

FIRST REGULAR SESSION

# HOUSE BILL NO. 1196

## 94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COOPER (158).

Read 1st time March 28, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2702L.02I

### 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.

*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Section A. Sections 163.036 and 167.131, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 160.840, 160.845, 160.850, 160.855, 160.860, 160.865, 160.870, 160.875, 163.036, and 167.131, to read as follows:

**160.840. As used in sections 160.840 to 160.875, the following terms mean:**

- (1) "Charter school", a school operating under sections 160.400 to 160.420;**
- (2) "Commissioner", the commissioner of education;**
- (3) "Eligible student", any elementary or secondary school student who attends a government-established school in a school district that is currently unaccredited by a vote of the state board of education as reflected in its annual performance report 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 under the national school lunch act; provided that:**
  - (a) Once a student has begun attending a qualified school and the student's school district of residence has regained accredited status, the student may finish his or her education under the equal opportunity education contract program established under this section; 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.

14           (b) A subsequent increase in a student's parents' income to more than the level  
15 prescribed in this subsection shall not disqualify the student from finishing his or her  
16 education under the equal opportunity education contract program established under this  
17 section.

18

19 Children with disabilities who are receiving special education services under an  
20 individualized education plan under sections 162.670 to 162.999, RSMo, are not required  
21 to meet the income standard of this subsection if the child's parents have unreimbursed  
22 medical expenses in excess of seven and one-half percent of their federal adjusted gross  
23 income;

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

26           (5) "Government-established school", any elementary or secondary school  
27 operating under the authority of a school board elected under chapter 162, RSMo;

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

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

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

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

36           (c) Maintains an academic year that includes no fewer hours of instructional time  
37 than the number of hours required in a school term, as such term is defined in section  
38 160.011;

39           (d) Conducts a criminal background check on any employee in a position that  
40 permits regular student contact;

41           (e) Supplies the information required of such schools under subsection 5 of this  
42 section for its initial qualification and annually meets the requirements for requalification  
43 by the required date;

44           (f) Agrees to calculate the difference between the tuition charged per pupil and the  
45 amount of the equal opportunity education contract amount and return any difference to  
46 the school district; and

47           (g) Demonstrates fiscal soundness by:

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

50           **b. Providing:**

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

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

58           (8) "Qualified student", an eligible student who in the previous school year was  
59 enrolled in a government-established or charter school and is not enrolled in a government-  
60 established or charter school in the school year for which the parent has signed an equal  
61 opportunity education contract or a student who attended a qualified school during the  
62 previous school year by using an equal opportunity education contract who has completed  
63 the qualification process for an initial contract or who has renewed a previous contract.  
64 Qualified student shall include incoming kindergarten students.

          160.845. 1. For all school years beginning on or after July 1, 2008, 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.

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

13           3. No parent shall sign a contract under this section for any qualified student when  
14 that parent's children constitute a majority of the students in the qualified school.

          160.850. 1. School districts shall notify their patrons of the district's participation  
2 in the program by November fifteenth, using a standard notice form developed by the  
3 commissioner of education that clearly states the reason for eligibility. The parent of a  
4 student who seeks initially to participate in the equal opportunity education contract  
5 program shall apply to the school district in which the student resides by November  
6 fifteenth preceding the school year in which the student intends to attend a qualified  
7 school. The school district shall notify each applying parent whose child meets the criteria

8 of subdivision (3) of section 160.840 by February twenty-eighth that the child meets  
9 eligibility criteria. The parent of an eligible student shall provide annual written notice of  
10 intent to participate for the upcoming school year and to renew the contract by a date set  
11 by the local board of education.

12       2. On or after January first but prior to April 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.

      160.855. The parent of an eligible student shall be deemed to have relinquished the  
2 right to receive tuition payments under the equal opportunity education contract program  
3 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 160.860.  
160.860. 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 under section 160.518, either administered by the qualified school at the expense of the  
13 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.

160.865. 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 160.860;**

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.**

**160.870. Any school district not meeting the conditions specified in subdivision (3)**  
2      **of section 160.840 may opt to participate in the equal opportunity education contract**  
3      **program authorized in this section upon the adoption of a resolution by the school board**  
4      **and submission of the resolution to the department of elementary and secondary education,**  
5      **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.**

**160.875. The department of elementary and secondary education may promulgate**  
2      **rules for the administration of sections 160.840 to 160.870. 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 this section shall become effective only if it complies with and is subject to all**  
5      **of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This**  
6      **section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the**  
7      **general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or**  
8      **to disapprove and annul a rule are subsequently held unconstitutional, then the grant of**  
9      **rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be**  
10     **invalid and void.**

**163.036. 1. In computing the amount of state aid a school district is entitled to receive**  
2      **for the minimum school term only under section 163.031, a school district may use an estimate**  
3      **of the weighted average daily attendance for the current year, or the weighted average daily**  
4      **attendance for the immediately preceding year or the weighted average daily attendance for the**  
5      **second preceding school year, whichever is greater; except that the eligible pupil count shall**  
6      **be adjusted such that a school district shall continue to receive aid for any pupil who is no**

7 **longer enrolled in the school district as a result of using the proceeds of an equal**  
8 **opportunity education contract to transfer to a qualified school under sections 160.840 to**  
9 **160.875, RSMo, for the length of time the pupil remains in the equal opportunity education**  
10 **contract program.** Beginning with the 2006-07 school year, the summer school attendance  
11 included in the average daily attendance as defined in subdivision (2) of section 163.011 shall  
12 include only the attendance hours of pupils that attend summer school in the current year.  
13 Beginning with the 2004-05 school year, when a district's official calendar for the current year  
14 contributes to a more than ten percent reduction in the average daily attendance for kindergarten  
15 compared to the immediately preceding year, the payment attributable to kindergarten shall  
16 include only the current year kindergarten average daily attendance. Any error made in the  
17 apportionment of state aid because of a difference between the actual weighted average daily  
18 attendance and the estimated weighted average daily attendance shall be corrected as provided  
19 in section 163.091, except that if the amount paid to a district estimating weighted average daily  
20 attendance exceeds the amount to which the district was actually entitled by more than five  
21 percent, interest at the rate of six percent shall be charged on the excess and shall be added to the  
22 amount to be deducted from the district's apportionment the next succeeding year.

23         2. Notwithstanding the provisions of subsection 1 of this section or any other provision  
24 of law, the state board of education shall make an adjustment for the immediately preceding year  
25 for any increase in the actual weighted average daily attendance above the number on which the  
26 state aid in section 163.031 was calculated. Said adjustment shall be made in the manner  
27 providing for correction of errors under subsection 1 of this section.

28         3. Any error made in the apportionment of state aid because of a difference between the  
29 actual equalized assessed valuation for the current year and the estimated equalized assessed  
30 valuation for the current year shall be corrected as provided in section 163.091, except that if the  
31 amount paid to a district estimating current equalized assessed valuation exceeds the amount to  
32 which the district was actually entitled, interest at the rate of six percent shall be charged on the  
33 excess and shall be added to the amount to be deducted from the district's apportionment the next  
34 succeeding year.

35         4. For the purposes of distribution of state school aid pursuant to section 163.031, a  
36 school district with ten percent or more of its assessed valuation that is owned by one person or  
37 corporation as commercial or personal property who is delinquent in a property tax payment may  
38 elect, after receiving notice from the county clerk on or before March fifteenth that more than  
39 ten percent of its current taxes due the preceding December thirty-first by a single property owner  
40 are delinquent, to use in the local effort calculation of the state aid formula the district's  
41 equalized assessed valuation for the preceding year or the actual assessed valuation of the year  
42 for which the taxes are delinquent less the assessed valuation of property for which the current

43 year's property tax is delinquent. To qualify for use of the actual assessed valuation of the year  
44 for which the taxes are delinquent less the assessed valuation of property for which the current  
45 year's property tax is delinquent, a district must notify the department of elementary and  
46 secondary education on or before April first, except in the year enacted, of the current year  
47 amount of delinquent taxes, the assessed valuation of such property for which delinquent taxes  
48 are owed and the total assessed valuation of the district for the year in which the taxes were due  
49 but not paid. Any district giving such notice to the department of elementary and secondary  
50 education shall present verification of the accuracy of such notice obtained from the clerk of the  
51 county levying delinquent taxes. When any of the delinquent taxes identified by such notice are  
52 paid during a four-year period following the due date, the county clerk shall give notice to the  
53 district and the department of elementary and secondary education, and state aid paid to the  
54 district shall be reduced by an amount equal to the delinquent taxes received plus interest. The  
55 reduction in state aid shall occur over a period not to exceed five years and the interest rate on  
56 excess state aid not refunded shall be six percent annually.

57         5. If a district receives state aid based on equalized assessed valuation as determined by  
58 subsection 4 of this section and if prior to such notice the district was paid state aid pursuant to  
59 section 163.031, the amount of state aid paid during the year of such notice and the first year  
60 following shall equal the sum of state aid paid pursuant to section 163.031 plus the difference  
61 between the state aid amount being paid after such notice minus the amount of state aid the  
62 district would have received pursuant to section 163.031 before such notice. To be eligible to  
63 receive state aid based on this provision the district must levy during the first year following such  
64 notice at least the maximum levy permitted school districts by article X, section 11(b) of the  
65 Missouri Constitution and have a voluntary rollback of its tax rate which is no greater than one  
66 cent per one hundred dollars 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 160.840 to 160.875, RSMo.**

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.

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