

SECOND REGULAR SESSION

HOUSE BILL NO. 1571

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SOMMER (Sponsor), PFAUTSCH, HIGDON, MONTECILLO,
BUTLER, ENGLUND, MCNEIL, SWAN, BAHR, KIRKTON, WEBBER, HODGES, KELLEY (127),
OTTO AND PETERS (Co-sponsors).

5419L.041

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 163.011 and 163.031, RSMo, and to enact in lieu thereof two new sections relating to funding for gifted education.

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

Section A. Sections 163.011 and 163.031, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 163.011 and 163.031, to read as follows:

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

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

(2) "Average daily attendance", the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by resident pupils between the ages of five and twenty-one by the actual number of hours school was in session in that term. To the average daily attendance of the following school term shall be added the full-time equivalent average daily attendance of summer school students. "Full-time equivalent average daily attendance of summer school students" shall be computed by dividing the total number of hours, except for physical education hours that do not count as credit toward graduation for students in grades nine, ten, eleven, and twelve, attended by all summer school pupils by the number of hours required in section 160.011 in the school term. For purposes of determining average daily attendance under this subdivision, the term "resident pupil" shall include all children between the ages of five and twenty-one who are residents of the school district and who are attending

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

16 kindergarten through grade twelve in such district. If a child is attending school in a district
17 other than the district of residence and the child's parent is teaching in the school district or is a
18 regular employee of the school district which the child is attending, then such child shall be
19 considered a resident pupil of the school district which the child is attending for such period of
20 time when the district of residence is not otherwise liable for tuition. Average daily attendance
21 for students below the age of five years for which a school district may receive state aid based
22 on such attendance shall be computed as regular school term attendance unless otherwise
23 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; the vocational education entitlement for the district, as provided for in
32 section 167.332; 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 amount
40 in paragraph (a) of this subdivision plus any increases in state funding pursuant to sections
41 163.031 and 163.043 subsequent to fiscal year 2005 received by a district in the 2004-05 school
42 year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair
43 share, and free textbook payments for any district from the first preceding calculation of the state
44 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, and who are enrolled and have**

87 participated in a state-approved gifted education program provided by the district by June
88 first for the immediately preceding academic year;

89 (9) "Gifted threshold" shall be calculated by dividing the total gifted education
90 pupil count of every performance district that falls entirely above the bottom five percent
91 and entirely below the top five percent of average daily attendance, when such districts are
92 rank-ordered based on their current operating expenditures per average daily attendance,
93 by the total average daily attendance of all included performance districts;

94 (10) "Limited English proficiency pupil count", the number in the preceding school year
95 of pupils aged three through twenty-one enrolled or preparing to enroll in an elementary school
96 or secondary school who were not born in the United States or whose native language is a
97 language other than English or are Native American or Alaskan native, or a native resident of
98 the outlying areas, and come from an environment where a language other than English has had
99 a significant impact on such individuals' level of English language proficiency, or are migratory,
100 whose native language is a language other than English, and who come from an environment
101 where a language other than English is dominant; and have difficulties in speaking, reading,
102 writing, or understanding the English language sufficient to deny such individuals the ability to
103 meet the state's proficient level of achievement on state assessments described in Public Law
104 107-10, the ability to achieve successfully in classrooms where the language of instruction is
105 English, or the opportunity to participate fully in society;

106 [(9)] (11) "Limited English proficiency threshold" shall be calculated by dividing the
107 total limited English proficiency pupil count of every performance district that falls entirely
108 above the bottom five percent and entirely below the top five percent of average daily attendance,
109 when such districts are rank-ordered based on their current operating expenditures per average
110 daily attendance, by the total average daily attendance of all included performance districts;

111 [(10)] (12) "Local effort":

112 (a) For the fiscal year 2007 calculation, "local effort" shall be computed as the equalized
113 assessed valuation of the property of a school district in calendar year 2004 divided by one
114 hundred and multiplied by the performance levy less the percentage retained by the county
115 assessor and collector plus one hundred percent of the amount received in fiscal year 2005 for
116 school purposes from intangible taxes, fines, escheats, payments in lieu of taxes and receipts
117 from state-assessed railroad and utility tax, one hundred percent of the amount received for
118 school purposes pursuant to the merchants' and manufacturers' taxes under sections 150.010 to
119 150.370, one hundred percent of the amounts received for school purposes from federal
120 properties under sections 12.070 and 12.080 except when such amounts are used in the
121 calculation of federal impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues
122 received for school purposes from the school district trust fund under section 163.087, and one

123 hundred percent of any local earnings or income taxes received by the district for school
124 purposes. Under this paragraph, for a special district established under sections 162.815 to
125 162.940 in a county with a charter form of government and with more than one million
126 inhabitants, a tax levy of zero shall be utilized in lieu of the performance levy for the special
127 school district;

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

134 [(11)] **(13)** "Membership" shall be the average of:

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

139 (b) The number of resident full-time students and the full-time equivalent number of
140 part-time students who were enrolled in the public schools of the district on the last Wednesday
141 in January of the previous year and who were in attendance one day or more during the preceding
142 ten school days, plus the full-time equivalent number of summer school pupils. "Full-time
143 equivalent number of part-time students" is determined by dividing the total number of hours for
144 which all part-time students are enrolled by the number of hours in the school term. "Full-time
145 equivalent number of summer school pupils" is determined by dividing the total number of hours
146 for which all summer school pupils were enrolled by the number of hours required pursuant to
147 section 160.011 in the school term. Only students eligible to be counted for average daily
148 attendance shall be counted for membership;

149 [(12)] **(14)** "Operating levy for school purposes", the sum of tax rates levied for teachers'
150 and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100
151 of any transitional school district containing the school district, in the payment year, not
152 including any equalized operating levy for school purposes levied by a special school district in
153 which the district is located;

154 [(13)] **(15)** "Performance district", any district that has met all performance standards and
155 indicators as established by the department of elementary and secondary education for purposes
156 of accreditation under section 161.092 and as reported on the final annual performance report
157 for that district each year;

158 [(14)] **(16)** "Performance levy", three dollars and forty-three cents;

159 [(15)] (17) "School purposes" pertains to teachers' and incidental funds;

160 [(16)] (18) "Special education pupil count", the number of public school students with
161 a current individualized education program or services plan and receiving services from the
162 resident district as of December first of the preceding school year, except for special education
163 services provided through a school district established under sections 162.815 to 162.940 in a
164 county with a charter form of government and with more than one million inhabitants, in which
165 case the sum of the students in each district within the county exceeding the special education
166 threshold of each respective district within the county shall be counted within the special district
167 and not in the district of residence for purposes of distributing the state aid derived from the
168 special education pupil count;

169 [(17)] (19) "Special education threshold" shall be calculated by dividing the total special
170 education pupil count of every performance district that falls entirely above the bottom five
171 percent and entirely below the top five percent of average daily attendance, when such districts
172 are rank-ordered based on their current operating expenditures per average daily attendance, by
173 the total average daily attendance of all included performance districts;

174 [(18)] (20) "State adequacy target", the sum of the current operating expenditures of
175 every performance district that falls entirely above the bottom five percent and entirely below
176 the top five percent of average daily attendance, when such districts are rank-ordered based on
177 their current operating expenditures per average daily attendance, divided by the total average
178 daily attendance of all included performance districts. The department of elementary and
179 secondary education shall first calculate the state adequacy target for fiscal year 2007 and
180 recalculate the state adequacy target every two years using the most current available data. The
181 recalculation shall never result in a decrease from the previous state adequacy target amount.
182 Should a recalculation result in an increase in the state adequacy target amount, fifty percent of
183 that increase shall be included in the state adequacy target amount in the year of recalculation,
184 and fifty percent of that increase shall be included in the state adequacy target amount in the
185 subsequent year. The state adequacy target may be adjusted to accommodate available
186 appropriations;

187 [(19)] (21) "Teacher", any teacher, teacher-secretary, substitute teacher, supervisor,
188 principal, supervising principal, superintendent or assistant superintendent, school nurse, social
189 worker, counselor or librarian who shall, regularly, teach or be employed for no higher than
190 grade twelve more than one-half time in the public schools and who is certified under the laws
191 governing the certification of teachers in Missouri;

192 [(20)] (22) "Weighted average daily attendance", the average daily attendance plus the
193 product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that
194 exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths

195 multiplied by the number of special education pupil count that exceeds the special education
196 threshold, plus the product of six-tenths multiplied by the number of limited English proficiency
197 pupil count that exceeds the limited English proficiency threshold, **and beginning July 1, 2015,**
198 **plus the product of six-tenths multiplied by the number of the district's gifted education**
199 **pupil count that exceeds the gifted threshold.** For special districts established under sections
200 162.815 to 162.940 in a county with a charter form of government and with more than one
201 million inhabitants, weighted average daily attendance shall be the average daily attendance plus
202 the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that
203 exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths
204 multiplied by the sum of the special education pupil count that exceeds the threshold for each
205 county district, plus the product of six-tenths multiplied by the limited English proficiency pupil
206 count that exceeds the limited English proficiency threshold; **and beginning July 1, 2015, plus**
207 **the product of six-tenths multiplied by the number of the district's gifted education pupil**
208 **count that exceeds the gifted threshold.** None of the districts comprising a special district
209 established under sections 162.815 to 162.940 in a county with a charter form of government and
210 with more than one million inhabitants, shall use any special education pupil count in calculating
211 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; the vocational education entitlement for the district, as provided for in section 167.332;
69 and the district educational and screening program entitlements as provided for in sections
70 178.691 to 178.699. The categorical add-on revenue amounts may be adjusted to accommodate
71 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.

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

111 (7) (a) Notwithstanding subdivision [(18)] **(20)** of section 163.011, the state adequacy
112 target may not be adjusted downward to accommodate available appropriations in any year
113 governed by this subsection.

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

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

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

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

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

139 (c) If a school district experiences a decrease in its gifted program enrollment of more
140 than twenty percent from its 2005-06 gifted program enrollment in any year governed by this
141 subsection, an amount equal to the product of the percent reduction in the district's gifted
142 program enrollment multiplied by the funds generated by the district's gifted program in the
143 2005-06 school year shall be subtracted from the district's current year payment amount.

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

150 6. (1) No less than seventy-five percent of the state revenue received under the
151 provisions of subsections 1, 2, and 4 of this section shall be placed in the teachers' fund, and the
152 remaining percent of such moneys shall be placed in the incidental fund. No less than
153 seventy-five percent of one-half of the funds received from the school district trust fund
154 distributed under section 163.087 shall be placed in the teachers' fund. One hundred percent of
155 revenue received under the provisions of section 163.161 shall be placed in the incidental fund.
156 One hundred percent of revenue received under the provisions of sections 168.500 to 168.515
157 shall be placed in the teachers' fund.

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

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

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

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

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

✓