

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 55
95TH GENERAL ASSEMBLY

0154L.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 160.545, 160.775, 162.961, 162.963, 163.011, 163.031, 168.133, and 171.033, RSMo, and to enact in lieu thereof nineteen new sections relating to education, with an emergency clause for certain sections.

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

Section A. Sections 160.545, 160.775, 162.961, 162.963, 163.011, 163.031, 168.133, and 171.033, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 142.814, 160.545, 160.775, 161.390, 161.860, 162.083, 162.204, 162.961, 162.963, 162.1250, 163.011, 163.031, 163.095, 167.018, 167.019, 167.720, 168.133, 170.400, and 171.033, to read as follows:

142.814. 1. Motor fuel sold to be used to operate school buses to transport students to or from school or to transport students to or from any place for educational purposes is exempt from the fuel tax imposed by this chapter. As used in this section, "school buses" shall have the same meaning as section 302.010, RSMo, and shall not include any motor vehicle owned by the parent of a student for personal use.

2. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

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.

160.545. 1. There is hereby established within the department of elementary and secondary education the "A+ Schools Program" to be administered by the commissioner of education. The program shall consist of grant awards made to public secondary schools that demonstrate a commitment to ensure that:

- (1) All students be graduated from school;
- (2) All students complete a selection of high school studies that is challenging and for which there are identified learning expectations; and
- (3) All students proceed from high school graduation to a college or postsecondary vocational or technical school or high-wage job with work place skill development opportunities.

2. The state board of education shall promulgate rules and regulations for the approval of grants made under the program to schools that:

- (1) Establish measurable districtwide performance standards for the goals of the program outlined in subsection 1 of this section; and
- (2) Specify the knowledge, skills and competencies, in measurable terms, that students must demonstrate to successfully complete any individual course offered by the school, and any course of studies which will qualify a student for graduation from the school; and
- (3) Do not offer a general track of courses that, upon completion, can lead to a high school diploma; and
- (4) Require rigorous coursework with standards of competency in basic academic subjects for students pursuing vocational and technical education as prescribed by rule and regulation of the state board of education; and
- (5) Have a partnership plan developed in cooperation and with the advice of local business persons, labor leaders, parents, and representatives of college and postsecondary vocational and technical school representatives, with the plan then approved by the local board of education. The plan shall specify a mechanism to receive information on an annual basis from those who developed the plan in addition to senior citizens, community leaders, and teachers to update the plan in order to best meet the goals of the program as provided in subsection 1 of this section. Further, the plan shall detail the procedures used in the school to identify students that may drop out of school and the intervention services to be used to meet the needs of such students. The plan shall outline counseling and mentoring services provided to students who will enter the work force upon graduation from high school, address apprenticeship and intern programs, and shall contain procedures for the recruitment of volunteers from the community of the school to serve in schools receiving program grants.

3. A school district may participate in the program irrespective of its accreditation classification by the state board of education, provided it meets all other requirements.

36 4. By rule and regulation, the state board of education may determine a local school
37 district variable fund match requirement in order for a school or schools in the district to receive
38 a grant under the program. However, no school in any district shall receive a grant under the
39 program unless the district designates a salaried employee to serve as the program coordinator,
40 with the district assuming a minimum of one-half the cost of the salary and other benefits
41 provided to the coordinator. Further, no school in any district shall receive a grant under the
42 program unless the district makes available facilities and services for adult literacy training as
43 specified by rule of the state board of education.

44 5. For any school that meets the requirements for the approval of the grants authorized
45 by this section and specified in subsection 2 of this section for three successive school years, by
46 August first following the third such school year, the commissioner of education shall present
47 a plan to the superintendent of the school district in which such school is located for the waiver
48 of rules and regulations to promote flexibility in the operations of the school and to enhance and
49 encourage efficiency in the delivery of instructional services in the school. The provisions of
50 other law to the contrary notwithstanding, the plan presented to the superintendent shall provide
51 a summary waiver, with no conditions, for the pupil testing requirements pursuant to section
52 160.257 in the school. Further, the provisions of other law to the contrary notwithstanding, the
53 plan shall detail a means for the waiver of requirements otherwise imposed on the school related
54 to the authority of the state board of education to classify school districts pursuant to subdivision
55 (9) of section 161.092, RSMo, and such other rules and regulations as determined by the
56 commissioner of education, except such waivers shall be confined to the school and not other
57 schools in the school district unless such other schools meet the requirements of this subsection.
58 However, any waiver provided to any school as outlined in this subsection shall be void on June
59 thirtieth of any school year in which the school fails to meet the requirements for the approval
60 of the grants authorized by this section as specified in subsection 2 of this section.

61 6. For any school year, grants authorized by subsections 1 to 3 of this section shall be
62 funded with the amount appropriated for this program, less those funds necessary to reimburse
63 eligible students pursuant to subsection 7 of this section.

64 7. The commissioner of education shall, by rule and regulation of the state board of
65 education and with the advice of the coordinating board for higher education, establish a
66 procedure for the reimbursement of the cost of tuition, books and fees to any public community
67 college or [within the limits established in subsection 9 of this section any two-year public or
68 private] vocational or technical school **or within the limits established in subsection 9 of this**
69 **section for any two-year private vocational or technical school** for any student:

70 (1) Who has attended a public high school in the state for at least three years immediately
71 prior to graduation that meets the requirements of subsection 2 of this section, except that

72 students who are active duty military dependents who, in the school year immediately preceding
73 graduation, meet all other requirements of this subsection and are attending a school that meets
74 the requirements of subsection 2 of this section shall be exempt from the three-year attendance
75 requirement of this subdivision; and

76 (2) Who has made a good faith effort to first secure all available federal sources of
77 funding that could be applied to the reimbursement described in this subsection; and

78 (3) Who has earned a minimal grade average while in high school as determined by rule
79 of the state board of education, and other requirements for the reimbursement authorized by this
80 subsection as determined by rule and regulation of said board.

81 8. The commissioner of education shall develop a procedure for evaluating the
82 effectiveness of the program described in this section. Such evaluation shall be conducted
83 annually with the results of the evaluation provided to the governor, speaker of the house, and
84 president pro tempore of the senate.

85 9. For a two-year [public or] private vocational or technical school to obtain
86 reimbursements under subsection 7 of this section[, except for those schools that are receiving
87 reimbursements on August 28, 2008,] the following requirements shall be satisfied:

88 (1) Such two-year [public or] private vocational or technical school shall be a member
89 of the North Central Association and be accredited by the Higher Learning Commission as of
90 July 1, 2008, and maintain such accreditation;

91 (2) Such two-year [public or] private vocational or technical school shall be designated
92 as a 501(c)(3) nonprofit organization under the Internal Revenue Code of 1986, as amended;

93 (3) No two-year [public or] private vocational or technical school shall receive tuition
94 reimbursements in excess of the tuition rate charged by a public community college for course
95 work offered by the private vocational or technical school within the service area of such college;
96 and

97 (4) The reimbursements provided to any two-year private vocational or technical school
98 shall not violate the provisions of article IX, section 8, or article I, section 7, of the Missouri
99 Constitution or the first amendment of the United States Constitution.

160.775. 1. Every district shall adopt an antibullying policy by September 1, 2007.

2 2. "Bullying" means intimidation or harassment that causes a reasonable student to fear
3 for his or her physical safety or property. Bullying may consist of physical actions, including
4 gestures, or oral, **cyberbullying, electronic**, or written communication, and any threat of
5 retaliation for reporting of such acts.

6 3. Each district's antibullying policy shall be founded on the assumption that all students
7 need a safe learning environment. Policies shall treat students equally and shall not contain
8 specific lists of protected classes of students who are to receive special treatment. Policies may

9 include age appropriate differences for schools based on the grade levels at the school. Each
10 such policy shall contain a statement of the consequences of bullying.

11 4. Each district's antibullying policy shall require district employees to report any
12 instance of bullying of which the employee has firsthand knowledge. The district policy shall
13 address training of employees in the requirements of the district policy.

**161.390. 1. The department of elementary and secondary education shall develop
2 standards for teaching in Missouri public schools no later than June 30, 2010. The
3 standards shall be applicable to all public schools, including public charter schools.**

4 **2. Teaching standards shall address, but not be limited to, the following core
5 propositions:**

6 **(1) Students actively participate and are successful in the learning process;**

7 **(2) Various forms of assessment are used to monitor and manage student learning;**

8 **(3) The teacher is prepared and is knowledgeable of the content and effectively
9 maintains students' on-task behavior;**

10 **(4) The teacher uses professional communication and interaction with the school
11 community;**

12 **(5) The teacher keeps current on instructional knowledge and seeks and explores
13 changes in teaching behaviors that will improve student performance; and**

14 **(6) The teacher acts as a responsible professional in the overall mission of the
15 school.**

16 **3. School districts shall establish key criteria by which teaching may be evaluated
17 under the teaching standards. The department shall provide model criteria which districts
18 may use in establishing those criteria. The teaching standards and criteria shall serve as
19 the basis for establishment of district performance-based teaching evaluations under
20 section 168.128, RSMo, and teacher professional development plans.**

**161.860. 1. There is hereby created in the state treasury a revolving fund for the
2 department of elementary and secondary education which shall be known as the "General
3 Educational Development (GED) Revolving Fund", and which shall be administered by
4 the commissioner of the department of elementary and secondary education. The GED
5 fund shall consist of moneys appropriated annually by the general assembly whose source
6 is fees charged of GED test applicants and examinees paid into the state treasury and
7 required by law to be credited to this fund. The GED fund shall be kept separate and
8 apart from all other moneys in the state treasury and shall be paid out by the state
9 treasurer under chapter 33, RSMo.**

10 **2. After appropriation pursuant to law, the moneys in the GED fund shall be**
11 **available for the payment of the costs and expenses for test administration which shall**
12 **include, but not be limited to:**

13 **(1) Personal service and related expense and equipment costs for those individuals**
14 **charged with administering and evaluating the GED program;**

15 **(2) Printing costs related to the GED program, but not limited to application forms,**
16 **answer booklets, and associated printing costs; and**

17 **(3) Other administrative costs associated with the GED program as deemed**
18 **necessary by the commissioner of education.**

19 **3. All revenue collected through GED cost-recovery activities authorized pursuant**
20 **to law shall be credited to the GED fund.**

21 **4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any**
22 **moneys remaining in the fund at the end of the biennium shall not revert to the credit of**
23 **the general revenue fund.**

24 **5. The state treasurer shall invest moneys in the fund in the same manner as other**
25 **funds are invested; except that the income accruing from such investments shall be**
26 **credited to the GED fund on an annual basis.**

162.083. 1. The state board of education may appoint additional members to any
2 **special administrative board appointed under section 162.081.**

3 **2. The state board of education may set a final term of office for any member of a**
4 **special administrative board, after which a successor member shall be elected by the voters**
5 **of the district.**

6 **(1) All final terms of office for members of the special administrative board**
7 **established under this section shall expire June thirtieth.**

8 **(2) The election of a successor member shall occur on the general municipal election**
9 **day immediately prior to the expiration of the final term of office.**

10 **(3) The election shall be conducted in a manner consistent with the election laws**
11 **applicable to the school district.**

12 **3. Nothing in this section shall be construed as barring an otherwise qualified**
13 **member of the special administrative board from standing for an elected term on the**
14 **board.**

15 **4. If the state board of education appoints a successor member to replace the chair**
16 **of the special administrative board, the serving members of the special administrative**
17 **board shall be authorized to appoint a superintendent of schools and contract for his or**
18 **her services.**

19 **5. On a date set by the state board of education, any district operating under the**
20 **governance of a special administrative board shall return to local governance, and continue**
21 **operation as a school district as otherwise authorized by law.**

162.204. Notwithstanding any provision of law to the contrary, a school district may
2 **fulfill its statutory responsibility to maintain permanent records by maintaining or storing**
3 **such records in a digital or electronic format. A school district that maintains or stores**
4 **records in a digital or electronic format shall follow all guidelines, suggestions, or**
5 **recommendations set forth by the manufacturer of the digital or electronic storage media.**
6 **A school district shall not use or maintain digital or electronic storage media beyond the**
7 **manufacturer suggested or recommended period of time.**

 162.961. 1. A parent, guardian or the responsible educational agency may request a due
2 process hearing by the state board of education with respect to any matter relating to
3 identification, evaluation, educational placement, or the provision of a free appropriate public
4 education of the child. Such request shall include the child's name, address, school, issue, and
5 suggested resolution of dispute if known. Except as provided in subsection 4 of this section, the
6 board or its delegated representative shall within fifteen days after receiving notice empower a
7 hearing panel of three persons who are not directly connected with the original decision and who
8 are not employees of the board to which the appeal has been made. All of the panel members
9 shall have some knowledge or training involving children with disabilities, none shall have a
10 personal or professional interest which would conflict with his or her objectivity in the hearing,
11 and all shall meet the department of elementary and secondary education's training and
12 assessment requirements pursuant to state regulations and federal law and regulation
13 requirements of the Individuals With Disabilities Education Act. One person shall be chosen by
14 the local school district board or its delegated representative or the responsible educational
15 agency, and one person shall be chosen at the recommendation of the parent or guardian. If
16 either party has not chosen a panel member ten days after the receipt by the department of
17 elementary and secondary education of the request for a due process hearing, such panel member
18 shall be chosen instead by the department of elementary and secondary education. Each of these
19 two panel members shall be compensated pursuant to a rate set by the department of elementary
20 and secondary education. The third person shall be appointed by the state board of education and
21 shall serve as the chairperson of the panel. The chairperson shall be an attorney licensed to
22 practice law in this state. During the pendency of any three-member panel hearing, or prior to
23 the empowerment of the panel, the parties may, by mutual agreement, submit their dispute to a
24 mediator pursuant to section 162.959.

25 2. The parent or guardian, school official, and other persons affected by the action in
26 question shall present to the hearing panel all pertinent evidence relative to the matter under
27 appeal. All rights and privileges as described in section 162.963 shall be permitted.

28 3. After review of all evidence presented and a proper deliberation, the hearing panel,
29 within the time lines required by the Individuals With Disabilities Education Act, 20 U.S.C.
30 Section 1415 and any amendments thereto, shall by majority vote determine its findings,
31 conclusions, and decision in the matter in question and forward the written decision to the
32 parents or guardian of the child and to the president of the appropriate local board of education
33 or responsible educational agency and to the department of elementary and secondary education.
34 A specific extension of the time line may be made by the chairman at the request of either party,
35 except in the case of an expedited hearing as provided in subsection 4 of this section.

36 4. An expedited due process hearing by the state board of education may be requested
37 by a parent to challenge a disciplinary change of placement or to challenge a manifestation
38 determination in connection with a disciplinary change of placement or by a responsible
39 educational agency to seek a forty-five school day alternative educational placement for a
40 dangerous or violent student. The board or its delegated representative shall appoint a hearing
41 officer to hear the case and render a decision within the time line required by federal law and
42 state regulations implementing federal law. The hearing officer shall be an attorney licensed to
43 practice law in this state. The hearing officer shall have some knowledge or training involving
44 children with disabilities, shall not have a personal or professional interest which would conflict
45 with his or her objectivity in the hearing, and shall meet the department of elementary and
46 secondary education's training and assessment requirements pursuant to state regulations and
47 federal law and regulation requirements of the Individuals With Disabilities Education Act. A
48 specific extension of the time line is only permissible to the extent consistent with federal law
49 and pursuant to state regulations.

50 5. If the responsible public agency requests a due process hearing to seek a forty-five
51 school day alternative educational placement for a dangerous or violent student, the agency shall
52 show by substantial evidence that there is a substantial likelihood the student will injure himself
53 or others and that the agency made reasonable efforts to minimize that risk, and shall show that
54 the forty-five school day alternative educational placement will provide a free appropriate public
55 education which includes services and modifications to address the behavior so that it does not
56 reoccur, and continue to allow progress in the general education curriculum.

57 6. Any due process hearing request and responses to the request shall conform to the
58 requirements of the Individuals With Disabilities Education Act (IDEA). Determination of the
59 sufficiency shall be made by the chairperson of the three-member hearing panel, or in the case
60 of an expedited due process hearing, by the hearing officer. The chairperson or hearing officer

61 shall implement the process and procedures, including time lines, required by the IDEA, related
62 to sufficiency of notice, response to notice, determination of sufficiency dispute, and
63 amendments of the notice.

64 7. A preliminary meeting, known as a resolution session, shall be convened by the
65 responsible public agency, under the requirements of the IDEA. The process and procedures
66 required by the IDEA in connection to the resolution session and any resulting written settlement
67 agreement shall be implemented. **The responsible public agency or its designee shall sign the**
68 **agreement. The designee identified by the responsible public agency shall have the**
69 **authority to bind the agency. A local board of education, as a responsible public agency,**
70 **shall identify a designee with authority to bind the school district.**

162.963. 1. At any hearing held pursuant to the provisions of section 162.961, except
2 as otherwise provided in this section, either party or a representative shall be entitled to:

3 (1) Be accompanied and advised by counsel and by individuals with special knowledge
4 or training with respect to the problems of children with disabilities;

5 (2) Present evidence and confront, cross-examine, and compel the attendance of
6 witnesses;

7 (3) Prohibit the introduction of any evidence, including all evaluations and
8 recommendations based on the offering party's evaluation, at the hearing that has not been
9 disclosed to that party at least five business days before the hearing[, except this shall not be
10 applicable in the case of an expedited hearing where no discovery shall take place];

11 (4) Obtain a written or, at the option of the parents, electronic verbatim record of the
12 hearing; and

13 (5) Obtain written or, at the option of the parents, electronic findings of fact and
14 decision.

15 2. Parents involved in hearings have the right to have the child who is the subject of the
16 hearing present and the right to open the hearing to the public.

17 3. Prior to the resolution conference or hearing, the parent or guardian or a representative
18 of the parent or guardian shall have access to any reports, records, clinical evaluations or other
19 materials upon which the action to be reviewed was wholly or partially based which could
20 reasonably have a bearing on the correctness of the determination.

21 4. A complete record shall be made of all proceedings unless otherwise specified by
22 statute, which records shall include verbatim transcription of all testimony and shall include all
23 documents, writings, or other evidence presented by any party. Costs incurred during these
24 proceedings, except those of the parties for purchasing diagnostic services or legal counsel or
25 other services of a personal nature, shall be the responsibility of the state board of education.

162.1250. 1. School districts shall receive state school funding under sections 163.031, 163.043, and 163.087, RSMo, for resident students who are enrolled in the school district and who are taking a virtual course or full-time virtual program offered by the school district. The school district may offer instruction in a virtual setting using technology, intranet, and Internet methods of communications that could take place outside of the regular school district facility. The school district may develop a virtual program for any grade level, kindergarten through twelfth grade, with the courses available in accordance with district policy to any resident student of the district who is enrolled in the school district. Nothing in this section shall preclude a private, parochial, or home school student residing within a school district offering virtual courses or virtual programs from enrolling in the school district in accordance with the combined enrollment provisions of section 167.031, RSMo, for the purposes of participating in the virtual courses or virtual programs.

2. Charter schools shall receive state school funding under section 160.415, RSMo, for students enrolled in the charter school who are completing a virtual course or full-time virtual program offered by the charter school. Charter schools may offer instruction in a virtual setting using technology, intranet, and Internet methods of communications. The charter school may develop a virtual program for any grade level, kindergarten through twelfth grade, with the courses available in accordance with school policy and the charter school's charter to any student enrolled in the charter school.

3. For purposes of calculation and distribution of state school funding, attendance of a student enrolled in a district or charter school virtual class shall equal, upon course completion, ninety-four percent of the hours of attendance possible for such class delivered in the non-virtual program in the student's resident district or charter school. Course completion shall be calculated in two increments, fifty percent completion and one hundred percent completion, based on the student's completion of defined assignments and assessments, with distribution of state funding to a school district or charter school at each increment equal to forty-seven percent of hours of attendance possible for such course delivered in the non-virtual program in a student's school district of residence or charter school.

4. When courses are purchased from an outside vendor, the district or charter school shall ensure that they are aligned with the show-me curriculum standards and comply with state requirements for teacher certification. The state board of education reserves the right to request information and materials sufficient to evaluate the online course. Online classes should be considered like any other class offered by the school district or charter school.

37 **5. Any school district or charter school that offers instruction in a virtual setting,**
38 **develops a virtual course or courses, or develops a virtual program of instruction shall**
39 **ensure that the following standards are satisfied:**

40 **(1) The virtual course or virtual program utilizes appropriate content-specific tools**
41 **and software;**

42 **(2) Orientation training is available for teachers, instructors, and students as**
43 **needed;**

44 **(3) Privacy policies are stated and made available to teachers, instructors, and**
45 **students;**

46 **(4) Academic integrity and Internet etiquette expectations regarding lesson**
47 **activities, discussions, electronic communications, and plagiarism are stated to teachers,**
48 **instructors, and students prior to the beginning of the virtual course or virtual program;**

49 **(5) Computer system requirements, including hardware, web browser, and**
50 **software, are specified to participants;**

51 **(6) The virtual course or virtual program architecture, software, and hardware**
52 **permit the online teacher or instructor to add content, activities, and assessments to extend**
53 **learning opportunities;**

54 **(7) The virtual course or virtual program makes resources available by alternative**
55 **means, including but not limited to, video and podcasts;**

56 **(8) Resources and notes are available for teachers and instructors in addition to**
57 **assessment and assignment answers and explanations;**

58 **(9) Technical support and course management are available to the virtual course**
59 **or virtual program teacher and school coordinator;**

60 **(10) The virtual course or virtual program includes assignments, projects, and**
61 **assessments that are aligned with students' different visual, auditory, and hands-on**
62 **learning styles;**

63 **(11) The virtual course or virtual program demonstrates the ability to effectively use**
64 **and incorporate subject-specific and developmentally appropriate software in an online**
65 **learning module; and**

66 **(12) The virtual course or virtual program arranges media and content to help**
67 **transfer knowledge most effectively in the online environment.**

68 **6. Any special school district shall count any student's completion of a virtual**
69 **course or program in the same manner as the district counts completion of any other**
70 **course or program.**

71 **7. A school district or charter school may contract with multiple providers of**
72 **virtual courses or virtual programs, provided they meet the criteria for virtual courses or**
73 **virtual programs under this section.**

163.011. As used in this chapter unless the context requires otherwise:

2 (1) "Adjusted operating levy", the sum of tax rates for the current year for teachers' and
3 incidental funds for a school district as reported to the proper officer of each county pursuant to
4 section 164.011, RSMo;

5 (2) "Average daily attendance", the quotient or the sum of the quotients obtained by
6 dividing the total number of hours attended in a term by resident pupils between the ages of five
7 and twenty-one by the actual number of hours school was in session in that term. To the average
8 daily attendance of the following school term shall be added the full-time equivalent average
9 daily attendance of summer school students. "Full-time equivalent average daily attendance of
10 summer school students" shall be computed by dividing the total number of hours, except for
11 physical education hours that do not count as credit toward graduation for students in grades
12 nine, ten, eleven, and twelve, attended by all summer school pupils by the number of hours
13 required in section 160.011, RSMo, in the school term. For purposes of determining average
14 daily attendance under this subdivision, the term "resident pupil" shall include all children
15 between the ages of five and twenty-one who are residents of the school district and who are
16 attending kindergarten through grade twelve in such district. If a child is attending school in a
17 district other than the district of residence and the child's parent is teaching in the school district
18 or is a regular employee of the school district which the child is attending, then such child shall
19 be considered a resident pupil of the school district which the child is attending for such period
20 of time when the district of residence is not otherwise liable for tuition. Average daily
21 attendance for students below the age of five years for which a school district may receive state
22 aid based on such attendance shall be computed as regular school term attendance unless
23 otherwise provided by law;

24 (3) "Current operating expenditures":

25 (a) For the fiscal year 2007 calculation, "current operating expenditures" shall be
26 calculated using data from fiscal year 2004 and shall be calculated as all expenditures for
27 instruction and support services except capital outlay and debt service expenditures minus the
28 revenue from federal categorical sources; food service; student activities; categorical payments
29 for transportation costs pursuant to section 163.161; state reimbursements for early childhood
30 special education; the career ladder entitlement for the district, as provided for in sections
31 168.500 to 168.515, RSMo; the vocational education entitlement for the district, as provided for
32 in section 167.332, RSMo; and payments from other districts;

33 (b) In every fiscal year subsequent to fiscal year 2007, current operating expenditures
34 shall be the amount in paragraph (a) **of this subdivision** plus any increases in state funding
35 pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005, not to exceed five
36 percent, per recalculation, of the state revenue received by a district in the 2004-05 school year
37 from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share,
38 and free textbook payments for any district from the first preceding calculation of the state
39 adequacy target. **Beginning on July 1, 2010, current operating expenditures shall be the**
40 **amount in paragraph (a) of this subdivision plus any increases in state funding pursuant**
41 **to sections 163.031 and 163.043 subsequent to fiscal year 2005 received by a district in the**
42 **2004-05 school year from the foundation formula, line 14, gifted, remedial reading,**
43 **exceptional pupil aid, fair share, and free textbook payments for any district from the first**
44 **preceding calculation of the state adequacy target;**

45 (4) "District's tax rate ceiling", the highest tax rate ceiling in effect subsequent to the
46 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for
47 debt service;

48 (5) "Dollar-value modifier", an index of the relative purchasing power of a dollar,
49 calculated as one plus fifteen percent of the difference of the regional wage ratio minus one,
50 provided that the dollar value modifier shall not be applied at a rate less than 1.0:

51 (a) "County wage per job", the total county wage and salary disbursements divided by
52 the total county wage and salary employment for each county and the city of St. Louis as reported
53 by the Bureau of Economic Analysis of the United States Department of Commerce for the
54 fourth year preceding the payment year;

55 (b) "Regional wage per job":

56 a. The total Missouri wage and salary disbursements of the metropolitan area as defined
57 by the Office of Management and Budget divided by the total Missouri metropolitan wage and
58 salary employment for the metropolitan area for the county signified in the school district number
59 or the city of St. Louis, as reported by the Bureau of Economic Analysis of the United States
60 Department of Commerce for the fourth year preceding the payment year and recalculated upon
61 every decennial census to incorporate counties that are newly added to the description of
62 metropolitan areas; or if no such metropolitan area is established, then:

63 b. The total Missouri wage and salary disbursements of the micropolitan area as defined
64 by the Office of Management and Budget divided by the total Missouri micropolitan wage and
65 salary employment for the micropolitan area for the county signified in the school district
66 number, as reported by the Bureau of Economic Analysis of the United States Department of
67 Commerce for the fourth year preceding the payment year, if a micropolitan area for such county

68 has been established and recalculated upon every decennial census to incorporate counties that
69 are newly added to the description of micropolitan areas; or

70 c. If a county is not part of a metropolitan or micropolitan area as established by the
71 Office of Management and Budget, then the county wage per job, as defined in paragraph (a) of
72 this subdivision, shall be used for the school district, as signified by the school district number;

73 (c) "Regional wage ratio", the ratio of the regional wage per job divided by the state
74 median wage per job;

75 (d) "State median wage per job", the fifty-eighth highest county wage per job;

76 (6) "Free and reduced lunch pupil count", the number of pupils eligible for free and
77 reduced lunch on the last Wednesday in January for the preceding school year who were enrolled
78 as students of the district, as approved by the department in accordance with applicable federal
79 regulations;

80 (7) "Free and reduced lunch threshold" shall be calculated by dividing the total free and
81 reduced lunch pupil count of every performance district that falls entirely above the bottom five
82 percent and entirely below the top five percent of average daily attendance, when such districts
83 are rank-ordered based on their current operating expenditures per average daily attendance, by
84 the total average daily attendance of all included performance districts;

85 (8) **"Gifted education pupil count", the number of pupils who qualify as "gifted"**
86 **under the definition of "gifted children" in section 162.675, RSMo, and who are enrolled**
87 **in a gifted education program provided by the district on the last Wednesday in January**
88 **for the immediately preceding academic year but not to exceed five percent of the district's**
89 **immediately preceding academic year enrollment; provided that this subdivision shall not**
90 **be construed to limit any district from identifying or in any manner providing gifted**
91 **education services to more than five percent of the district's enrolled pupils;**

92 (9) "Limited English proficiency pupil count", the number in the preceding school year
93 of pupils aged three through twenty-one enrolled or preparing to enroll in an elementary school
94 or secondary school who were not born in the United States or whose native language is a
95 language other than English or are Native American or Alaskan native, or a native resident of
96 the outlying areas, and come from an environment where a language other than English has had
97 a significant impact on such individuals' level of English language proficiency, or are migratory,
98 whose native language is a language other than English, and who come from an environment
99 where a language other than English is dominant; and have difficulties in speaking, reading,
100 writing, or understanding the English language sufficient to deny such individuals the ability to
101 meet the state's proficient level of achievement on state assessments described in Public Law
102 107-10, the ability to achieve successfully in classrooms where the language of instruction is
103 English, or the opportunity to participate fully in society;

104 [(9)] **(10)** "Limited English proficiency threshold" shall be calculated by dividing the
105 total limited English proficiency pupil count of every performance district that falls entirely
106 above the bottom five percent and entirely below the top five percent of average daily attendance,
107 when such districts are rank-ordered based on their current operating expenditures per average
108 daily attendance, by the total average daily attendance of all included performance districts;

109 [(10)] **(11)** "Local effort":

110 (a) For the fiscal year 2007 calculation, "local effort" shall be computed as the equalized
111 assessed valuation of the property of a school district in calendar year 2004 divided by one
112 hundred and multiplied by the performance levy less the percentage retained by the county
113 assessor and collector plus one hundred percent of the amount received in fiscal year 2005 for
114 school purposes from intangible taxes, fines, escheats, payments in lieu of taxes and receipts
115 from state-assessed railroad and utility tax, one hundred percent of the amount received for
116 school purposes pursuant to the merchants' and manufacturers' taxes under sections 150.010 to
117 150.370, RSMo, one hundred percent of the amounts received for school purposes from federal
118 properties under sections 12.070 and 12.080, RSMo, except when such amounts are used in the
119 calculation of federal impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues
120 received for school purposes from the school district trust fund under section 163.087, and one
121 hundred percent of any local earnings or income taxes received by the district for school
122 purposes. Under this paragraph, for a special district established under sections 162.815 to
123 162.940, RSMo, in a county with a charter form of government and with more than one million
124 inhabitants, a tax levy of zero shall be utilized in lieu of the performance levy for the special
125 school district;

126 (b) In every year subsequent to fiscal year 2007, "local effort" shall be the amount
127 calculated under paragraph (a) of this subdivision plus any increase in the amount received for
128 school purposes from fines. If a district's assessed valuation has decreased subsequent to the
129 calculation outlined in paragraph (a) of this subdivision, the district's local effort shall be
130 calculated using the district's current assessed valuation in lieu of the assessed valuation utilized
131 in **the** calculation outlined in paragraph (a) of this subdivision;

132 [(11)] **(12)** "Membership" shall be the average of:

133 (a) The number of resident full-time students and the full-time equivalent number of
134 part-time students who were enrolled in the public schools of the district on the last Wednesday
135 in September of the previous year and who were in attendance one day or more during the
136 preceding ten school days; and

137 (b) The number of resident full-time students and the full-time equivalent number of
138 part-time students who were enrolled in the public schools of the district on the last Wednesday
139 in January of the previous year and who were in attendance one day or more during the preceding

ten school days, plus the full-time equivalent number of summer school pupils. "Full-time equivalent number of part-time students" is determined by dividing the total number of hours for which all part-time students are enrolled by the number of hours in the school term. "Full-time equivalent number of summer school pupils" is determined by dividing the total number of hours for which all summer school pupils were enrolled by the number of hours required pursuant to section 160.011, RSMo, in the school term. Only students eligible to be counted for average daily attendance shall be counted for membership;

[(12)] **(13)** "Operating levy for school purposes", the sum of tax rates levied for teachers' and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100, RSMo, of any transitional school district containing the school district, in the payment year, not including any equalized operating levy for school purposes levied by a special school district in which the district is located;

[(13)] **(14)** "Performance district", any district that has met all performance standards and indicators as established by the department of elementary and secondary education for purposes of accreditation under section 161.092, RSMo, and as reported on the final annual performance report for that district each year;

[(14)] **(15)** "Performance levy", three dollars and forty-three cents;

[(15)] **(16)** "School purposes" pertains to teachers' and incidental funds;

[(16)] **(17)** "Special education pupil count", the number of public school students with a current individualized education program and receiving services from the resident district as of December first of the preceding school year, except for special education services provided through a school district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, in which case the sum of the students in each district within the county exceeding the special education threshold of each respective district within the county shall be counted within the special district and not in the district of residence for purposes of distributing the state aid derived from the special education pupil count;

[(17)] **(18)** "Special education threshold" shall be calculated by dividing the total special education pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

[(18)] **(19)** "State adequacy target", the sum of the current operating expenditures of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, divided by the total average

176 daily attendance of all included performance districts [plus the total amount of funds placed in
177 the schools first elementary and secondary education improvement fund in the preceding fiscal
178 year divided by the total average daily attendance of all school districts for the preceding fiscal
179 year]. The department of elementary and secondary education shall first calculate the state
180 adequacy target for fiscal year 2007 and recalculate the state adequacy target every two years
181 using the most current available data[; provided that the state adequacy target shall be
182 recalculated every year to reflect the per-pupil amount of funds placed in the schools first
183 elementary and secondary education improvement fund in the preceding fiscal year]. The
184 recalculation shall never result in a decrease from the previous state adequacy target amount.
185 Should a recalculation result in an increase in the state adequacy target amount, fifty percent of
186 that increase shall be included in the state adequacy target amount in the year of recalculation,
187 and fifty percent of that increase shall be included in the state adequacy target amount in the
188 subsequent year. The state adequacy target may be adjusted to accommodate available
189 appropriations;

190 [(19)] (20) "Teacher", any teacher, teacher-secretary, substitute teacher, supervisor,
191 principal, supervising principal, superintendent or assistant superintendent, school nurse, social
192 worker, counselor or librarian who shall, regularly, teach or be employed for no higher than
193 grade twelve more than one-half time in the public schools and who is certified under the laws
194 governing the certification of teachers in Missouri;

195 [(20)] (21) "Weighted average daily attendance", the average daily attendance plus the
196 product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that
197 exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths
198 multiplied by the number of special education pupil count that exceeds the special education
199 threshold, [and] plus the product of six-tenths multiplied by the number of limited English
200 proficiency pupil count that exceeds the limited English proficiency threshold, **and beginning**
201 **July 1, 2010, plus the product of twenty-five hundredths multiplied by the number of the**
202 **district's gifted education pupil count.** For special districts established under sections 162.815
203 to 162.940, RSMo, in a county with a charter form of government and with more than one
204 million inhabitants, weighted average daily attendance shall be the average daily attendance plus
205 the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that
206 exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths
207 multiplied by the sum of the special education pupil count that exceeds the threshold for each
208 county district, plus the product of six-tenths multiplied by the limited English proficiency pupil
209 count that exceeds the limited English proficiency threshold. None of the districts comprising
210 a special district established under sections 162.815 to 162.940, RSMo, in a county with a charter

211 form of government and with more than one million inhabitants, shall use any special education
212 pupil count in calculating their weighted average daily attendance.

163.031. 1. The department of elementary and secondary education shall calculate and
2 distribute to each school district qualified to receive state aid under section 163.021 an amount
3 determined by multiplying the district's weighted average daily attendance by the state adequacy
4 target, multiplying this product by the dollar value modifier for the district, and subtracting from
5 this product the district's local effort and, in years not governed under subsection 4 of this
6 section, subtracting payments from the classroom trust fund under section 163.043.

7 2. Other provisions of law to the contrary notwithstanding:

8 (1) For districts with an average daily attendance of more than three hundred fifty in the
9 school year preceding the payment year:

10 (a) For the 2006-07 school year, the state revenue per weighted average daily attendance
11 received by a district from the state aid calculation under subsections 1 and 4 of this section, as
12 applicable, and the classroom trust fund under section 163.043 shall not be less than the state
13 revenue received by a district in the 2005-06 school year from the foundation formula, line 14,
14 gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts
15 multiplied by the sum of one plus the product of one-third multiplied by the remainder of the
16 dollar value modifier minus one, and dividing this product by the weighted average daily
17 attendance computed for the 2005-06 school year;

18 (b) For the 2007-08 school year, the state revenue per weighted average daily attendance
19 received by a district from the state aid calculation under subsections 1 and 4 of this section, as
20 applicable, and the classroom trust fund under section 163.043 shall not be less than the state
21 revenue received by a district in the 2005-06 school year from the foundation formula, line 14,
22 gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts
23 multiplied by the sum of one plus the product of two-thirds multiplied by the remainder of the
24 dollar value modifier minus one, and dividing this product by the weighted average daily
25 attendance computed for the 2005-06 school year;

26 (c) For the 2008-09 school year, the state revenue per weighted average daily attendance
27 received by a district from the state aid calculation under subsections 1 and 4 of this section, as
28 applicable, and the classroom trust fund under section 163.043 shall not be less than the state
29 revenue received by a district in the 2005-06 school year from the foundation formula, line 14,
30 gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts
31 multiplied by the dollar value modifier, and dividing this product by the weighted average daily
32 attendance computed for the 2005-06 school year;

33 (d) For each year subsequent to the 2008-09 school year, the amount shall be no less than
34 that computed in paragraph (c) of this subdivision, multiplied by the weighted average daily

35 attendance pursuant to section 163.036, less any increase in revenue received from the classroom
36 trust fund under section 163.043;

37 (2) For districts with an average daily attendance of three hundred fifty or less in the
38 school year preceding the payment year:

39 (a) For the 2006-07 school year, the state revenue received by a district from the state
40 aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust
41 fund under section 163.043 shall not be less than the greater of state revenue received by a
42 district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted,
43 remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts
44 multiplied by the sum of one plus the product of one-third multiplied by the remainder of the
45 dollar value modifier minus one;

46 (b) For the 2007-08 school year, the state revenue received by a district from the state
47 aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust
48 fund under section 163.043 shall not be less than the greater of state revenue received by a
49 district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted,
50 remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts
51 multiplied by the sum of one plus the product of two-thirds multiplied by the remainder of the
52 dollar value modifier minus one;

53 (c) For the 2008-09 school year, the state revenue received by a district from the state
54 aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust
55 fund under section 163.043 shall not be less than the greater of state revenue received by a
56 district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted,
57 remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts
58 multiplied by the dollar value modifier;

59 (d) For each year subsequent to the 2008-09 school year, the amount shall be no less than
60 that computed in paragraph (c) of this subdivision;

61 (3) The department of elementary and secondary education shall make an addition in the
62 payment amount specified in subsection 1 of this section to assure compliance with the
63 provisions contained in this subsection.

64 3. School districts that meet the requirements of section 163.021 shall receive categorical
65 add-on revenue as provided in this subsection. The categorical add-on for the district shall be
66 the sum of: seventy-five percent of the district allowable transportation costs under section
67 163.161; the career ladder entitlement for the district, as provided for in sections 168.500 to
68 168.515, RSMo; the vocational education entitlement for the district, as provided for in section
69 167.332, RSMo; and the district educational and screening program entitlements as provided for

70 in sections 178.691 to 178.699, RSMo. The categorical add-on revenue amounts may be
71 adjusted to accommodate available appropriations.

72 4. In the 2006-07 school year and each school year thereafter for five years, those
73 districts entitled to receive state aid under the provisions of subsection 1 of this section shall
74 receive state aid in an amount as provided in this subsection.

75 (1) For the 2006-07 school year, the amount shall be fifteen percent of the amount of
76 state aid calculated for the district for the 2006-07 school year under the provisions of subsection
77 1 of this section, plus eighty-five percent of the total amount of state revenue received by the
78 district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial
79 reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received
80 under section 163.043.

81 (2) For the 2007-08 school year, the amount shall be thirty percent of the amount of state
82 aid calculated for the district for the 2007-08 school year under the provisions of subsection 1
83 of this section, plus seventy percent of the total amount of state revenue received by the district
84 for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading,
85 exceptional pupil aid, fair share, and free textbook payments less any amounts received under
86 section 163.043.

87 (3) For the 2008-09 school year, the amount of state aid shall be forty-four percent of the
88 amount of state aid calculated for the district for the 2008-09 school year under the provisions
89 of subsection 1 of this section plus fifty-six percent of the total amount of state revenue received
90 by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial
91 reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received
92 under section 163.043.

93 (4) For the 2009-10 school year, the amount of state aid shall be fifty-eight percent of
94 the amount of state aid calculated for the district for the 2009-10 school year under the provisions
95 of subsection 1 of this section plus forty-two percent of the total amount of state revenue
96 received by the district for the 2005-06 school year from the foundation formula, line 14, gifted,
97 remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts
98 received under section 163.043.

99 (5) For the 2010-11 school year, the amount of state aid shall be seventy-two percent of
100 the amount of state aid calculated for the district for the 2010-11 school year under the provisions
101 of subsection 1 of this section plus twenty-eight percent of the total amount of state revenue
102 received by the district for the 2005-06 school year from the foundation formula, line 14, gifted,
103 remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts
104 received under section 163.043.

(6) For the 2011-12 school year, the amount of state aid shall be eighty-six percent of the amount of state aid calculated for the district for the 2011-12 school year under the provisions of subsection 1 of this section plus fourteen percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(7) (a) Notwithstanding subdivision (18) of section 163.011, the state adequacy target may not be adjusted downward to accommodate available appropriations in any year governed by this subsection.

(b) a. For the 2006-07 school year, if a school district experiences a decrease in summer school average daily attendance of more than twenty percent from the district's 2005-06 summer school average daily attendance, an amount equal to the product of the percent reduction that is in excess of twenty percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's current year payment amount.

b. For the 2007-08 school year, if a school district experiences a decrease in summer school average daily attendance of more than thirty percent from the district's 2005-06 summer school average daily attendance, an amount equal to the product of the percent reduction that is in excess of thirty percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's payment amount.

c. For the 2008-09 school year [through the 2011-12 school year], if a school district experiences a decrease in summer school average daily attendance of more than thirty-five percent from the district's 2005-06 summer school average daily attendance, an amount equal to the product of the percent reduction that is in excess of thirty-five percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's payment amount.

d. Notwithstanding the provisions of this paragraph, no such reduction shall be made in the case of a district that is receiving a payment under section 163.044 or any district whose regular school term average daily attendance for the preceding year was three hundred fifty or less.

e. This paragraph shall not be construed to permit any reduction applied under this paragraph to result in any district receiving a current-year payment that is less than the amount calculated for such district under subsection 2 of this section.

(c) If a school district experiences a decrease in its gifted program enrollment of more than twenty percent from its 2005-06 gifted program enrollment in any year governed by this subsection, an amount equal to the product of the percent reduction in the district's gifted program enrollment multiplied by the funds generated by the district's gifted program in the 2005-06 school year shall be subtracted from the district's current year payment amount.

5. For any school district meeting the eligibility criteria for state aid as established in section 163.021, but which is considered an option district under section 163.042 and therefore receives no state aid, the commissioner of education shall present a plan to the superintendent of the school district for the waiver of rules and the duration of said waivers, in order to promote flexibility in the operations of the district and to enhance and encourage efficiency in the delivery of instructional services as provided in section 163.042.

6. (1) No less than seventy-five percent of the state revenue received under the provisions of subsections 1, 2, and 4 of this section shall be placed in the teachers' fund, and the remaining percent of such moneys shall be placed in the incidental fund. No less than seventy-five percent of one-half of the funds received from the school district trust fund distributed under section 163.087 shall be placed in the teachers' fund. One hundred percent of revenue received under the provisions of section 163.161 shall be placed in the incidental fund. One hundred percent of revenue received under the provisions of sections 168.500 to 168.515, RSMo, shall be placed in the teachers' fund.

(2) A school district shall spend for certificated compensation and tuition expenditures each year:

(a) An amount equal to at least seventy-five percent of the state revenue received under the provisions of subsections 1, 2, and 4 of this section;

(b) An amount equal to at least seventy-five percent of one-half of the funds received from the school district trust fund distributed under section 163.087 during the preceding school year; and

(c) Beginning in fiscal year 2008, as much as was spent per the second preceding year's weighted average daily attendance for certificated compensation and tuition expenditures the previous year from revenue produced by local and county tax sources in the teachers' fund, plus the amount of the incidental fund to teachers' fund transfer calculated to be local and county tax sources by dividing local and county tax sources in the incidental fund by total revenue in the incidental fund. In the event a district fails to comply with this provision, the amount by which the district fails to spend funds as provided herein shall be deducted from the district's state revenue received under the provisions of subsections 1, 2, and 4 of this section for the following year, provided that the state board of education may exempt a school district from this provision if the state board of education determines that circumstances warrant such exemption.

176 7. If a school district's annual audit discloses that students were inappropriately identified
177 as eligible for free and reduced lunch, special education, or limited English proficiency and the
178 district does not resolve the audit finding, the department of elementary and secondary education
179 shall require that the amount of aid paid pursuant to the weighting for free and reduced lunch,
180 special education, or limited English proficiency in the weighted average daily attendance on the
181 inappropriately identified pupils be repaid by the district in the next school year and shall
182 additionally impose a penalty of one hundred percent of such aid paid on such pupils, which
183 penalty shall also be paid within the next school year. Such amounts may be repaid by the
184 district through the withholding of the amount of state aid.

**163.095. 1. For any unaccredited district in a county with a charter form of
2 government and with more than one million inhabitants that in school year 2005-2006 set
3 a portion of its operating levy in the capital projects fund when the entire operating levy
4 could have been set in the incidental fund, the department of elementary and secondary
5 education shall calculate the amount the district would have received in state foundation
6 formula revenue for the fiscal year 2006 had the district placed the entire operating levy
7 amount in the incidental fund and shall use this revised 2005-2006 calculated funding
8 amount in determining the distribution of foundation formula aid for the 2009-2010 school
9 year and subsequent years. The revised calculation shall not change the funding to the
10 district for any year prior to the 2009-2010 school year.**

**11 2. After the completion of the 2010-2011 fiscal year, the state auditor shall perform
12 a follow-up audit for the school district described in subsection 1 of this section to
13 determine to what extent the issues addressed in the district's 2007 audit have been
14 addressed.**

**15 3. The school district shall obtain an independent appraisal prior to selling real
16 property.**

**167.018. 1. Sections 167.018 and 167.019 shall be known and may be cited as the
2 "Foster Care Education Bill of Rights".**

**3 2. Each school district shall designate a staff person as the educational liaison for
4 foster care children. The liaison shall do all of the following in an advisory capacity:**

**5 (1) Ensure and facilitate the proper educational placement, enrollment in school,
6 and checkout from school of foster children;**

**7 (2) Assist foster care pupils when transferring from one school to another or from
8 one school district to another, by ensuring proper transfer of credits, records, and grades;**

**9 (3) Request school records, as provided in section 167.022, within two business days
10 of placement of a foster care pupil in a school; and**

11 (4) Submit school records of foster care pupils within three business days of
12 receiving a request for school records, under subdivision (3) of this subsection.

167.019. 1. A child placing agency, as defined under section 210.481, RSMo, shall
2 promote educational stability for foster care children by considering the child's school
3 attendance area when making placement decisions. The foster care pupil shall have the
4 right to remain enrolled in and attend his or her school of origin pending resolution of
5 school placement disputes.

6 2. Each school district shall accept for credit full or partial course work
7 satisfactorily completed by a pupil while attending a public school, nonpublic school, or
8 nonsectarian school in accordance with district policies or regulations.

9 3. If a pupil completes the graduation requirements of his or her school district of
10 residence while under the jurisdiction of the juvenile court as described in chapter 211,
11 RSMo, the school district of residence shall issue a diploma to the pupil.

12 4. School districts shall ensure that if a pupil in foster care is absent from school
13 due to a decision to change the placement of a pupil made by a court or child placing
14 agency, or due to a verified court appearance or related court-ordered activity, the grades
15 and credits of the pupil shall be calculated as of the date the pupil left school, and no
16 lowering of his or her grades shall occur as a result of the absence of the pupil under these
17 circumstances.

18 5. School districts, subject to federal law, shall be authorized to permit access of
19 pupil school records to any child placing agency for the purpose of fulfilling educational
20 case management responsibilities required by the juvenile officer or by law and to assist
21 with the school transfer or placement of a pupil.

22 6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
23 that is created under the authority delegated in this section shall become effective only if
24 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
25 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
26 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
27 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
28 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
29 adopted after August 28, 2009, shall be invalid and void.

167.720. 1. As used in this section, the following terms shall mean:

2 (1) "Moderate physical activity," low to medium impact physical exertion designed
3 to increase an individual's heart rate to rise to at least seventy-five percent of his or her
4 maximum heart rate. Activities in this category may include, but are not limited to,
5 running, calisthenics, aerobic exercise, etc.

6 (2) "Physical education," instruction in healthy active living by a teacher
7 certificated to teach physical education structured in such a way that it is a regularly
8 scheduled class for students.

9 (3) "Recess," A structured play environment outside of regular classroom
10 instructional activities, where students are allowed to engage in supervised safe active free
11 play.

12 **2. Beginning with the school year 2010-2011:**

13 (1) School districts shall ensure that students in elementary schools participate in
14 moderate physical activity for the entire school year, including students in alternative
15 education programs. Students in the elementary schools shall participate in moderate
16 physical activity for an average of one hundred fifty minutes per five-day school week, or
17 an average of thirty minutes per day. Students with disabilities shall participate in
18 moderate physical activity to the extent appropriate as determined by the provisions of the
19 Individuals with Disabilities Education Act, or Section 504 of the Rehabilitation Act.

20 (2) Each year the commissioner of education shall select for recognition students,
21 schools and school districts that are considered to have achieved improvement in fitness.

22 (3) Students in middle schools may at the school's discretion participate in at least
23 two hundred twenty-five minutes of physical activity per school week.

24 (4) A minimum of one recess period of twenty minutes per day shall be provided
25 for children in elementary schools, which may be incorporated into the lunch period.

26

27 Any requirement of this section above the state minimum physical education requirement
28 may be met by additional physical education instruction, or by other activities approved
29 by the individual school district under the direction of any certificated teacher or
30 administrator or other school employee; under the supervision of a certificated teacher or
31 administrator.

168.133. 1. The school district shall ensure that a criminal background check is
2 conducted on any person employed after January 1, 2005, authorized to have contact with pupils
3 and prior to the individual having contact with any pupil. Such persons include, but are not
4 limited to, administrators, teachers, aides, paraprofessionals, assistants, secretaries, custodians,
5 cooks, and nurses. The school district shall also ensure that a criminal background check is
6 conducted for school bus drivers. The district may allow such drivers to operate buses pending
7 the result of the criminal background check. For bus drivers, the background check shall be
8 conducted on drivers employed by the school district or employed by a pupil transportation
9 company under contract with the school district.

10 2. In order to facilitate the criminal history background check on any person employed
11 after January 1, 2005, the applicant shall submit two sets of fingerprints collected pursuant to
12 standards determined by the Missouri highway patrol. One set of fingerprints shall be used by
13 the highway patrol to search the criminal history repository and the family care safety registry
14 pursuant to sections 210.900 to 210.936, RSMo, and the second set shall be forwarded to the
15 Federal Bureau of Investigation for searching the federal criminal history files.

16 3. The applicant shall pay the fee for the state criminal history record information
17 pursuant to section 43.530, RSMo, and sections 210.900 to 210.936, RSMo, and pay the
18 appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history
19 record when he or she applies for a position authorized to have contact with pupils pursuant to
20 this section. The department shall distribute the fees collected for the state and federal criminal
21 histories to the Missouri highway patrol.

22 4. The school district may adopt a policy to provide for reimbursement of expenses
23 incurred by an employee for state and federal criminal history information pursuant to section
24 43.530, RSMo.

25 5. If, as a result of the criminal history background check mandated by this section, it is
26 determined that the holder of a certificate issued pursuant to section 168.021 has pled guilty or
27 nolo contendere to, or been found guilty of a crime or offense listed in section 168.071, or a
28 similar crime or offense committed in another state, the United States, or any other country,
29 regardless of imposition of sentence, such information shall be reported to the department of
30 elementary and secondary education.

31 6. Any school official making a report to the department of elementary and secondary
32 education in conformity with this section shall not be subject to civil liability for such action.

33 7. For any teacher who is employed by a school district on a substitute or part-time basis
34 within one year of such teacher's retirement from a Missouri school, the state of Missouri shall
35 not require such teacher to be subject to any additional background checks prior to having
36 contact with pupils. Nothing in this subsection shall be construed as prohibiting or otherwise
37 restricting a school district from requiring additional background checks for such teachers
38 employed by the school district.

39 8. **A criminal background check and fingerprint collection conducted under**
40 **subsections 1 and 2 of this section shall be valid for at least a period of one year and**
41 **transferrable from one school district to another district. A teacher's change in type of**
42 **certification shall have no effect on the transferability or validity of such records.**

43 9. Nothing in this section shall be construed to alter the standards for suspension, denial,
44 or revocation of a certificate issued pursuant to this chapter.

45 [9.] 10. The state board of education may promulgate rules for criminal history
46 background checks made pursuant to this section. Any rule or portion of a rule, as that term is
47 defined in section 536.010, RSMo, that is created under the authority delegated in this section
48 shall become effective only if it complies with and is subject to all of the provisions of chapter
49 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
50 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter
51 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are
52 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
53 or adopted after January 1, 2005, shall be invalid and void.

**170.400. Any and all equipment and educational materials necessary for successful
2 participation in supplemental educational services programming shall not be deemed an
3 incentive for the purposes of compliance with department of elementary and secondary
4 education rules and regulations for supplemental educational services provider
5 certification. The department of elementary and secondary education shall not prohibit
6 providers of supplemental and educational services from allowing students to retain
7 instructional equipment, including computers, used by them upon successful completion
8 of supplemental and educational services.**

171.033. 1. "Inclement weather", for purposes of this section, shall be defined as ice,
2 snow, extreme cold, flooding, or a tornado, but such term shall not include excessive heat.

3 2. A district shall be required to make up the first six days of school lost or canceled due
4 to inclement weather and half the number of days lost or canceled in excess of six days **except
5 as otherwise provided in this section.**

6 3. [In the 2005-06 school year, a school district may be exempt from the requirement to
7 make up days of school lost or canceled due to inclement weather occurring after April 1, 2006,
8 in the school district, but such reduction of the minimum number of school days shall not exceed
9 five days when a district has missed more than seven days overall, such reduction to be taken as
10 follows: one day for eight days missed, two days for nine days missed, three days for ten days
11 missed, four days for eleven days missed, and five days for twelve or more days missed. The
12 requirement for scheduling two-thirds of the missed days into the next year's calendar pursuant
13 to subsection 1 of this section shall be waived for the 2006-07 school year.] **In the 2008-09
14 school year and subsequent years a school district may be exempt from the requirement
15 to make up days of school lost or canceled due to inclement weather in the school district
16 when the school district has made up the six days required under subsection 2 of this
17 section and half the number of additional lost or canceled days up to eight days, resulting
18 in no more than ten total make-up days required by this section.**

19 4. The commissioner of education may provide, for any school district in which schools
20 are in session for twelve months of each calendar year that cannot meet the minimum school
21 calendar requirement of at least one hundred seventy-four days and one thousand forty-four hours
22 of actual pupil attendance, upon request, a waiver to be excused from such requirement. This
23 waiver shall be requested from the commissioner of education and may be granted if the school
24 was closed due to circumstances beyond school district control, including inclement weather,
25 flooding or fire.

 Section B. Because immediate action is necessary to synchronize the requirements of
2 section A of this act with the school calendar and state fiscal year, the repeal and reenactment
3 of sections 163.011 and 163.031 of section A of this act, and the enactment of section 163.095
4 of section A of this act, are deemed necessary for the immediate preservation of the public
5 health, welfare, peace, and safety, and is hereby declared to be an emergency act within the
6 meaning of the constitution, and the repeal and reenactment of sections 163.011 and 163.031 of
7 section A of this act, and the enactment of section 163.095 of section A of this act, shall be in
8 full force and effect on July 1, 2009, or upon their passage and approval, whichever later occurs.

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