive for a period of up to three school**  
20 **years. The modifications shall be effective at the beginning of the next school year. All**  
21 **teachers affected by the modification shall be furnished written copies of the**  
22 **modifications within thirty days after their adoption by the board of education.**

168.126. 1. A board of education at a regular or special meeting may contract  
2 with and employ by a majority vote legally qualified probationary teachers for the school  
3 district. The contract shall be made by order of the board; shall specify the number of  
4 months school is to be taught and the wages per month to be paid; shall be signed by the  
5 probationary teacher and the president of the board, or a facsimile signature of the  
6 president may be affixed at his discretion; and the contract shall be attested by the  
7 secretary of the board by signature or facsimile. **Districts may provide a salary that**  
8 **includes hiring incentives or salary schedule modifications, which may**  
9 **include but are not limited to credit for all prior years of service in another**  
10 **district, to attract and retain teachers based upon demonstrated need for**  
11 **teachers certified in shortage areas. Districts may also provide such**  
12 **incentives or schedule modifications to attract and retain teachers with**  
13 **qualities, experience, or credentials that are exceptionally well suited to a**  
14 **district's needs for academic improvement. In exchange for such incentives,**  
15 **teachers may be required to teach in the district offering the incentive for a**  
16 **period of up to three school years. Districts shall have the decision-making**  
17 **authority on whether to provide such incentives and modifications within the**  
18 **limits of this section.** The board shall not employ one of its members as a teacher; nor  
19 shall any person be employed as a teacher who is related within the fourth degree to any  
20 board member, either by consanguinity or affinity, where the vote of the board member  
21 is necessary to the selection of the person.

22 2. If in the opinion of the board of education any probationary teacher has been  
23 doing unsatisfactory work, the board of education, through its authorized administrative

24 representative, shall provide the teacher with a written statement definitely setting forth  
25 his alleged incompetency and specifying the nature thereof, in order to furnish the  
26 teacher an opportunity to correct his fault and overcome his incompetency. If  
27 improvement satisfactory to the board of education has not been made within ninety  
28 days of the receipt of the notification, the board of education may terminate the  
29 employment of the probationary teacher immediately or at the end of the school  
30 year. Any motion to terminate the employment of a probationary teacher shall include  
31 only one person and must be approved by a majority of the members of the board of  
32 education. A tie vote thereon constitutes termination. On or before the fifteenth day of  
33 April in each school year, the board of education shall notify in writing a probationary  
34 teacher who will not be retained by the school district of the termination of his  
35 employment. Upon request, the notice shall contain a concise statement of the reason  
36 or reasons the employment of the probationary teacher is being terminated. If the  
37 reason for the termination is due to a decrease in pupil enrollment, school district  
38 reorganization, or the financial condition of the school district, then the district shall in  
39 all cases issue notice to the teacher expressly declaring such as the reason for such  
40 termination. Nothing contained in this section shall give rise to a cause of action not  
41 currently cognizant at law by a probationary teacher for any reason given in said writing  
42 so long as the board issues the letter in good faith without malice, but an action for  
43 actual damages may be maintained by any person for the deprivation of a right conferred  
44 by this act.

45         3. Any probationary teacher who is not notified of the termination of his  
46 employment shall be deemed to have been appointed for the next school year, under the  
47 terms of the contract for the preceding year. A probationary teacher who is informed of  
48 reemployment by written notice shall be tendered a contract on or before the fifteenth  
49 day of May, and shall within fifteen days thereafter present to the employing board of  
50 education a written acceptance or rejection of the employment tendered, and failure of  
51 such teachers to present the acceptance within such time constitutes a rejection of the  
52 board's offer. A contract between a probationary teacher and a board of education may  
53 be terminated or modified at any time by the mutual consent of the parties thereto.

          [162.725. 1. The state board of education shall provide special  
2         educational services for all severely handicapped children residing in  
3         school districts which are not included in special districts provided that  
4         such school districts are unable to provide appropriate programs of special  
5         instruction for severely handicapped children; however, this shall not  
6         prevent any school district from conducting a program for the special

7 instruction of severely handicapped children, except that such program  
8 must provide substantially the same special educational services as would  
9 be provided in a school operated by the state board of education and such  
10 program must be approved by the state department of elementary and  
11 secondary education in accordance with regulations established pursuant  
12 to section 162.685.

13 2. Special educational programs shall be established which are  
14 designed to develop the individual pupil in order that he may achieve the  
15 best possible adjustment in society under the limitation of his handicap.

16 3. When special districts have been formed to serve handicapped  
17 and severely handicapped children under the provisions of sections  
18 162.670 to 162.995, severely handicapped children residing in school  
19 districts comprising the special district shall be educated in programs of  
20 the special district.]

[162.735. The state department of elementary and secondary  
2 education may assign severely handicapped children, except severely  
3 handicapped children residing in special school districts and in districts  
4 providing approved special educational services for severely handicapped  
5 children, to state schools for severely handicapped children, the school for  
6 the blind or the school for the deaf. Furthermore, the state board of  
7 education may contract for the education of a severely handicapped child  
8 with another public agency or with a private agency when the state  
9 department of elementary and secondary education determines that such  
10 an arrangement would be in the best interests of the severely handicapped  
11 child. Assignment of severely handicapped children under this section  
12 shall be made to a particular school or program which, in the judgment of  
13 the state department of elementary and secondary education, can best  
14 provide special educational services, and such assignment shall be made  
15 upon the basis of competent evaluations; provided, however, the  
16 assignment may be appealed by a parent or guardian pursuant to sections  
17 162.945 to 162.965. Children who are not residents of this state may be  
18 admitted to these schools if the schools have the capacity to receive them  
19 and upon payment of full tuition and costs as prescribed by the state  
20 board of education.]

