

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 287**  
**93RD GENERAL ASSEMBLY**

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Reported from the Special Committee on Education Funding May 4, 2005 with recommendation that House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 287 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

1420L.09C

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**AN ACT**

To repeal sections 148.360, 149.015, 160.264, 160.415, 160.530, 160.531, 160.534, 160.550, 161.527, 162.081, 162.792, 162.935, 162.975, 163.005, 163.011, 163.014, 163.015, 163.021, 163.023, 163.025, 163.028, 163.031, 163.032, 163.034, 163.035, 163.036, 163.071, 163.073, 163.081, 163.087, 163.091, 163.172, 164.011, 164.303, 165.011, 165.015, 165.016, 165.121, 166.260, 166.275, 167.126, 167.151, 167.332, 168.110, 168.126, 168.281, 168.515, 170.051, 170.055, 171.121, 178.296, and 360.106, RSMo, and to enact in lieu thereof forty-six new sections relating to education, with a contingent effective date for certain sections and penalty provisions.

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

Section A. Sections 148.360, 149.015, 160.264, 160.415, 160.530, 160.531, 160.534, 160.550, 161.527, 162.081, 162.792, 162.935, 162.975, 163.005, 163.011, 163.014, 163.015, 163.021, 163.023, 163.025, 163.028, 163.031, 163.032, 163.034, 163.035, 163.036, 163.071, 163.073, 163.081, 163.087, 163.091, 163.172, 164.011, 164.303, 165.011, 165.015, 165.016, 165.121, 166.260, 166.275, 167.126, 167.151, 167.332, 168.110, 168.126, 168.281, 168.515, 170.051, 170.055, 171.121, 178.296, and 360.106, RSMo, are repealed and forty-six new sections enacted in lieu thereof, to be known as sections 142.816, 148.360, 149.015, 160.415, 160.530, 160.534, 161.527, 162.081, 162.935, 163.011, 163.021, 163.023, 163.025, 163.028, 163.031, 163.036, 163.042, 163.043, 163.044, 163.071, 163.073, 163.081, 163.087, 163.091, 163.172,

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.

164.011, 164.303, 165.011, 165.012, 165.016, 165.121, 166.275, 167.126, 167.151, 167.229, 167.332, 168.110, 168.126, 168.281, 168.515, 170.051, 170.055, 171.121, 178.296, 360.106, and 1, to read as follows:

**142.816. 1. Motor fuel sold to any school district within this state and used to operate buses used solely 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. The department shall promulgate rules to implement the provisions of this section.**

**2. 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 July 1, 2006, shall be invalid and void.**

148.360. On or before the first day of October of each year, [the commissioner of education shall apportion to the school districts of the state all of the moneys to the credit of the county foreign insurance tax fund, and warrants shall be issued in favor of the treasurers of the school districts. The moneys shall be apportioned to each school district in the state in the same proportion that the September membership of the district, determined as provided in (1) of subdivision (8) of section 163.011, RSMo, bears to the sum of the September membership of all districts in the state] **the state treasurer shall transfer the moneys in the county foreign insurance tax fund to the state school moneys fund for distribution to the school districts under section 163.031, RSMo.**

149.015. 1. A tax shall be levied upon the sale of cigarettes at an amount equal to eight and one-half mills per cigarette, until such time as the general assembly appropriates an amount equal to twenty-five percent of the net federal reimbursement allowance to the health initiatives fund, then the tax shall be six and one-half mills per cigarette beginning July [first] **1** of the fiscal year immediately after such appropriation. As used in this section, "net federal reimbursement allowance" shall mean that amount of the federal reimbursement allowance in excess of the amount of state matching funds necessary for the state to make payments required by subsection 1 of section 208.471, RSMo, or, if the payments exceed the amount so required, the actual payments made for the purposes specified in subsection 1 of section 208.471, RSMo.

2. The tax shall be evidenced by stamps which shall be furnished by and purchased from the director or by an impression of the tax by the use of a metering machine when authorized by the director as provided in this chapter, and the stamps or impression shall be securely affixed to one end of each package in which cigarettes are contained. All cigarettes must be stamped before being sold in this state.

3. Cigarette tax stamps shall be purchased only from the director. All stamps shall be purchased by the director in proper denominations, shall contain such appropriate wording as the director may prescribe, and shall be of such design, character, color combinations, color changes, sizes and material as the director may, by rules and regulations, determine to afford the greatest security to the state. It shall be the duty of the director to manufacture or contract for revenue stamps required by this chapter; provided that if the stamps are contracted for, the manufacturer thereof shall be within the jurisdiction of the criminal and civil courts of this state, unless the stamps cannot be obtained in this state at a fair price or of acceptable quality. If stamps are manufactured outside of the state, the director shall take any precautions which he deems necessary to safeguard the state against forgery and misdelivery of any stamps. The director may require of the manufacturer from whom stamps are purchased a bond in an amount to be determined by him commensurate with the monetary value of the stamps, containing such conditions as he may deem necessary in order to protect the state against loss.

4. It shall be the intent of this chapter that the impact of the tax levied hereunder be absorbed by the consumer or user and when the tax is paid by any other person, the payment shall be considered as an advance payment and shall thereafter be added to the price of the cigarettes and recovered from the ultimate consumer or user with the person first selling the cigarettes acting as an agent of the state for the payment and collection of the tax to the state, except that in furtherance of the intent of this chapter no refund of any tax collected and remitted by a retailer upon gross receipts from a sale of cigarettes subject to tax pursuant to this chapter shall be claimed pursuant to chapter 144, RSMo, for any amount illegally or erroneously overcharged or overcollected as a result of imposition of sales tax by the retailer upon amounts representing the tax imposed pursuant to this chapter and any such tax shall either be refunded to the person who paid such tax or paid to the director. The director may recoup from any retailer any tax illegally or erroneously overcharged or overcollected unless such tax has been refunded to the person who paid such tax.

5. In making sales of cigarettes in the state, a wholesaler shall keep a record of the amount of tax on his gross sales. The tax shall be evidenced by appropriate stamps attached to each package of cigarettes sold. Notwithstanding any other law to the contrary, no tax stamp need be attached to a package of cigarettes transported in the state between wholesalers or distributors unless and until such package is sold to a retailer or consumer.

6. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

7. The revenue generated by the additional two mills tax imposed effective August 13, 1982, less any three percent reduction allowed pursuant to the provisions of section 149.021, shall be placed in a separate fund entitled "The Fair Share Fund". Such moneys in the fair share fund shall be **transferred monthly to the state school moneys fund and** distributed to the [schools] **school**

**districts** in this state [on an average daily attendance basis, except] as provided in section 163.031, RSMo.

8. The revenue generated by the additional two mills tax imposed effective October 1, 1993, less any three percent reduction allowed pursuant to the provisions of section 149.021, shall be deposited in the health initiatives fund created in section 191.831, RSMo. When the general assembly appropriates an amount equal to twenty-five percent of the net federal reimbursement allowance to the health initiatives fund, this subsection shall expire. The additional two mills tax levied pursuant to this section shall not apply to an amount of stamped cigarettes in the possession of licensed wholesalers on October 1, 1993, up to thirty-five percent of the total cigarette sales made by such licensed wholesaler during the six months immediately preceding October 1, 1993.

160.415. 1. For the purposes of calculation and distribution of state school aid under section 163.031, RSMo, pupils enrolled in a charter school shall be included in the pupil enrollment of the school district within which each pupil resides. Each charter school shall report the names, addresses, and eligibility for free [or reduced-price] **and reduced lunch [or other], special education, or limited English proficiency status, as well as eligibility for** categorical aid, of pupils resident in a school district who are enrolled in the charter school to the school district in which those pupils reside [and]. **The charter school shall report the average daily attendance data, free and reduced lunch count, special education pupil count, and limited English proficiency pupil count** to the state department of elementary and secondary education. Each charter school shall promptly notify the state department of elementary and secondary education and the pupil's school district when a student discontinues enrollment at a charter school.

2. (1) A school district having one or more resident pupils attending a charter school shall pay to the charter school an annual amount equal to the product of the [equalized, adjusted operating levy for school purposes for the pupils' district of residence for the current year times the guaranteed tax base per eligible pupil, as defined in section 163.011, RSMo, times the number of the district's resident pupils attending the charter school] **charter school's weighted average daily attendance and the state adequacy target, multiplied by the dollar value modifier for the district, plus local tax revenues per weighted average daily attendance from the incidental and teachers funds in excess of the performance levy as defined in section 163.011, RSMo,** plus all other state aid attributable to such pupils[, including summer school, if applicable, and all aid provided pursuant to section 163.031, RSMo].

(2) The district of residence of a pupil attending a charter school shall also pay to the charter school any other federal or state aid that the district receives on account of such child.

(3) The amounts provided pursuant to this subsection shall be prorated for partial year enrollment for a pupil.

(4) A school district shall pay the amounts due pursuant to this subsection as the disbursal agent and no later than twenty days following receipt of any such funds.

(5) The per-pupil amount paid by a school district to a charter school shall be reduced by the amount per pupil determined by the state board of education to be needed by the district in the current year for repayment of leasehold revenue bonds obligated pursuant to a federal court desegregation action.

3. If a school district fails to make timely payments of any amount for which it is the disbursal agent, the state department of elementary and secondary education shall authorize payment to the charter school of the amount due pursuant to subsection 2 of this section and shall deduct the same amount from the next state school aid apportionment to the owing school district. If a charter school is paid more or less than the amounts due pursuant to subsection 2 of this section, the amount of overpayment or underpayment shall be adjusted in its next payment by the school district or the department of elementary and secondary education, as appropriate. Any dispute between the school district and a charter school as to the amount owing to the charter school shall be resolved by the department of elementary and secondary education, and the department's decision shall be the final administrative action for the purposes of review pursuant to chapter 536, RSMo.

4. The charter school and a local school board may agree by contract for services to be provided by the school district to the charter school. The charter school may contract with any other entity for services. Such services may include but are not limited to food service, custodial service, maintenance, management assistance, curriculum assistance, media services and libraries and shall be subject to negotiation between the charter school and the local school board or other entity. Documented actual costs of such services shall be paid for by the charter school.

5. A charter school may enter into contracts with community partnerships and state agencies acting in collaboration with such partnerships that provide services to children and their families linked to the school.

6. A charter school shall be eligible for transportation state aid pursuant to section 163.161, RSMo, and shall be free to contract with the local district, or any other entity, for the provision of transportation to the students of the charter school.

7. (1) The proportionate share of state and federal resources generated by students with disabilities or staff serving them shall be paid in full to charter schools enrolling those students by their school district where such enrollment is through a contract for services described in this section. The proportionate share of money generated under other federal or state categorical aid programs shall be directed to charter schools serving such students eligible for that aid.

(2) A charter school district shall provide the special services provided pursuant to section 162.705, RSMo, and may provide the special services pursuant to a contract with a school district or any provider of such services.

8. A charter school may not charge tuition, nor may it impose fees that a school district is prohibited from imposing.

9. A charter school is authorized to incur debt in anticipation of receipt of funds. A charter school may also borrow to finance facilities and other capital items. A school district may incur

bonded indebtedness or take other measures to provide for physical facilities and other capital items for charter schools that it sponsors or contracts with. Upon the dissolution of a charter school, any liabilities of the corporation will be satisfied through the procedures of chapter 355, RSMo.

10. Charter schools shall not have the power to acquire property by eminent domain.

11. The governing body of a charter school is authorized to accept grants, gifts or donations of any kind and to expend or use such grants, gifts or donations. A grant, gift or donation may not be accepted by the governing body if it is subject to any condition contrary to law applicable to the charter school or other public schools, or contrary to the terms of the charter.

160.530. 1. Beginning with fiscal year 1994 and for all fiscal years thereafter, in order to be eligible for state aid distributed pursuant to section 163.031, RSMo, a school district shall allocate one percent of moneys received pursuant to section 163.031, RSMo, exclusive of categorical add-ons, to the professional development committee of the district as established in subdivision (1) of subsection 4 of section 168.400, RSMo. Of the moneys allocated to the professional development committee in any fiscal year as specified by this subsection, seventy-five percent of such funds shall be spent in the same fiscal year for purposes determined by the professional development committee after consultation with the administrators of the school district and approved by the local board of education as meeting the objectives of a school improvement plan of the district that has been developed by the local board. Moneys expended for staff training pursuant to any provisions of this act shall not be considered in determining the requirements for school districts imposed by this subsection.

2. Beginning with fiscal year 1994 and for all fiscal years thereafter, [ninety percent of one percent] **eighteen million dollars of the** moneys appropriated to the department of elementary and secondary education otherwise distributed to the public schools of the state pursuant to the provisions of section 163.031, RSMo, exclusive of categorical add-ons, shall be distributed by the commissioner of education to address statewide areas of critical need for learning and development as determined by rule and regulation of the state board of education with the advice of the commission established by section 160.510 and the advisory council provided by subsection 1 of section 168.015, RSMo. The moneys described in this subsection may be distributed by the commissioner of education to colleges, universities, private associations, professional education associations, statewide associations organized for the benefit of members of boards of education, public elementary and secondary schools, and other associations and organizations that provide professional development opportunities for teachers, administrators, family literacy personnel and boards of education for the purpose of addressing statewide areas of critical need, provided that subdivisions (1), (2) and (3) of this subsection shall constitute priority uses for such moneys. "Statewide areas of critical need for learning and development" shall include:

(1) Funding the operation of state management teams in districts with academically deficient schools and providing resources specified by the management team as needed in such districts;

- (2) Funding for grants to districts, upon application to the department of elementary and secondary education, for resources identified as necessary by the district, for those districts which are failing to achieve assessment standards;
- (3) Funding for family literacy programs;
- (4) Ensuring that all children, especially children at risk, children with special needs, and gifted students are successful in school;
- (5) Increasing parental involvement in the education of their children;
- (6) Providing information which will assist public school administrators and teachers in understanding the process of site-based decision making;
- (7) Implementing recommended curriculum frameworks as outlined in section 160.514;
- (8) Training in new assessment techniques for students;
- (9) Cooperating with law enforcement authorities to expand successful antidrug programs for students;
- (10) Strengthening existing curricula of local school districts to stress drug and alcohol prevention;
- (11) Implementing and promoting programs to combat gang activity in urban areas of the state;
- (12) Establishing family schools, whereby such schools adopt proven models of one-stop state services for children and families;
- (13) Expanding adult literacy services; and
- (14) Training of members of boards of education in the areas deemed important for the training of effective board members as determined by the state board of education.

3. Beginning with fiscal year 1994 and for all fiscal years thereafter, [ten percent of one percent] **two million dollars** of **the** moneys appropriated to the department of elementary and secondary education otherwise distributed to the public schools of the state pursuant to the provisions of section 163.031, RSMo, exclusive of categorical add-ons, shall be distributed in grant awards by the state board of education, by rule and regulation, for the "Success Leads to Success" grant program, which is hereby created. The purpose of the success leads to success grant program shall be to recognize, disseminate and exchange information about the best professional teaching practices and programs in the state that address student needs, and to encourage the staffs of schools with these practices and programs to develop school-to-school networks to share these practices and programs.

**4. The department shall include a listing of all expenditures under this section in the annual budget documentation presented to the governor and general assembly.**

160.534. For fiscal year 1996 and each subsequent fiscal year, any amount of the excursion gambling boat proceeds deposited in the gaming proceeds for education fund in excess of the amount transferred to the school district bond fund as provided in section 164.303, RSMo, shall be transferred to the [state school moneys] **classroom trust** fund. Such moneys shall be [transferred

on a monthly basis and shall be] distributed in the manner provided in section [163.031] **163.043**, RSMo.

161.527. 1. If a school district, which has an assessed valuation per [eligible pupil] **average daily attendance** equal to or less than the state average assessed valuation per [eligible pupil] **average daily attendance**, has transmitted by July [fifteenth] **15** to the department of elementary and secondary education the report required by section 162.821, RSMo, and such school district has received a notice pursuant to section 161.525, such school district is not required to reduce its operating levy pursuant to section 164.013, RSMo, when the district next determines its tax rate in accordance with the provisions of section 164.011, RSMo. [The state average assessed valuation per eligible pupil used in this section shall be the state average used to calculate the guaranteed tax base for the state aid formula for the year the district's tax is not lowered. The district assessed valuation shall be the assessed valuation used in the calculation of the state aid formula for the year the district's tax is not lowered.] However, if a school district does not reduce its operating levy as permitted in this subsection, the school district shall not in the current and next school year increase:

- (1) Its administrative costs; or
- (2) The aggregate amount of funds paid for salaries of employees of the district.

2. The restrictions on increasing administrative costs and funds paid for salaries as provided for in subsection 1 of this section shall continue in the district for each subsequent school year until combined balances in the teachers' and incidental funds at the end of a fiscal year are equal to or exceed three percent of the amount expended from the funds during the previous fiscal year as determined by the department of elementary and secondary education. Such restrictions provided for in subsection 1 of this section shall not apply to increased expenditures of the district necessary to maintain health insurance coverage for district employees at the same level that may have been provided by the district prior to implementation of the restrictions. Further, the restrictions shall not apply to increased expenditures of the district necessary to meet the district's share of contributions for employees who are members of the public school retirement system of Missouri, the public school retirement system of the school district of Kansas City, or the public school retirement system of the city of St. Louis.

3. The exemption from reduction authorized by subsection 1 of this section shall be limited to two tax years, at which time the district may submit to the voters of the district the question of whether to continue such exemption.

162.081. 1. Whenever any school district in this state fails or refuses in any school year to provide for the minimum school term required by section 163.021, RSMo, or is classified unaccredited for two successive school years by the state board of education, its corporate organization shall lapse. The corporate organization of any school district that is classified as unaccredited shall lapse on June thirtieth of the second full school year of such unaccredited classification after the school year during which the unaccredited classification is initially assigned; **however, if the district has been classified as unaccredited within the previous five school**

**years, and the district is subsequently classified as provisionally accredited, then the district is subject to lapse on June thirtieth of any school year in which the state board of education withdraws provisional accreditation or at a later date as determined by the state board of education.**

2. The territory theretofore embraced within any district that lapses pursuant to this section or any portion thereof may be attached to any district for school purposes by the state board of education[; but no school district, except a district classified as unaccredited pursuant to section 163.023, RSMo, and section 160.538, RSMo, shall lapse where provision is lawfully made for the attendance of the pupils of the district at another school district that is classified as provisionally accredited or accredited by the state board of education].

[2. Prior to or at the time any school district in this state shall lapse, but] 3. After the school district has been classified as unaccredited **but at least sixty days prior to the initial date of lapse**, the department of elementary and secondary education shall conduct a public hearing at a location in the unaccredited school district **regarding the continuing operation of the educational programs within the lapsed district**. [The purpose of the hearing shall be to:

- (1) Review any plan by the district to return to accredited status; or
- (2) Offer any technical assistance that can be provided to the district.

3.] 4. Except as otherwise provided in section 162.1100, [in a metropolitan school district or an urban school district containing most or all of a city with a population greater than three hundred fifty thousand inhabitants and in any other school district if the local board of education does not anticipate a return to accredited status,] the state board of education may appoint a special administrative board to [supervise] **monitor** the financial operations, maintain and preserve the financial assets or, if warranted, continue operation of the educational programs within the district or what provisions might otherwise be made in the best interest of the education of the children of the district. The special administrative board shall consist of two persons who are residents of the school district, who shall serve without compensation, and a professional administrator, who shall chair the board and shall be compensated, as determined by the state board of education, in whole or in part with funds from the district. **A majority of the members of a special administrative board shall be deemed to have standing in a court of a competent jurisdiction to enjoin any action of the school board of the unaccredited district to prevent wastage of the assets of the district.**

[4.] 5. Upon lapse of the district, the state board of education may:

- (1) Appoint a special administrative board, if such a board has not already been appointed, and authorize the special administrative board to retain the authority granted to a board of education for the operation of all or part of the district;
- (2) Attach the territory of the lapsed district to another district or districts for school purposes; [or]

(3) Establish one or more school districts within the territory of the lapsed district, with a governance structure consistent with the laws applicable to districts of a similar size, with the option of permitting a district to remain intact for the purposes of assessing, collecting, and distributing property taxes, to be distributed equitably on a [per eligible pupil] **weighted average daily attendance** basis, but to be divided for operational purposes, which shall take effect sixty days after the adjournment of the regular session of the general assembly next following the state board's decision unless a statute or concurrent resolution is enacted to nullify the state board's decision prior to such effective date; **or**

**(4) Continue operation of the school district under the existing governance structure under terms and conditions established by the state board of education.**

6. The special administrative board may retain the authority granted to a board of education for the operation of the lapsed school district under the laws of the state in effect at the time of the lapse.

[5.] 7. The authority of the special administrative board shall expire at the end of the third full school year following its appointment, unless extended by the state board of education. If the lapsed district is reassigned, the special administrative board shall provide an accounting of all funds, assets and liabilities of the lapsed district and transfer such funds, assets, and liabilities of the lapsed district as determined by the state board of education.

[6.] 8. Upon recommendation of the special administrative board, the state board of education may assign the funds, assets and liabilities of the lapsed district to another district or districts. Upon assignment, all authority of the special administrative board shall transfer to the assigned districts.

[7.] 9. Neither the special administrative board nor any district or other entity assigned territory, assets or funds from a lapsed district shall be considered a successor entity for the purpose of employment contracts, unemployment compensation payment pursuant to section 288.110, RSMo, or any other purpose.

[8.] 10. If additional teachers are needed by a district as a result of increased enrollment due to the annexation of territory of a lapsed or dissolved district, such district shall grant an employment interview to any permanent teacher of the lapsed or dissolved district upon the request of such permanent teacher.

[9.] 11. (1) The governing body of a school district, upon an initial declaration by the state board of education that such district is provisionally accredited, may, and, upon an initial declaration by the state board of education that such district is unaccredited, shall develop a plan to be submitted to the voters of the school district to divide the school district if the district cannot attain accreditation within three years of the initial declaration that such district is unaccredited. In the case of such a district being declared unaccredited, such plan shall be presented to the voters of the district before the district lapses. In the case of such a district being declared provisionally accredited, such plan may be presented before the close of the current accreditation cycle.

(2) The plan may provide that the school district shall remain intact for the purposes of assessing, collecting and distributing taxes for support of the schools, and the governing body of the district shall develop a plan for the distribution of such taxes equitably on a per pupil basis if the district selects this option.

(3) The makeup of the new districts shall be racially balanced as far as the proportions of students allow.

(4) If a majority of the district's voters approve the plan, the state board of education shall cooperate with the local board of education to implement the plan, which may include use of the provisions of this section to provide an orderly transition to new school districts and achievement of accredited status for such districts.

[10. In the event that a school district with an enrollment in excess of five thousand pupils lapses, no school district shall have all or any part of such lapsed school district attached without the approval of the board of the receiving school district.]

162.935. 1. Except as provided in subsection 3 of this section, each special district formed under provisions of sections 162.670 to 162.999 shall receive an amount [for each eligible pupil] equal to [the sum of the amounts received by all districts comprising the special district for the current school year under provisions of section 163.031, RSMo, divided by the total number of eligible pupils in the schools of such districts] **the district's weighted average daily attendance multiplied by the state adequacy target multiplied by the dollar value modifier minus local effort minus payments from the classroom trust fund.** A student enrolled in classes or programs in both the special district and a component district or a pupil enrolled in a local district who needs itinerant or temporary services provided by the special district shall continue his enrollment in the local district for purposes of apportionment of state aid on average daily attendance. The special district may include the pupil in classes approved for special categorical aid. The district providing transportation may claim state transportation aid.

2. Any special school district which is in a county of the first classification which has a population greater than nine hundred thousand is entitled to apportionment of state aid even though the tax rate levied by the special school district is less than that required by section 163.021, RSMo.

3. For the purposes of determining state aid pursuant to section 163.031, RSMo, [the operating levy for school purposes of] **the weighted average daily attendance of** a school district within any special school district which is not in a county of the first classification which has a population greater than nine hundred thousand shall [include the operating levy for school purposes of the special school district in which such school district is located, and the district's number of eligible pupils shall] reflect the average daily attendance of all pupils resident in the district and educated by the district or by the special school district, or both. The department shall pay the funds so calculated to the school district [and the special school district, respectively, in the same proportion as the school district's operating levy or special school district's operating levy,

respectively, bears to the total of the operating levies of the school district and the special school district, except this distribution shall not decrease any district's allocation of formula money per eligible pupil below that which the district received for the 1992-93 school year. Such state aid shall constitute foundation formula state aid provided to such special school district pursuant to section 163.031, RSMo]. **The school district shall pay the special school district the proportional amount of state aid based on the weighted average daily attendance of students educated by the special school district to the total weighted average daily attendance of students educated by the district and the special school district.**

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

(1) ["Adjusted gross income":

(a) "District adjusted gross income per return" shall be the total Missouri individual adjusted gross income in a school district divided by the total number of Missouri income tax returns filed from the school district as reported by the state department of revenue for the second preceding year;

(b) "State adjusted gross income per return" shall be the total Missouri individual adjusted gross income divided by the total number of Missouri individual income tax returns, of those returns designating school districts, as reported by the state department of revenue for the second preceding year;

(c) "District income factor" shall be one plus thirty percent of the difference of the district income ratio minus one, except that the district income factor applied to the portion of the assessed valuation corresponding to any increase in assessed valuation above the assessed valuation of a district as of December 31, 1994, shall not exceed a value of one;

(d) "District income ratio" shall be the ratio of the district adjusted gross income per return divided by the state adjusted gross income per return;

(2)] "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, RSMo;

[ (3) (2) "Average daily attendance" [means], 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 attended by all summer school pupils by the number of hours required in section 160.011, RSMo, 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 kindergarten through grade twelve in such district. If a child is attending school in a district other than the district of residence and the child's parent is teaching in the school district or is a regular employee of the school district which the child is

attending, then such child shall be considered a resident pupil of the school district which the child is attending for such period of time when the district of residence is not otherwise liable for tuition. Average daily attendance for students below the age of five years for which a school district may receive state aid based on such attendance shall be computed as regular school term attendance unless otherwise provided by law;

[(4) "Current operating costs", all expenditures for instruction and support services excluding capital outlay and debt service expenditures less the revenue from federal categorical sources, food service, student activities and payments from other districts;

(5) "District equalized assessed valuation" shall be the average of the "equalized assessed valuation of the property of a school district" for the first and second preceding years;]

**(3) "Current operating expenditures":**

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

**(b) In every fiscal year subsequent to fiscal year 2007, current operating expenditures shall be the amount in paragraph (a) plus any increases in state funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005, not to exceed five percent, per recalculation, of the state revenue received by a district in the 2004-05 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments for any district from the first preceding calculation of the state adequacy target;**

[(6) "District's target rate", the district's average percentage of pupils from fiscal years 2000 to 2005 scoring at or above the proficiency level on the statewide assessment system on either mathematics or reading/communication arts plus one percentage point for each year after fiscal year 2005 except that the district's target rate shall not exceed the statewide average percentage from fiscal year 2000 to fiscal year 2005 scoring at or above the proficiency level on the statewide assessment system on either mathematics or reading/communication arts;

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

[(8) "Eligible pupils" shall be the sum of the average daily attendance of the school term plus the product of two times the average daily attendance for summer school;

(9) "Equalized assessed valuation of the property of a school district" for a given year shall be determined by multiplying the assessed valuation of the real property subclasses specified in section 137.115, RSMo, times the percent of true value as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent and dividing by either the percent of true value as determined by the state tax commission on or before March fifteenth preceding the fiscal year in which the valuation will be effective as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent or the average percent of true value for the highest three of the last four years as determined and certified by the state tax commission, whichever is greater. To the equalized locally assessed valuation of each district shall be added the assessed valuation of tangible personal property. The assessed valuation of property which has previously been excluded from the tax rolls, which is being contested as not being taxable and which increases the total assessed valuation of the school district by fifty percent or more, shall not be included in the calculation of equalized assessed valuation under this subdivision;

(10) "Fiscal instructional ratio of efficiency", the quotient of the sum of the district's current operating costs for all kindergarten through grade twelve direct instructional and direct pupil support service functions plus the costs of improvement of instruction and the cost of purchased services and supplies for operation of the facilities housing those programs, excluding student activities, divided by the sum of the district's current operating cost for kindergarten through grade twelve, plus all tuition revenue received from other districts minus all noncapital transportation costs;

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

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

(b) **"Regional wage per job":**

a. **The total Missouri wage and salary disbursements of the metropolitan area as defined by the office of management and budget divided by the total Missouri metropolitan wage and salary employment for the metropolitan area for the county signified in the school district number or the city of St. Louis, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year; or if no such metropolitan area is established, then:**

b. **The total Missouri wage and salary disbursements of the micropolitan area as defined by the office of management and budget divided by the total Missouri micropolitan wage and salary employment for the micropolitan area for the county signified in the school district number, as reported by the Bureau of Economic Analysis of the United States**

Department of Commerce for the fourth year preceding the payment year, if a micropolitan area for such county has been established; or

**c. If a county is not part of a metropolitan or micropolitan area as established by the office of management and budget, then the county wage per job, as defined in paragraph (a) of this subdivision, shall be used for the school district, as signified by the school district number;**

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

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

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

**[(12) "Guaranteed tax base" means the amount of equalized assessed valuation per eligible pupil guaranteed each school district by the state in the computation of state aid. To compute the guaranteed tax base, school districts shall be ranked annually from lowest to highest according to the amount of equalized assessed valuation per pupil. The guaranteed tax base shall be based upon the amount of equalized assessed valuation per pupil of the school district in which the ninety-fifth percentile of the state aggregate number of pupils falls during the third and fourth preceding years and shall be equal to the state average equalized assessed valuation per eligible pupil for the third and fourth preceding years times two and one hundred and sixty-seven thousandths; except that, for the purposes of line 14(b) the guaranteed tax base shall be no greater than the guaranteed tax base used for the 1998-99 payment year. The average equalized assessed valuation per pupil shall be the quotient of the total equalized assessed valuation of the state divided by the number of eligible pupils;]**

**(7) "Free and reduced lunch threshold" shall be calculated by dividing the total free and reduced lunch 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;**

**(8) "Limited English proficiency threshold" shall be calculated by dividing the total limited English proficiency 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;**

**(9) "Limited English proficiency pupil count", the number in the preceding school year of pupils aged three through twenty-one enrolled or preparing to enroll in an elementary**

school or secondary school who were not born in the United States or whose native language is a language other than English or are native American or Alaskan native, or a native resident of the outlying areas, and come from an environment where a language other than English has had a significant impact on such individuals' level of English language proficiency, or are migratory, whose native language is a language other than English, and who come from an environment where a language other than English is dominant; and have difficulties in speaking, reading, writing, or understanding the English language sufficient to deny such individuals the ability to meet the state's proficient level of achievement on state assessments described in Public Law 107-10, the ability to achieve successfully in classrooms where the language of instruction is English, or the opportunity to participate fully in society;

**(10) "Local effort":**

**(a) For the fiscal year 2007 calculation, "local effort" shall be computed as the equalized assessed valuation of the property of a school district in calendar year 2004 divided by one hundred and multiplied by the performance levy less the percentage retained by the county assessor and collector plus one hundred percent of the amount received in fiscal year 2005 for school purposes from intangible taxes, fines, escheats, payments in lieu of taxes and receipts from state-assessed railroad and utility tax, one hundred percent of the amount received for school purposes pursuant to the merchants' and manufacturers' taxes under sections 150.010 to 150.370, RSMo, one hundred percent of the amounts received for school purposes from federal properties under sections 12.070 and 12.080, RSMo, except when such amounts are used in the calculation of federal impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues received for school purposes from the school district trust fund under section 163.087, and one hundred percent of any local earnings or income taxes received by the district for school purposes. Under this paragraph, for a special 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, a tax levy of zero shall be utilized in lieu of the performance levy for the special school district;**

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

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

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

**[(2)] (b)** The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday 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;

**[(14)] (12)** "Operating levy for school purposes" [for districts making transfers pursuant to subsection 4 of section 165.011, RSMo, based upon amounts multiplied by the guaranteed tax base, or making payments or expenditures related to obligations made pursuant to section 177.088, RSMo, or any combination of such transfers, payments or expenditures, means], 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, [and, for other districts, means the sum of tax rates levied for incidental, teachers', debt service and capital projects funds plus the operating levy or sales tax equivalent pursuant to section 162.1100, RSMo, of any transitional school district containing the school district, with no more than eighteen cents of the sum levied in the debt service and capital projects funds. Any portion of the operating levy for school purposes levied in the debt service and capital projects funds in excess of a sum of ten cents must be authorized by a vote of the people, after August 28, 1998, approving an increase in the operating levy, or a full waiver of the rollback pursuant to section 164.013, RSMo, with a tax rate ceiling in excess of the minimum tax rate or an issuance of general obligation bond. The operating levy shall be, after all adjustments and equalization of the operating levy, no greater than a maximum value of four dollars and ninety-five cents per one hundred dollars assessed valuation, except that the operating levy shall be no greater than a maximum value of four dollars and seventy cents per one hundred dollars assessed valuation for the purposes of line 2 of subsection 6 of section 163.031. To equalize the operating levy, multiply the aggregate tax rates for teachers' and incidental funds by either the percent of true value, as determined by the state tax commission on or before March fifteenth preceding the fiscal year in which the evaluation will be effective as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent, or the average percent of true value for the highest three of the last four years as determined and certified by the state tax commission, whichever is greater, and divide by the percent of true value as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent, provided that for any district for which the equivalent sales ratio is equal to or greater than thirty-three and one-third percent, the equalized operating levy shall be the adjusted operating levy. For any county in which

the equivalent sales ratio is less than thirty-one and two-thirds percent, the state tax commission shall conduct a second study in that county and shall use a sample consisting of the parcels used as a sample in the original study combined with an equal number of newly selected parcels. If the new ratio is higher than the original ratio provided by this subdivision, the new ratio shall be used for the purposes of this subdivision and for determining equalized assessed valuation pursuant to subdivision (9) of this section. For the purposes of calculating state aid pursuant to section 163.031, for any district which has not decreased its tax rate from the previous year amount due to an increased amount of a voluntary tax rate rollback, the tax rate used to determine a district's entitlement shall be adjusted so that any decrease in the entitlement due to a decrease in the tax rate resulting from the reassessment shall equal the decrease in the deduction for the assessed valuation of the district as a result of the change in the tax rate due to reassessment. The tax rate adjustments required under this subdivision due to reassessment shall be cumulative and shall be applied each year to determine the tax rate used to calculate the entitlement] **not including any equalized operating levy for school purposes levied by a special school district in which the district is located;**

**(13) "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) "Performance levy", the lesser of three dollars and fifty cents or the average daily attendance-weighted average operating levy for school purposes for the 2004-05 school year of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of number of students, when such districts are rank-ordered based on their current operating expenditures per average daily attendance;**

(15) "School purposes" pertains to teachers' and incidental funds;

**(16) "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 1 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) "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) "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 daily attendance of all included performance districts. The department of elementary and secondary education shall first calculate the state adequacy target for fiscal year 2007 and recalculate the state adequacy target every two years using the most current available data. The recalculation shall never result in a decrease from the previous state adequacy target amount. Should a recalculation result in an increase in the state adequacy target amount, fifty percent of that increase shall be included in the state adequacy target amount in the year of recalculation, and fifty percent of that increase shall be included in the state adequacy target amount in the subsequent year. The state adequacy target may be adjusted to accommodate available appropriations;

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

(20) "Weighted average daily attendance", the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the number of special education pupil count that exceeds the special education threshold, and plus the product of six-tenths multiplied by the number of limited English proficiency pupil count that exceeds the limited English proficiency threshold. For special districts 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, weighted average daily attendance shall be the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the sum of the special education pupil count that exceeds the threshold for each county district, plus the product of six-tenths multiplied by the limited English proficiency pupil count that exceeds the limited English proficiency threshold. None of the districts comprising a special 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, shall use any special education pupil count in calculating their weighted average daily attendance.

163.021. 1. A school district shall receive state aid for its education program only if it:

(1) Provides for a minimum of one hundred seventy-four days and one thousand forty-four hours of actual pupil attendance in a term scheduled by the board pursuant to section 160.041, RSMo, for each pupil or group of pupils, except that the board shall provide a minimum of one hundred seventy-four days and five hundred twenty-two hours of actual pupil attendance in a term for kindergarten pupils. If any school is dismissed because of inclement weather after school has been in session for three hours, that day shall count as a school day including afternoon session kindergarten students. When the aggregate hours lost in a term due to inclement weather decreases the total hours of the school term below the required minimum number of hours by more than twelve hours for all-day students or six hours for one-half-day kindergarten students, all such hours below the minimum must be made up in one-half day or full day additions to the term, except as provided in section 171.033, RSMo;

(2) Maintains adequate and accurate records of attendance, personnel and finances, as required by the state board of education, which shall include the preparation of a financial statement which shall be submitted to the state board of education the same as required by the provisions of section 165.111, RSMo, for districts;

(3) Levies an operating levy for school purposes of not less than one dollar and twenty-five cents after all adjustments and reductions on each one hundred dollars assessed valuation of the district;

(4) Computes average daily attendance as defined in subdivision (2) of section 163.011 as modified by section 171.031, RSMo. Whenever there has existed within the district an infectious disease, contagion, epidemic, plague or similar condition whereby the school attendance is substantially reduced for an extended period in any school year, the apportionment of school funds and all other distribution of school moneys shall be made on the basis of the school year next preceding the year in which such condition existed.

2. [Beginning with the tax year which commences January 1, 1998, and for the 1998-99 school year and subsequent tax and school years] **For the 2006-2007 school year and thereafter**, no school district shall receive more state aid, as calculated under subsections 1 and 2 of section 163.031, for its education program, exclusive of categorical add-ons, than it received per [eligible pupil] **weighted average daily attendance** for the school year [1993-94] **2005-06 from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts**, unless it has an operating levy for school purposes, as determined pursuant to section 163.011, of not less than two dollars and seventy-five cents after all adjustments and reductions[, with no more than ten cents of this tax rate levied in the debt service and capital projects funds and eligible for entry on line 1 of the state school aid formula contained in subsection 6 of section 163.031; except that, beginning in the 1997-98 school year,]. Any district which is required, pursuant to article X, section 22 of the Missouri Constitution, to reduce its operating levy below the minimum tax rate otherwise required under this subsection shall not be construed to be in violation of this subsection for making such tax rate reduction. Pursuant to section 10(c) of article

X of the state constitution, a school district may levy the operating levy for school purposes required by this subsection less all adjustments required pursuant to article X, section 22 of the Missouri Constitution if such rate does not exceed the highest tax rate in effect subsequent to the 1980 tax year. Nothing in this section shall be construed to mean that a school district is guaranteed to receive an amount not less than the amount the school district received per eligible pupil for the school year 1990-91. The provisions of this subsection shall not apply to any school district located in a county of the second classification which has a nuclear power plant located in such district or to any school district located in a county of the third classification which has an electric power generation unit with a rated generating capacity of more than one hundred fifty megawatts which is owned or operated or both by a rural electric cooperative except that such school districts may levy for current school purposes and capital projects an operating levy not to exceed two dollars and seventy-five cents less all adjustments required pursuant to article X, section 22 of the Missouri Constitution.

3. No school district shall receive more state aid, as calculated in section 163.031, for its education program, exclusive of categorical add-ons, than it received per eligible pupil for the school year 1993-1994, if the state board of education determines that the district was not in compliance in the preceding school year with the requirements of section 163.172, until such time as the board determines that the district is again in compliance with the requirements of section 163.172.

4. [The department of elementary and secondary education shall evaluate the correlation between district tax rates and district assessed valuation per pupil following each biennial property tax reassessment and shall report its findings to the governor and the general assembly by December first of the year following each reassessment. The findings shall include a calculation of the minimum required property tax rate necessary to maintain a correlation of zero or less between district property tax rate and district assessed valuation per pupil and a report of assessed valuation per pupil and district property tax rate for all districts.

5.] No school district shall receive state aid, pursuant to section 163.031, if such district was not in compliance, during the preceding school year, with the requirement, established pursuant to section 160.530, RSMo, to allocate revenue to the professional development committee of the district.

[6.] **5.** No school district shall receive more state aid, as calculated in **subsections 1 and 2 of** section 163.031, for its education program, exclusive of categorical add-ons, than it received per [eligible pupil] **weighted average daily attendance** for the school year [1993-1994] **2005-06 from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts**, if the district did not comply in the preceding school year with the requirements of subsection [7] **6** of section 163.031.

[7. No school district shall receive state aid, pursuant to section 163.031, if the district failed to make a required payment in the preceding year to the school building revolving fund pursuant to section 166.300, RSMo.]

163.023. 1. Commencing September 1, 1997, a school district that has an operating levy for school purposes as defined in section 163.011, of less than the minimum value required by section 163.021, shall be classified as unaccredited by the state board of education and shall be deemed to be an unclassified school district for all purposes under force of law, pursuant to the authority of the state board of education to classify school districts pursuant to section 161.092, RSMo, except that no school district shall be classified as unaccredited or deemed to be an unclassified school district pursuant to this section [and section 160.538, RSMo,] if such district is ineligible to receive state aid under section 163.031, exclusive of categorical add-ons, because the [district deductions under subsection 2 of section 163.031, equal or exceed the district entitlement under subsection 1 of section 163.031] **district's local effort is greater than its weighted average daily attendance multiplied by the state adequacy target multiplied by the dollar value modifier**. No school district, except a district which is ineligible to receive state aid under section 163.031, exclusive of categorical add-ons, because the district's [deductions under subsection 2 of section 163.031, equal or exceed the district entitlement under subsection 1 of section 163.031,] **local effort is greater than its weighted average daily attendance multiplied by the state adequacy target multiplied by the dollar value modifier**, may be classified or reclassified as accredited until such district has an operating levy for school purposes which is equal to or greater than the minimum value required by section 163.021. Beginning July 1, 1998, the state board of education shall consider the results for a school district from the statewide assessment system developed pursuant to the provisions of section 160.518, RSMo, when classifying a school district as authorized by subdivision (9) of section 161.092, RSMo. Further, the state board of education shall consider the condition and adequacy of facilities of a school district when determining such classification.

2. For any school district classified unaccredited for any school year, the state board of education shall conduct procedures to classify said school district for the first school year following.

163.025. [1.] Whenever the adjusted operating levy, as defined in section 163.011, of any school district is required, pursuant to article X, section 22 of the Missouri Constitution, to be reduced below the minimum tax rate required for the current school year under section 163.021, the district shall not be classified as unaccredited under section 163.023.

[2. Other provisions of section 163.031, to the contrary notwithstanding, for the first two school years in which a school district's adjusted operating levy is required to be reduced below the minimum tax rate required for the current school year under section 163.021, pursuant to article X, section 22 of the Missouri Constitution, for the purpose of distribution of state aid under section 163.031, the district's equalized operating levy for school purposes shall be the greater of the current year's levy or the minimum tax rate required for the current school year under section 163.021, and the district shall not be rendered ineligible, pursuant to section 163.021, for increases in state aid distributed under section 163.031. The provisions of this subsection shall expire on July 1, 1997.]

163.028. Any rule or portion of a rule [promulgated pursuant to this act shall become effective only as provided pursuant to chapter 536, RSMo, including, but not limited to, section 536.028, RSMo, if applicable, after August 28, 1997. All rulemaking authority delegated prior to August 28, 1997, is of no force and effect and repealed. The provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, if applicable, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void], **as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this act 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 July 1, 2006, shall be invalid and void.**

163.031. 1. [School districts which meet the requirements of section 163.021 shall be entitled to an amount computed as follows: an amount determined by multiplying the number of eligible pupils by the lesser of the district's equalized operating levy for school purposes as defined in section 163.011 or two dollars and seventy-five cents per one hundred dollars assessed valuation multiplied by the guaranteed tax base per eligible pupil times the proration factor plus an amount determined by multiplying the number of eligible pupils by the greater of zero or the district's equalized operating levy for school purposes as defined in section 163.011 minus two dollars and seventy-five cents per one hundred dollars assessed valuation multiplied by the guaranteed tax base per eligible pupil times the proration factor. For the purposes of this section, the proration factor shall be equal to the sum of the total appropriation for distribution under subsections 1 and 2 of this section; and the state total of the deductions as calculated in subsection 2 of this section which do not exceed the district entitlements as adjusted by the same proration factor; divided by the amount of the state total of district entitlements before proration as calculated pursuant to this subsection; provided that, if the proration factor so calculated is greater than one, the proration factor for line 1(b) shall be the greater of one or the proration factor for line 1(a) minus five hundredths, and provided that if the proration factor so calculated is less than one, the proration factor for line 1(a) shall be the lesser of one or the proration factor for line 1(b) plus five hundredths.

2. From the district entitlement for each district there shall be deducted the following amounts: an amount determined by multiplying the district equalized assessed valuation by the district's equalized operating levy for school purposes times the district income factor plus ninety percent of any payment received the current year of protested taxes due in prior years no earlier than the 1997 tax year minus the amount of any protested taxes due in the current year and for which notice of protest was received during the current year; one hundred percent of the amount received

the previous year for school purposes from intangible taxes, fines, forfeitures and escheats, payments in lieu of taxes and receipts from state assessed railroad and utility tax, except that any penalty paid after July 1, 1995, by a concentrated animal feeding operation as defined by the department of natural resources rule shall not be included; one hundred percent of the amounts received the previous year for school purposes from federal properties pursuant to sections 12.070 and 12.080, RSMo; federal impact aid received the previous year for school purposes pursuant to P.L. 81-874 less fifty thousand dollars multiplied by ninety percent or the maximum percentage allowed by federal regulation if that percentage is less than ninety; fifty percent, or the percentage otherwise provided in section 163.087 of Proposition C revenues received the previous year for school purposes from the school district trust fund pursuant to section 163.087; one hundred percent of the amount received the previous year for school purposes from the fair share fund pursuant to section 149.015, RSMo; and one hundred percent of the amount received the previous year for school purposes from the free textbook fund, pursuant to section 148.360, RSMo.

3. School districts which meet the requirements of section 163.021 shall receive categorical add-on revenue as provided in this subsection. There shall be individual proration factors for each categorical entitlement provided for in this subsection, and each proration factor shall be determined by annual appropriations, but no categorical proration factor shall exceed the entitlement proration factor established pursuant to subsection 1 of this section, except that the career ladder entitlement proration factor established pursuant to line 15 of subsection 6 of this section, the vocational education entitlement proration factor established pursuant to line 16 of subsection 6 of this section, and the educational and screening program entitlements proration factor established pursuant to line 17 of subsection 6 of this section may exceed the entitlement proration factor established pursuant to subsection 1 of this section. The categorical add-on for the district shall be the sum of: seventy-five percent of the costs of adopting and providing a violence prevention program pursuant to section 161.650, RSMo, multiplied by the proration factor; seventy-five percent of the district allowable transportation costs pursuant to section 163.161 multiplied by the proration factor; the special education approved or allowed cost entitlement for the district, provided for by section 162.975, RSMo, multiplied by the proration factor; seventy-five percent of the district gifted education approved or allowable cost entitlement as determined pursuant to section 162.975, RSMo, multiplied by the proration factor; the free and reduced lunch eligible pupil count for the district, as defined in section 163.011, multiplied by twenty percent, for a district with an operating levy in excess of two dollars and seventy-five cents per one hundred dollars assessed valuation, or twenty-two percent, otherwise times the guaranteed tax base per eligible pupil times two dollars and seventy-five cents per one hundred dollars assessed valuation times the proration factor plus the free and reduced lunch eligible pupil count for the district, as defined in section 163.011, times thirty percent times the guaranteed tax base per eligible pupil times the following quantity: ((the greater of zero or the district's operating levy for school purposes minus two dollars and seventy-five cents per one hundred dollars assessed valuation) times one or, beginning in the fifth year following the

effective date of this section, the quotient of the district's fiscal instructional ratio of efficiency for the prior year divided by the fiscal year 1998 statewide average fiscal instructional ratio of efficiency, if the district's prior year fiscal instructional ratio of efficiency is at least five percent below the fiscal year 1998 statewide average) times the proration factor, minus court-ordered state desegregation aid received by the district for operating purposes; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515, RSMo; the vocational education entitlement for the district, as provided for in section 167.332, RSMo, multiplied by the proration factor and the district educational and screening program entitlements as provided for in sections 178.691 to 178.699, RSMo, times the proration factor.

4. Each district's apportionment shall be the prorated categorical add-ons plus the greater of the district's prorated entitlement minus the total deductions for the district or zero.

5. (1) In the 1993-94 school year and all subsequent school years, pursuant to section 10(c) of article X of the state constitution, a school district shall adjust upward its operating levy for school purposes to the extent necessary for the district to at least maintain the current operating expenditures per pupil received by the district from all sources in the 1992-93 school year, except that its operating levy for school purposes shall not exceed the highest tax rate in effect subsequent to the 1980 tax year, or the minimum rate required by subsection 2 of section 163.021, whichever is less.

(2) The revenue per eligible pupil received by a district from the following sources: line 1 minus line 10, or zero if line 1 minus line 10 is less than zero, plus line 14 of subsection 6 of this section, shall not be less than the revenue per eligible pupil received by a district in the 1992-93 school year from the foundation formula entitlement payment amount plus the amount of line 14 per eligible pupil that exceeds the line 14 per pupil amount from the 1997-98 school year, or the revenue per eligible pupil received by a district in the 1992-93 school year from the foundation formula entitlement payment amount plus the amount of line 14(a) per eligible pupil times the quotient of line 1 minus line 10, divided by the number of eligible pupils, or zero if line 1 minus line 10 is less than zero, divided by the revenue per eligible pupil received by the district in the 1992-93 school year from the foundation formula entitlement payment amount, whichever is greater. The department of elementary and secondary education shall make an addition in the payment amount of line 19 of subsection 6 of this section to assure compliance with the provisions contained in this section.

(3) For any school district which meets the eligibility criteria for state aid as established in section 163.021, but which under subsections 1 to 4 of this section receives no state aid for two successive school years, other than categorical add-ons, by August first following the second such school year, 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. The provisions of other law to the contrary notwithstanding, the plan presented to the

superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257, RSMo. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school district related to the authority of the state board of education to classify school districts pursuant to section 161.092, RSMo, and such other rules as determined by the commissioner of education, except that such waivers shall not include the provisions established pursuant to sections 160.514 and 160.518, RSMo.

(4) In the 1993-94 school year and each school year thereafter for two years, those districts which are entitled to receive state aid under subsections 1 to 4 of this section shall receive state aid in an amount per eligible pupil as provided in this subsection. For the 1993-94 school year, the amount per eligible pupil shall be twenty-five percent of the amount of state aid per eligible pupil calculated for the district for the 1993-94 school year pursuant to subsections 1 to 4 of this section plus seventy-five percent of the total amount of state aid received by the district from all sources for the 1992-93 school year for which the district is entitled and which are distributed in the 1993-94 school year pursuant to subsections 1 to 4 of this section. For the 1994-95 school year, the amount per eligible pupil shall be fifty percent of the amount of state aid per eligible pupil calculated for the district for the 1994-95 school year pursuant to subsections 1 to 4 of this section plus fifty percent of the total amount of state aid received by the district from all sources for the 1992-93 school year for which the district is entitled and which are distributed in the 1994-95 school year pursuant to subsections 1 to 4 of this section. For the 1995-96 school year, the amount of state aid per eligible pupil shall be seventy-five percent of the amount of state aid per eligible pupil calculated for the district for the 1995-96 school year pursuant to subsections 1 to 4 of this section plus twenty-five percent of the total amount of state aid received by the district from all sources for the 1992-93 school year for which the district is entitled and which are distributed in the 1995-96 school year pursuant to subsections 1 to 4 of this section. Nothing in this subdivision shall be construed to limit the authority of a school district to raise its district operating levy pursuant to subdivision (1) of this subsection.

(5) If the total of state aid apportionments to all districts pursuant to subdivision (3) of this subsection is less than the total of state aid apportionments calculated pursuant to subsections 1 to 4 of this section, then the difference shall be deposited in the outstanding schools trust fund. If the total of state aid apportionments to all districts pursuant to subdivision (1) of this subsection is greater than the total of state aid apportionments calculated pursuant to subsections 1 to 4 of this section, then funds shall be transferred from the outstanding schools trust fund to the state school moneys fund to the extent necessary to fund the district entitlements as modified by subdivision (4) of this subsection for that school year with a district entitlement proration factor no less than one and such transfer shall be given priority over all other uses for the outstanding schools trust fund as otherwise provided by law.

6. State aid shall be determined as follows:

District Entitlement

- 1(a). Number of eligible pupils x (lesser of district's equalized operating levy for school purposes or two dollars and seventy-five cents per one hundred dollars assessed valuation) x (proration x GTB per EP) ..... \$.....
- 1(b). Number of eligible pupils x (greater of: 0, or district's equalized operating levy for school purposes minus two dollars and seventy-five cents per one hundred dollars assessed valuation) x (proration x GTB per EP) ..... \$.....

Deductions

- 2. District equalized assessed valuation x district income factor x district's equalized operating levy for school purposes plus ninety percent of any payment received the current year of protested taxes due in prior years no earlier than the 1997 tax year minus the amount of any protested taxes due in the current year and for which notice of protest was received during the current year .... \$.....
- 3. Intangible taxes, fines, forfeitures, escheats, payments in lieu of taxes, etc. (100% of the amount received the previous year for school purposes) ..... \$.....
- 4. Receipts from state assessed railroad and utility tax (100% of the amount received the previous year for school purposes) ..... \$.....
- 5. Receipts from federal properties pursuant to sections 12.070 and 12.080, RSMo (100% of the amount received the previous year for school purposes) ..... \$.....
- 6. (Federal impact aid received the previous year for school purposes pursuant to P.L. 81-874 less \$50,000) x 90% or the maximum percentage allowed by federal regulations if less than 90%\$.....
- 7. Fifty percent or the percentage otherwise provided in section 163.087 of Proposition C receipts from the school district trust fund received the previous year for school purposes pursuant to section 163.087 ..... \$.....
- 8. One hundred percent of the amount received the previous year for school purposes from the fair share fund pursuant to section 149.015, RSMo ..... \$.....
- 9. One hundred percent of the amount received the previous year for school purposes from the free textbook fund pursuant to section 148.360, RSMo ..... \$.....
- 10. Total deductions (sum of lines 2-9) ..... \$.....

Categorical Add-ons

- 11. The amount distributed pursuant to section 163.161 x proration ..... \$.....
- 12. Special education approved or allowed cost entitlement for the district pursuant to section 162.975, RSMo, x proration ..... \$.....
- 13. Seventy-five percent of the gifted education approved or allowable cost entitlement as determined pursuant to section 162.975, RSMo, x proration ..... \$.....
- 14(a). Free and reduced lunch eligible pupil count for the district, as defined in section 163.011, x .20, if operating levy in excess of \$2.75, or .22, otherwise x GTB per EP x \$2.75 per \$100 AV x proration ..... \$.....

- 14(b). Free and reduced lunch eligible pupil count for the district, as defined in section 163.011 x .30 x GTB x ((the greater of zero or the district's adjusted operating levy minus \$2.75 per \$100 AV) x (1.0 or, beginning in the fifth year following the effective date of this section, the district's FIRE for the prior year/statewide average FIRE for FY 1998, if the district's prior year FIRE is at least five percent below the FY 1998 statewide average FIRE) x proration) - court-ordered state desegregation aid received by the district for operating purposes . . . . . \$.....
15. Career ladder entitlement for the district as provided for in sections 168.500 to 168.515, RSMo . . . . . \$.....
16. Vocational education entitlements for the district as provided in section 167.332, RSMo, x proration . . . . . \$.....
17. Educational and screening program entitlements for the district as provided in sections 178.691 to 178.699, RSMo, x proration . . . . . \$.....
18. Sum of categorical add-ons for the district (sum of lines 11-17) . . . . . \$.....
19. District apportionment (line 18 plus the greater of line 1 minus line 10 or zero) . . . . \$.....]

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

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

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

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

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

**(4) For each year subsequent to the 2008-09 school year, the amount shall be no less than that computed in subdivision (3) of this subsection, multiplied by the weighted average daily attendance pursuant to section 163.036, less any increase in revenue received from the classroom trust fund under section 163.043.**

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

**3. School districts that meet the requirements of section 163.021 shall receive categorical add-on revenue as provided in this subsection. The categorical add-on for the district shall be the sum of: seventy-five percent of the district allowable transportation costs under section 163.161; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515, RSMo; the vocational education entitlement for the district, as provided for in section 167.332, RSMo; and the district educational and screening program entitlements as provided for in sections 178.691 to 178.699, RSMo. The categorical add-on revenue amounts may be adjusted to accommodate available appropriations.**

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

**(1) For the 2006-07 school year, the amount shall be fifteen percent of the amount of state aid calculated for the district for the 2006-07 school year under the provisions of subsection 1 of this section, plus eighty-five 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.**

**(2) For the 2007-08 school year, the amount shall be thirty percent of the amount of state aid calculated for the district for the 2007-08 school year under the provisions of subsection 1 of this section, plus seventy 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.**

**(3) For the 2008-09 school year, the amount of state aid shall be forty-four percent of the amount of state aid calculated for the district for the 2008-09 school year under the provisions of subsection 1 of this section plus fifty-six 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.**

**(4) For the 2009-10 school year, the amount of state aid shall be fifty-eight percent of the amount of state aid calculated for the district for the 2009-10 school year under the provisions of subsection 1 of this section plus forty-two 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.**

**(5) For the 2010-11 school year, the amount of state aid shall be seventy-two percent of the amount of state aid calculated for the district for the 2010-11 school year under the provisions of subsection 1 of this section plus twenty-eight 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.**

**(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) If a school district experiences a decrease in summer school average daily attendance of more than fifteen percent from the district's 2005-2006 summer school average daily attendance in any year governed by this subsection, an amount equal to the product of the percent reduction in the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-2006 school year shall be subtracted from the district's current year payment amount.**

**(c) If a school district experiences a decrease in its gifted program enrollment of more than twenty percent from its 2005-2006 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 2005-2006 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.**

[7. Revenue received for school purposes by each school district pursuant to this section shall be placed in each of the incidental and teachers' funds based on the ratio of the property tax rate in the district for that fund to the total tax rate in the district for the two funds.

8. In addition to the penalty for line 14 described in subsection 6 of this section, beginning in school year 2004-05, any increase in a school district's funds received pursuant to line 14 of subsection 6 of this section over the 1997-98 school year shall be reduced by one percent for each full percentage point the percentage of the district's pupils scoring at or above five percent below the statewide average level on either mathematics or reading is less than sixty-five percent.

9.] 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 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.**

7. If a school district's annual audit discloses that students were inappropriately identified as eligible for free [or reduced-price] **and reduced lunch, special education, or limited English proficiency** and the district does not resolve the audit finding, the department of elementary and secondary education shall require that the amount of [line 14] aid paid **pursuant to the weighting for free and reduced lunch, special education, or limited English proficiency in the weighted average daily attendance** on the inappropriately identified pupils be repaid by the district in the next school year and shall additionally impose a penalty of one hundred percent of [the line 14] **such** aid paid on such pupils, which penalty shall also be paid within the next school year. Such amounts may be repaid by the district through the withholding of the amount of state aid.

163.036. 1. In computing the amount of state aid a school district is entitled to receive for the minimum school term only under section 163.031, a school district may use an estimate of the [number of eligible pupils] **weighted average daily attendance** for the current year, **or** the [number of eligible pupils] **weighted average daily attendance** for the immediately preceding year or the [number of eligible pupils] **weighted average daily attendance** for the second preceding school year, whichever is greater. Beginning with the [2005-2006] **2006-2007** school year, the summer school [add-on for eligible pupils] **attendance included in the average daily attendance** as defined in subdivision [(8)] **(2)** of section 163.011 shall include only [those eligible] **the attendance hours of** pupils that attend summer school in the current year. Beginning with the 2004-2005 school year, when a district's official calendar for the current year contributes to a more than ten percent reduction in the average daily attendance for kindergarten compared to the immediately preceding year, the [eligible pupil] payment attributable to kindergarten shall include only the current year kindergarten average daily attendance. [Except as otherwise provided in subsection 3 of this section,] Any error made in the apportionment of state aid because of a difference between the actual [number of eligible pupils] **weighted average daily attendance** and the estimated [number of eligible pupils] **weighted average daily attendance** shall be corrected as provided in section 163.091, except that if the amount paid to a district estimating [eligible pupils] **weighted average daily attendance** exceeds the amount to which the district was actually entitled by more than five percent, interest at the rate of six percent shall be charged on the excess and shall be added to the amount to be deducted from the district's apportionment the next succeeding year.

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

3. [(1) For any district which has, for at least five years immediately preceding the year in which the error is discovered, adopted a calendar for the school term in which elementary schools are in session for twelve months of each calendar year, any error made in the apportionment of state aid to such district because of a difference between the actual number of eligible pupils and the estimated number of eligible pupils shall be corrected as provided in section 163.091 and subsection 1 of this section, except that if the amount paid exceeds the amount to which the district was actually entitled by more than five percent and the district provides written application to the state board requesting that the deductions be made pursuant to subdivision (2) of this subsection, then the amounts shall be deducted pursuant to subdivision (2) of this subsection.

(2) For deductions made pursuant to this subdivision, interest at the rate of six percent shall be charged on the excess and shall be included in the amount deducted and the total amount of such excess plus accrued interest shall be deducted from the district's apportionment in equal monthly amounts beginning with the succeeding school year and extending for a period of months specified by the district in its written request and no longer than sixty months.

4. For the purposes of distribution of state school aid pursuant to section 163.031, a school district may elect to use the district's equalized assessed valuation for the preceding year, or an estimate of the current year's assessed valuation if the current year's equalized assessed valuation is estimated to be more than ten percent less than the district's equalized assessed valuation for the preceding year. A district shall give prior notice to the department of its intention to use the current year's assessed valuation pursuant to this subsection.] Any error made in the apportionment of state aid because of a difference between the actual equalized assessed valuation for the current year and the estimated equalized assessed valuation for the current year shall be corrected as provided in section 163.091, except that if the amount paid to a district estimating current equalized assessed valuation exceeds the amount to which the district was actually entitled, interest at the rate of six percent shall be charged on the excess and shall be added to the amount to be deducted from the district's apportionment the next succeeding year.

[5.] **4.** For the purposes of distribution of state school aid pursuant to section 163.031, a school district with ten percent or more of its assessed valuation that is owned by one person or corporation as commercial or personal property who is delinquent in a property tax payment may elect, after receiving notice from the county clerk on or before March [fifteenth except in the year enacted,] **15** that more than ten percent of its current taxes due the preceding December [thirty-first] **31** by a single property owner are delinquent, to use [on line 2] **in the local effort calculation** of the state aid formula the district's equalized assessed valuation for the preceding year or the actual assessed valuation of the year for which the taxes are delinquent less the assessed valuation of property for which the current year's property tax is delinquent. To qualify for use of the actual assessed valuation of the year for which the taxes are delinquent less the assessed valuation of property for which the current year's property tax is delinquent, a district must notify the department of elementary and secondary education on or before April [first] **1**, except in the year enacted, of the

current year amount of delinquent taxes, the assessed valuation of such property for which delinquent taxes are owed and the total assessed valuation of the district for the year in which the taxes were due but not paid. Any district giving such notice to the department of elementary and secondary education shall present verification of the accuracy of such notice obtained from the clerk of the county levying delinquent taxes. When any of the delinquent taxes identified by such notice are paid during a four-year period following the due date, the county clerk shall give notice to the district and the department of elementary and secondary education, and state aid paid to the district shall be reduced by an amount equal to the delinquent taxes received plus interest. The reduction in state aid shall occur over a period not to exceed five years and the interest rate on excess state aid not refunded shall be six percent annually.

[6.] 5. If a district receives state aid based on equalized assessed valuation as determined by subsection 5 of this section and if prior to such notice the district was paid state aid pursuant to [subdivision (2) of subsection 5 of] section 163.031, the amount of state aid paid during the year of such notice and the first year following shall equal the sum of state aid paid pursuant to [line 1 minus line 10 as defined in subsections 1, 2, 3 and 6 of] section 163.031 plus the difference between the state aid amount being paid after such notice minus the amount of state aid the district would have received pursuant to [line 1 minus line 10 as defined in subsections 1, 2, 3 and 6 of] section 163.031 before such notice. To be eligible to receive state aid based on this provision the district must levy during the first year following such notice at least the maximum levy permitted school districts by article X, section 11(b) of the Missouri Constitution and have a voluntary rollback of its tax rate which is no greater than one cent per one hundred dollars assessed valuation.

**163.042. 1. Any board of any school district may elect in any fiscal year to be considered an option district. Such option districts shall not be entitled to any state aid under section 163.031 or 163.043. In exchange for forgoing state aid, option districts shall be granted waivers from all Missouri school improvement plan provisions and any requirements otherwise imposed on the school district related to the authority of the state board of education to classify school districts under section 161.092, RSMo, all fund transfer restrictions under chapter 165, RSMo, and such other rules as determined by the commissioner of education. Nothing in this section exempts any school district from its requirement to administer the state assessment. Further, such districts may choose not to comply with any requirements of federal law and any funding attached to such requirements, provided that such noncompliance is not prohibited under federal law. In any year in which a district elects to be an option district, no locally generated revenue shall be transferred to the state in any manner whatsoever.**

**2. Between June 1 and June 30 of each year, any board of any district electing to be considered an option district for the following fiscal year shall notify the department of elementary and secondary education of such intention. The department shall promulgate rules concerning the specific eligibility criteria for a district to become and apply for option district status.**

**163.043. 1. For fiscal year 2007 and each subsequent fiscal year, the "Classroom Trust Fund", which is hereby created in the state treasury, shall be distributed by the state board of education to each school district in this state qualified to receive state aid pursuant to section 163.021 on an average daily attendance basis.**

**2. The moneys distributed pursuant to this section shall be spent at the discretion of the local school district. The moneys may be used by the district for:**

- (1) Teacher recruitment, retention, salaries, or professional development;**
- (2) School construction, renovation, or leasing;**
- (3) Technology enhancements or textbooks or instructional materials;**
- (4) School safety; or**
- (5) Supplying additional funding for required programs, both state and federal.**

**3. The classroom trust fund shall consist of all moneys transferred to it under section 160.534, RSMo, all moneys otherwise appropriated or donated to it, and, notwithstanding any other provision of law to the contrary, all unclaimed lottery prize money.**

**4. The provisions of this section shall not apply to any option district as defined in section 163.042.**

**163.044. 1. Beginning with the 2007 fiscal year and each subsequent fiscal year, the general assembly shall appropriate fifteen million dollars to be directed to school districts with an average daily attendance of three hundred fifty students or less in the school year preceding the payment year. The amount appropriated shall be distributed to the eligible districts in proportion to their average daily attendance.**

**2. The payment under this section shall not be transferred to the capital projects fund.**

**3. Except as provided in subsection 2 of this section, districts receiving payments under this section may use the moneys for, including but not limited to, the following:**

- (1) Distance learning;**
- (2) Extraordinary transportation costs;**
- (3) Rural teacher recruitment; and**
- (4) Student learning opportunities not available within the district.**

**163.071. 1. If federal regulations permit inclusion of federal impact aid received pursuant to P.L. 81-874, in part or in full, as a [local wealth deduction] **component of local effort** in [section 163.031] **this chapter**, then the [eligible pupil count] **weighted average daily attendance** for a district which provides an approved program for pupils residing on federal lands shall include those pupils residing on federal lands in the district.**

**2. If federal regulations forbid inclusion of federal impact aid received pursuant to P.L. 81-874, in part or in full, as a [local wealth deduction] **component of local effort** in [section 163.031] **this chapter**, then the [eligible pupil count] **weighted average daily attendance** for a district which provides an approved program for pupils residing on federal lands shall not include those pupils residing on federal lands in the district and the district shall be entitled to state aid for**

pupils residing on federal lands in an amount to be determined as follows: The total amount apportioned to the district by the state under section 163.031 for resident pupils shall be divided by the average daily attendance of resident pupils in the district and the quotient resulting shall be multiplied by the number of pupils in average daily attendance in grades kindergarten through twelve residing on the federal lands. The additional state aid under this section shall be paid in the same manner as other apportionments made under section 163.031.

163.073. 1. When an education program, as approved under section 219.056, RSMo, is provided for pupils by the division of youth services in one of the facilities operated by the division for children who have been assigned there by the courts, the division of youth services shall be entitled to state aid for pupils being educated by the division of youth services in an amount to be determined as follows: The total amount apportioned to the division of youth services shall be an amount equal to the average [per-pupil] **per weighted average daily attendance** amount apportioned for the preceding school year under section 163.031, multiplied by the number of full-time equivalent students served by facilities operated by the division of youth services. The number of full-time equivalent students shall be determined by dividing by one hundred seventy-four days the number of student-days of education service provided by the division of youth services to elementary and secondary students who have been assigned to the division by the courts and who have been determined as inappropriate for attendance in a local public school. A student day shall mean one day of education services provided for one student. In addition, other provisions of law notwithstanding, the division of youth services shall be entitled to funds under [sections 148.360, 149.015, 162.975, RSMo, and] **section** 163.087. The number of full-time equivalent students as defined in this section shall be considered as "September membership" [for the apportioning of funds under section 148.360, RSMo,] **and** as "average daily attendance" for the apportioning of funds under [section 149.015, RSMo, and as "eligible pupils" for the purpose of apportioning funds under] section 163.087.

2. The educational program approved under section 219.056, RSMo, as provided for pupils by the division of youth services shall qualify for funding for those services provided to handicapped or severely handicapped children [as authorized by section 162.975, RSMo]. The department of elementary and secondary education shall cooperate with the division of youth services in arriving at an equitable funding for the services provided to handicapped children in the facilities operated by the division of youth services [under the provisions of section 162.975, RSMo].

3. Each local school district or special school district constituting the domicile of a child placed in programs or facilities operated by the division of youth services or residing in another district pursuant to assignment by the division of youth services, shall pay toward the per pupil cost of educational services provided by the serving district or agency an amount equal to the average sum produced per child by the local tax effort of that district. A special school district shall pay the average sum produced per child by the local tax efforts of the component districts. This amount paid

by the local school district or the special school district shall be on the basis of full-time equivalence as determined in section 163.011, not to exceed the actual per pupil local tax effort.

163.081. 1. Between June [fifteenth] **15** and June [thirtieth] **30** each year the secretary of each school district shall make a report to the state department of elementary and secondary education which shall contain all necessary data for calculating the amounts of state support which each district is to receive for the following school year. [The report shall be sworn to before a notary public or the county clerk.] Reports shall be forwarded to the state board of education on or before July [fifteenth] **15**. Any district secretary, superintendent or teacher who knowingly furnishes any false information in the reports, or neglects or refuses to make the reports, is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars or imprisonment in the county jail for not more than six months or by both such fine and imprisonment.

2. [Until July 1, 1982, the state board of education upon receipt of the report from the school district shall calculate the amount which each school district is to receive and on or before September fifteenth of each year shall distribute all moneys available August thirty-first to the several districts. Additional distributions of all moneys available November thirtieth and February twenty-eighth shall be made on or before December fifteenth and March fifteenth of each school year. The state board of education shall certify the amounts so apportioned to the commissioner of administration for his approval and warrants shall be issued payable to the several school districts of the state and forwarded to them. Beginning July 1, 1982,] The moneys appropriated for the state schools in any such year shall be distributed to the several districts entitled thereto through twelve monthly disbursements[. Each of the first six monthly disbursements during any fiscal year shall be equal to one-twelfth of the total amount appropriated for such purpose. Each of the remaining six monthly disbursements shall be in an amount which shall not be less than seven and one-half percent of the total appropriation;], provided[, however,] that the total disbursements through the twelve payments shall not exceed the total amount appropriated for such purpose.

163.087. 1. Money in the school district trust fund shall be distributed to each school district in the state in the same ratio that the [number of eligible pupils] **weighted average daily attendance** in the district bears to the total [number of eligible pupils] **weighted average daily attendance** in all such school districts for the preceding year, except as otherwise provided in section 163.031. [As used in the preceding sentence, the term "eligible pupils" has the meaning ascribed to it in section 163.011.] In addition, each such district which is providing an approved program for pupils residing on federal lands shall receive an amount which shall be determined as follows: [An eligible pupil count] **Weighted average daily attendance** for pupils residing on federal lands shall be calculated separately for the district in the manner provided in section 163.011, treating such pupils as residents of the district for this purpose. Such [eligible student count] **weighted average daily attendance** shall be multiplied by one-half of the amount to be received by the district, pursuant to this subsection, per [eligible pupil] **weighted average daily attendance** not residing on federal lands.

2. Money in the fund shall be distributed monthly [on or before the fifteenth day of each month]. The state board of education shall certify the amounts to be distributed to the several school districts to the commissioner of administration who shall issue the warrants therefor.

3. Money received by a school district from the school district trust fund shall be deemed to be local tax revenue derived for the same fiscal year in which the money is received, for the teachers' and incidental funds[, and shall be deposited to such funds of the district in proportion to operating levies for the teachers' and incidental funds. The reduction in the operating levy pursuant to section 164.013, RSMo, shall be made proportionally in the funds where the remaining one-half of the money from the school district trust fund is deposited]. In the calculation of state aid for the district under the provisions of section 163.031, one-half the amount received by the district in the first preceding year shall be [deducted from the district's entitlement] **included in local effort** as provided in section 163.031.

163.091. The state board of education may correct any error made in the apportionment of the state school moneys fund **and classroom trust fund** among the various [counties] **districts** of this state out of the state school moneys fund **and classroom trust fund** of the year next following the date when the mistake was made. The state board of education shall certify the amount set apart to any school district for the purpose of correcting any error to the commissioner of administration, and the commissioner of administration shall certify the amount so apportioned for proper payment, and the district treasurer shall credit the funds as the funds of the year in which the error occurred. If any district has received funds in excess of the amount to which it was entitled, its apportionment for the next succeeding year shall be reduced accordingly.

163.172. 1. In school year 1994-95 and thereafter **until school year 2006-07**, the minimum teacher's salary shall be eighteen thousand dollars. **Beginning in school year 2006-07, the minimum teacher's salary shall be twenty-two thousand dollars; in school year 2007-08, the minimum teacher's salary shall be twenty-three thousand dollars; in school year 2008-09, the minimum teacher's salary shall be twenty-four thousand dollars; in school year 2009-10 and thereafter, the minimum teacher's salary shall be twenty-five thousand dollars.** Beginning in the school year 1996-97 **until school year 2006-07**, for any full-time teacher with a master's degree and at least ten years teaching experience in a public school or combination of public schools, the minimum salary shall be twenty-four thousand dollars.

**Beginning in the school year 2006-07, for any full-time teacher with a master's degree in an academic teaching field and at least ten years' teaching experience in a public school or combination of public schools, the minimum salary shall be thirty thousand dollars; in the 2007-08 school year such minimum salary shall be thirty-one thousand dollars; in the 2008-09 school year such minimum salary shall be thirty-two thousand dollars; and in the 2009-10 school year such minimum salary shall be thirty-three thousand dollars.**

2. Beginning with the budget requests for fiscal year 1991, the commissioner of education shall present to the appropriate committees of the general assembly information on the average Missouri teacher's salary, regional average salary data, and national average salary data.

3. All school salary information shall be public information.

4. As used in this section, the term "salary" shall be defined as the salary figure which appears on the teacher's contract and as determined by the local school district's basic salary schedule and does not include supplements for extra duties.

5. The minimum salary for any fully certificated teacher employed on a less than full-time basis by a school district, state school for the severely handicapped, the Missouri School for the Deaf, or the Missouri School for the Blind shall be prorated to reflect the amounts provided in [subsections 1 and 2] **subsection 1** of this section.

6. [Beginning with the 1996-97 school year, the general assembly shall make an annual appropriation to the excellence in education fund established in section 160.268, RSMo, for the purpose of fulfilling the minimum salary requirements for public school teachers in those districts meeting the qualifications established in subsection 7 of this section. The appropriation shall be sufficient to ensure that all qualifying districts are able to comply with the minimum salary requirements of this section. The department of elementary and secondary education shall determine, prior to each school year, those districts which shall be eligible to receive funds in this subsection during the school year. A qualifying district shall be eligible to receive funds appropriated in this subsection only during the first three years following the district's qualifying for such funds.] **Beginning with the 2006-07 school year, the general assembly shall make an annual appropriation for the purpose of fulfilling the minimum salary requirements for public school teachers. The appropriation shall be sufficient to ensure that all qualifying districts are able to comply with the minimum salary requirements of this section. The department of elementary and secondary education shall determine, prior to each school year, those districts which shall be eligible to receive funds in this subsection during the school year.**

7. To qualify to begin receiving funds in subsection 6 of this section, a school district shall meet all of the following criteria:

(1) A portion of the real property of the district shall have been removed from the tax rolls due to the impact of state or federal government action;

(2) The district shall have received no more state aid on a per pupil basis for each of the last three school years, exclusive of categorical funding, than the district received for the 1992-93 school year;

(3) The salaries paid to all teachers in the district for the school year prior to qualification shall be totally compacted at the eighteen thousand dollar per year minimum established in this section;

(4) The district shall have in its employ for the school year prior to qualification one or more teachers with a master's degree and at least ten years' teaching experience in a public school or a combination of public schools;

(5) The district shall be financially distressed or have a history of deficit spending which, if continued, will cause the district to become financially distressed within three years;

(6) The district had an enrollment of no greater than four hundred pupils for the preceding school year; and

(7) The district shall have levied an operating levy for school purposes of not less than two dollars seventy-five cents per one hundred dollars of assessed valuation for the previous year and shall continue to levy at no less than that rate.

8. For any school year in which a school district receives funds pursuant to subsections 6 and 7 of this section, such school district shall continue to expend on teacher salaries no less than the amount it expended on teacher salaries in the school year immediately prior to the school year in which it first receives such funds.

9. No school district receiving funds pursuant to subsections 6 and 7 of this section shall receive additional funds pursuant to subsection 6 of this section by virtue of the annexation of another school district to such school district during or after the school year immediately prior to the school year in which the annexing district first receives such funds; nor shall any school district annexed to a school district receiving funds pursuant to subsections 6 and 7 of this section also receive funds pursuant to subsection 6 of this section by virtue of such annexation if such annexation occurred during or after the school year immediately prior to the school year in which the annexing school district first receives such funds.]

164.011. 1. The school board of each district annually shall prepare an estimate of the amount of money to be raised by taxation for the ensuing school year, the rate required to produce the amount, and the rate necessary to sustain the school or schools of the district for the ensuing school year, to meet principal and interest payments on the bonded debt of the district and to provide the funds to meet other legitimate district purposes. In preparing the estimate, the board shall have sole authority in determining what part of the total authorized rate shall be used to provide revenue for each of the funds as authorized by section 165.011, RSMo. [Except as provided in subsection 3 of this section, for the 1996-97 school year and thereafter,] Prior to setting tax rates for the teachers' and incidental funds, the school board of each school district annually shall set the tax rate for the capital projects fund as necessary to meet the expenditures of the capital projects fund after all transfers allowed pursuant to subsection [7] 4 of section 165.011, RSMo[, for expenditures authorized by section 177.088, RSMo, and after the following transfers if needed: in the 1996-97 school year, one-twelfth of the maximum transfer allowed by section 165.011, RSMo; in the 1997-98 school year, one-sixth of the maximum transfer allowed by section 165.011, RSMo; in the 1998-99 school year, one-half of the maximum transfer allowed by section 165.011, RSMo; and in the 1999-2000 school year and thereafter, one hundred percent of the transfers allowed by section

165.011, RSMo]. Furthermore[, except that] the tax rate set in the capital projects fund shall not require the reduction of the equalized combined tax rates for the teachers' and incidental funds to be less than the greater of the minimum operating levy for the current year for school purposes established under subsection 2 of section 163.021, RSMo[, or the 1993 tax rate as used for state aid purposes in section 163.031, RSMo, plus that portion of the full amount of any voter-approved increase in the tax rate ceiling as defined in section 137.073, RSMo, approved after the first day of January, 1994, and before the thirtieth day of March, 1994, as levied in the current year, in any school district located in a county of the fourth classification that had an existing lease purchase arrangement for capital project purposes at the time of the election].

2. The school board of each district shall forward the estimate to the county clerk on or before September [first] 1. In school districts divided by county lines, the estimate shall be forwarded to the proper officer of each county in which any part of the district lies.

[3. (1) For the 1997-98 school year and thereafter, prior to setting tax rates for the teachers' and incidental funds, the school board of each school district meeting the criteria specified in subdivision (2) of this subsection annually shall set the tax rate for the capital projects fund as necessary to meet the expenditures of the capital projects fund after all transfers allowed pursuant to subsection 7 of section 165.011, RSMo, for expenditures authorized by section 177.088, RSMo, and after one hundred percent of the transfers allowed by section 165.011, RSMo.

(2) Subdivision (1) of this subsection shall apply to each district which satisfies all of the following criteria:

(a) The district has a membership count for school year 1997-98 which is at least sixteen percent greater than the district's membership count for the 1991-92 school year; and

(b) The district passed a full waiver of Proposition C tax rate rollback pursuant to section 164.013, or approved an increase to the district's tax rate ceiling on or after June 1, 1994;

(c) The district is in compliance with or has paid all penalties required pursuant to section 165.016, RSMo, for the 1994-95, 1995-96 and 1996-97 school years without waiver or adjustment of the base school year certificated salary percentage; and

(d) The district approves, prior to July 1, 1998, a proposal to issue general obligation bonds which will cause the district's bonded indebtedness to be no less than eighty-five percent of the maximum bonded indebtedness of the district.]

164.303. There is hereby established in the state treasury the "School District Bond Fund". Such amounts as may be necessary to fund the annual requests submitted by the health and educational facilities authority to fund the payment of costs and grants as provided in subsection 7 of section 360.106 and sections 360.111 to 360.118, RSMo, and necessary costs for administration of those provisions, but not to exceed seven million dollars per year, shall be transferred by appropriation to the fund from the gaming proceeds for education fund before any amounts in the gaming proceeds for education fund are transferred to the [state school moneys] **classroom trust** fund, as provided in section 160.534, RSMo. Moneys deposited in the school district bond fund

shall be used by the health and educational facilities authority, subject to appropriation, to fund the payment of costs and grants as provided in subsection 7 of section 360.106 and sections 360.111 to 360.118, RSMo, and necessary costs for administration of those provisions. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to the credit of the general revenue fund at the end of each biennium.

165.011. 1. The following funds are created for the accounting of all school moneys: teachers' fund, incidental fund, [free textbook fund,] capital projects fund and debt service fund. The treasurer of the school district shall open an account for each fund specified in this section, and all moneys received from the county school fund and all moneys derived from taxation for teachers' wages shall be placed to the credit of the teachers' fund. All tuition fees, state moneys received under [sections 162.975, RSMo, and] **section 163.031, RSMo**, and all other moneys received from the state except as herein provided shall be placed to the credit of the teachers' and incidental funds at the discretion of the district board of education, **except as provided in subsection 6 of section 163.031, RSMo**. [The portion of state aid received by the district pursuant to section 163.031, RSMo, based upon the portion of the tax rate in the debt service or capital projects fund, respectively, which is included in the operating levy for school purposes pursuant to section 163.011, RSMo, shall be placed to the credit of the debt service fund or capital projects fund, respectively.] Money received from other districts for transportation and money derived from taxation for incidental expenses shall be credited to the incidental fund. [Money apportioned for free textbooks shall be credited to the free textbook fund.] All money derived from taxation or received from any other source for the erection of buildings or additions thereto and the remodeling or reconstruction of buildings and the furnishing thereof, for the payment of lease-purchase obligations, for the purchase of real estate, or from sale of real estate, schoolhouses or other buildings of any kind, or school furniture, from insurance, from sale of bonds other than refunding bonds shall be placed to the credit of the capital projects fund. All moneys derived from the sale or lease of sites, buildings, facilities, furnishings, and equipment by a school district as authorized under section 177.088, RSMo, shall be credited to the capital projects fund. Money derived from taxation for the retirement of bonds and the payment of interest thereon shall be credited to the debt service fund, which shall be maintained as a separate bank account. Receipts from delinquent taxes shall be allocated to the several funds on the same basis as receipts from current taxes, except that where the previous years' obligations of the district would be affected by such distribution, the delinquent taxes shall be distributed according to the tax levies made for the years in which the obligations were incurred. All refunds received shall be placed to the credit of the fund from which the original expenditures were made. Money donated to the school districts shall be placed to the credit of the fund where it can be expended to meet the purpose for which it was donated and accepted. Money received from any other source whatsoever shall be placed to the credit of the fund or funds designated by the board.

2. [The school board may expend from the incidental fund the sum that is necessary for the ordinary repairs of school property and an amount not to exceed the sum of expenditures for classroom instructional capital outlay, as defined by the department of elementary and secondary education by rule, in state-approved area vocational-technical schools and the greater of twenty-five percent of the guaranteed tax base for the preceding year or two and one-fourth percent of the district's entitlement for the preceding school year as established pursuant to line 1 of subsection 6 of section 163.031, RSMo, as of June thirtieth of the preceding school year for classroom instructional capital outlay, including but not limited to payments authorized pursuant to section 177.088, RSMo. Any and all payments authorized under section 177.088, RSMo, except as otherwise provided in this subsection, for the purchase or lease of sites, buildings, facilities, furnishings and equipment and all other expenditures for capital outlay shall be made from the capital projects fund. If a balance remains in the free textbook fund after books are furnished to pupils as provided in section 170.051, RSMo, it shall be transferred to the teachers' fund.] The school board may transfer [the] **any** portion of the **unrestricted** balance remaining in the incidental fund to the teachers' fund [that is necessary for the total payment of all contracted obligations to teachers]. **Any district that uses an incidental fund transfer to pay for more than twenty-five percent of the annual certificated compensation obligation of the district and has an incidental fund balance on June 30 in any year in excess of fifty percent of the combined incidental teachers' fund expenditures for the fiscal year just ended shall be required to transfer the excess from the incidental fund to the teachers' fund.** If a balance remains in the debt service fund, after the total outstanding indebtedness for which the fund was levied is paid, the board may transfer the unexpended balance to the capital projects fund. If a balance remains in the bond proceeds after completion of the project for which the bonds were issued, the balance shall be transferred from the incidental or capital projects fund to the debt service fund. After making all placements of interest otherwise provided by law, a school district may transfer from the capital projects fund to the incidental fund the interest earned from undesignated balances in the capital projects fund. [All other sections of the law notwithstanding, a school district may transfer from the incidental fund to the capital projects fund an amount equal to the capital expenditures for school safety and security purposes.] A school district may borrow from one of the following funds: teachers' fund, incidental fund, or capital projects fund, as necessary to meet obligations in another of those funds; provided that the full amount is repaid to the lending fund within the same fiscal year.

3. Tuition shall be paid from either the teachers' or incidental funds. **Employee benefits for certificated staff shall be paid from the teachers' fund.**

4. Other provisions of law to the contrary notwithstanding, the school board of a school district that [satisfies the criteria specified in subsection 5 of this section] **meets the provisions of subsection 6 of section 163.031, RSMo,** may transfer from the incidental fund to the capital projects fund the sum of:

(1) The amount to be expended for transportation equipment that is considered an allowable cost under state board of education rules for transportation reimbursements during the current year; plus

(2) Any amount necessary to satisfy obligations of the capital projects fund for state-approved area vocational-technical schools; plus

(3) **Current year obligations for lease-purchase obligations entered into prior to January 1, 1997; plus**

(4) **The amount necessary to repay costs of one or more guaranteed energy savings performance contracts to renovate buildings in the school district, provided that the contract is only for energy conservation measures as defined in section 640.651, RSMo, and provided that the contract specifies that no payment or total of payments shall be required from the school district until at least an equal total amount of energy and energy-related operating savings and payments from the vendor pursuant to the contract have been realized by the school district; plus**

(5) An amount not to exceed the greater of:

(a) [The guaranteed tax base for the preceding year; or

(b) Nine percent of the district's entitlement for the preceding school year as established pursuant to line 1 of subsection 6 of section 163.031, RSMo, as of June thirtieth of the preceding school year, less any amount expended from the incidental fund for classroom instructional capital outlay pursuant to subsection 2 of this section; provided that transfer amounts authorized pursuant to this subdivision may only be transferred by a resolution of the school board approved by a majority of the board members in office when the resolution is voted upon and identifying the specific capital projects to be funded directly by the district by the transferred funds and an estimated expenditure date; and provided that if a district did not maintain compliance with the requirements of section 165.016 the preceding year without recourse to a waiver for that year or a base year adjustment received that year or a fund balance exclusion unless the fund balance exclusion had also been used the second preceding year, the transfer amount pursuant to this subdivision may be transferred only to the extent required to meet current year obligations of the capital projects fund.

5. In order to transfer funds pursuant to subsection 4 of this section, a school district shall:

(1) Meet the minimum criteria for state aid and for increases in state aid for the current year established pursuant to section 163.021, RSMo;

(2) Not incur a total debt, including short-term debt and bonded indebtedness in excess of fifteen percent of the guaranteed tax base for the preceding payment year multiplied by the number of resident and nonresident eligible pupils educated in the district in the preceding year;

(3) Set tax rates pursuant to section 164.011, RSMo;

(4) First apply any voluntary rollbacks or reductions to the total tax rate levied to the teachers' and incidental funds;

(5) In order to be eligible to transfer funds for paying lease purchase obligations:

(a) Incur such obligations, except for obligations for lease purchase for school buses, prior to January 1, 1997;

(b) Limit the term of such obligations to no more than twenty years;

(c) Limit annual installment payments on such obligations to an amount no greater than the amount of the payment for the first full year of the obligation, including all payments of principal and interest, except that the amount of the final payment shall be limited to an amount no greater than two times the amount of such first-year payment;

(d) Limit such payments to leasing nonathletic, classroom, instructional facilities as defined by the state board of education through rule; and

(e) Not offer instruction at a higher grade level than was offered by the district on July 12, 1994.

6. A school district shall be eligible to transfer funds pursuant to subsection 7 of this section if:

(1) Prior to August 28, 1993:

(a) The school district incurred an obligation for the purpose of funding payments under a lease purchase contract authorized under section 177.088, RSMo;

(b) The school district notified the appropriate local election official to place an issue before the voters of the district for the purpose of funding payments under a lease purchase contract authorized under section 177.088, RSMo; or

(c) An issue for funding payments under a lease purchase contract authorized under section 177.088, RSMo, was approved by the voters of the district; or

(2) Prior to November 1, 1993, a school board adopted a resolution authorizing an action necessary to comply with subsection 9 of section 177.088, RSMo. Any increase in the operating levy of a district above the 1993 tax rate resulting from passage of an issue described in paragraph (b) of subdivision (1) of this subsection shall be considered as part of the 1993 tax rate for the purposes of subsection 1 of section 164.011, RSMo.

7. Prior to transferring funds pursuant to subsection 4 of this section, a school district may transfer, pursuant to this subsection, from the incidental fund to the capital projects fund an amount as necessary to satisfy an obligation of the capital projects fund that satisfies at least one of the conditions specified in subsection 6 of this section, but not to exceed its payments authorized under section 177.088, RSMo, for the purchase or lease of sites, buildings, facilities, furnishings, equipment, and all other expenditures for capital outlay, plus the amount to be expended for transportation equipment that is considered an allowable cost under state board of education rules for transportation reimbursements during the current year plus any amount necessary to satisfy obligations of the capital projects fund for state-approved area vocational-technical schools. A school district that is in compliance with section 165.016 during the second preceding year or has paid all penalties for the second preceding year may transfer from the incidental fund to the capital

projects fund the amount necessary to meet the obligation plus the transfers pursuant to subsection 4 of this section.

**8.] One hundred sixty-two thousand three hundred twenty-six dollars; or**

**(b) Seven percent of the state adequacy target multiplied by the district's weighted average daily attendance, provided that transfer amounts in excess of current year obligations of the capital projects fund authorized under this subdivision may be transferred only by a resolution of the school board approved by a majority of the board members in office when the resolution is voted on and identifying the specific capital projects to be funded directly by the district by the transferred funds and an estimated expenditure date.**

**5. Beginning in the 2006-07 school year, a district meeting the provisions of subsection 6 of section 163.031, RSMo, and not making the transfer under subdivision (5) of subsection 4 of this section, nor making payments or expenditures related to obligations made under section 177.088, RSMo, may transfer from the incidental fund to the debt service fund or the capital projects fund the greater of:**

**(1) The state aid received in the 2005-06 school year as a result of no more than eighteen cents of the sum of the debt service and capital projects levy used in the foundation formula and placed in the respective debt service or capital projects fund, whichever fund had the designated tax levy; or**

**(2) Five percent of the state adequacy target multiplied by the district's weighted average daily attendance.**

**6. Beginning in the [1995-96] 2006-07 school year, the department of elementary and secondary education shall deduct from a school district's state aid calculated pursuant to section 163.031, RSMo, an amount equal to the amount of any transfer of funds from the incidental fund to the capital projects fund or debt service fund performed during the previous year in violation of this section; except that the state aid shall be deducted [in equal amounts] over [the] no more than five school years following the school year of an unlawful transfer [provided that:**

**(1) The district shall provide written notice to the state board of education, no later than June first of the first school year following the school year of the unlawful transfer, stating the district's intention to comply with the provisions of subdivisions (1) to (4) of this subsection and have state aid deducted for that unlawful transfer over a five-year period;**

**(2) On or before September first of the second school year following the school year of the unlawful transfer, the district shall approve an increase to the district's operating levy for school purposes to the greater of: two dollars and seventy-five cents per one hundred dollars assessed valuation or the levy which produces an increase in total state and local revenues, as determined by the department, in comparison to the first school year following the school year of the unlawful transfer which is equal to or greater than the amount of state aid to be deducted pursuant to this subsection each school year for such unlawful transfer, provided that increases required pursuant**

to this subdivision for subsequent unlawful transfers shall be made in comparison to the latter tax rate described in this subdivision;

(3) During each school year after the school year in which the operating levy is increased pursuant to subdivision (2) of this subsection and in which state aid is deducted pursuant to subdivisions (1) to (4) of this subsection, the district shall maintain an operating levy for school purposes which produces total state and local revenues for the district which are no less than the total state and local revenues produced by the levy required pursuant to subdivision (2) of this subsection;

(4) During each school year state aid is deducted pursuant to subdivisions (1) to (4) of this subsection except for the 1998-99 school year, the district shall maintain compliance with the requirements of section 165.016 without any recourse to waivers or base-year adjustments and without the option to demonstrate compliance based upon the district's fund balances; and

(5) If, in any school year state aid is deducted pursuant to subdivisions (1) to (4) of this subsection, the district fails to comply with any requirement of subdivisions (1) to (4) of this subsection, the full, remaining amount of state aid to be deducted pursuant to this subsection shall be deducted from the district's state aid payments by the department during such school year.

9. On or before June 30, 1999, a school district may transfer to the capital projects fund from the balances of the teachers' and incidental funds any amount, but only to the extent that the amount transferred is equal to or less than the amount that the teachers' and incidental funds' unrestricted balances on June 30, 1995, exceeded eight percent of expenditures from the teachers' and incidental funds for the year ending June 30, 1995.

10. (1) Other provisions of law to the contrary notwithstanding, a school district which satisfies all conditions specified in subdivision (2) of this subsection may make the transfer allowed in subdivision (3) of this subsection.

(2) To make the transfer allowed under subdivision (3) of this subsection, a school district shall:

(a) Have a membership count for school year 1997-98 which is at least sixteen percent greater than the district's membership count for the 1991-92 school year; and

(b) Have passed a full waiver of Proposition C tax rate rollback pursuant to section 164.013, RSMo, or approved an increase to the district's tax rate ceiling on or after June 1, 1994; and

(c) Be in compliance or have paid all penalties required pursuant to section 165.016 for the 1994-95, 1995-96 and 1996-97 school years without waiver or adjustment of the base school year certificated salary percentage; and

(d) After all transfers, have a remaining balance on June 30, 1998, in the combined teachers' and incidental funds which is no less than ten percent of the combined expenditures from those funds for the 1997-98 school year.

(3) A district which satisfies all of the criteria specified in paragraphs (a) to (d) of subdivision (2) of this subsection may, on or before June 30, 1998, make a one-time combined

transfer from the teachers' and incidental funds to the capital projects fund of an amount no greater than the sum of the following amounts:

(a) The product of the district's equalized assessed valuation for 1994 times the difference of the district's equalized operating levy for school purposes for 1994 minus the district's equalized operating levy for school purposes for 1993;

(b) The product of the district's equalized assessed valuation for 1995 times the difference of the district's equalized operating levy for school purposes for 1995 minus the district's equalized operating levy for school purposes for 1993;

(c) The product of the district's equalized assessed valuation for 1996 times the difference of the district's equalized operating levy for school purposes for 1996 minus the district's equalized operating levy for school purposes for 1993;

(d) The product of the district's equalized assessed valuation for 1997 times the difference of the district's equalized operating levy for school purposes for 1997 minus the district's equalized operating levy for school purposes for 1993; provided that the remaining balance in the incidental fund shall be no less than twelve percent of the total expenditures during that fiscal year from the incidental fund.

(4) A district which makes a transfer pursuant to subdivision (3) of this subsection shall be subject to compliance with the requirements of section 165.016 for fiscal years 1999, 2000 and 2001, without the option to request a waiver or an adjustment of the base school year certificated salary percentage.

(5) Other provisions of section 165.016 to the contrary notwithstanding, the transfer of an amount of funds from either the teachers' or incidental fund to the capital projects fund pursuant to subdivision (3) of this subsection shall not be considered an expenditure from the teachers' or incidental fund for the purpose of determining compliance with the provisions of subsections 1 and 2 of section 165.016.

11. In addition to other transfers authorized under subsections 1 to 9 of this section, a district may transfer from the teachers' and incidental funds to the capital projects fund the amount necessary to repay costs of one or more guaranteed energy savings performance contracts to renovate buildings in the school district; provided that the contract is only for energy conservation measures, as defined in section 640.651, RSMo, and provided that the contract specifies that no payment or total of payments shall be required from the school district until at least an equal total amount of energy and energy-related operating savings and payments from the vendor pursuant to the contract have been realized by the school district.

12. In addition to other transfers authorized pursuant to subsections 1 to 9 of this section, any school district that has undergone at least a twenty-percent increase in assessed valuation from the preceding year because of the construction of a power plant may make a one-time transfer on the basis of each such increase to the capital projects fund from the balances of the teachers' and incidental funds' unrestricted balances in an amount equal to twice the amount of such transfer

otherwise permitted pursuant to this section for the year in which such one-time transfer is made; provided that such transfer shall be made prior to the end of the second fiscal year following the fiscal year in which the increase in assessed valuation is effective. Such one-time transfer may be made without regard to whether the transferred funds are used for current expenditures. No transfer shall be made pursuant to this subsection after June 30, 2003.

**13.] based on a plan from the district approved by the commissioner of elementary and secondary education.**

7. A school district may transfer unrestricted funds from the capital projects fund to the incidental fund in any year in which that year's June [thirtieth] **30** combined incidental and teachers' funds unrestricted balance compared to the combined incidental and teachers' funds expenditures would be less than ten percent without such transfer.

[14. School districts that have issued qualified zone academy bonds pursuant to 26 U.S.C. Section 1397E, also known as the Taxpayers Relief Act of 1997, prior to December 31, 2002, and have placed bond proceeds into an interest-bearing account in the capital projects fund without meeting the requirement to set a levy in the debt service fund as required in section 164.161, RSMo, shall be permitted to make transfers to the debt service fund in an amount up to but not exceeding the original amount of bond proceeds invested, under the following conditions:

(1) The district has an unrestricted balance in the capital projects fund equivalent to the original amount of bond proceeds invested that may be transferred to the debt service fund; or

(2) If the district does not have sufficient unrestricted funds in the capital projects fund pursuant to subdivision (1) of this subsection, then additional funds may be transferred from the incidental fund to the debt service fund up to the amount needed to equal the original amount of bond proceeds invested, but such transfer in combination with other district expenditures may not reduce the ending fund balance in the combined teachers' and incidental funds below ten percent balance of the expenditures in those funds;

(3) If the transfers allowed pursuant to subdivisions (1) and (2) of this subsection are not sufficient to equal the original amount of bond proceeds invested, the district shall provide an annual tax in the debt service fund sufficient to generate the amount required within five years from June 23, 2003;

(4) The district shall report the following information as prescribed by the department of elementary and secondary education on the annual secretary of the board report required to be submitted pursuant to section 162.821, RSMo, for the fiscal year ending June 30, 2003:

(a) Documentation of the establishment of the local academy/business partnership and the ten percent business match for qualified zone academy bonds pursuant to 26 U.S.C. Section 1397E;

(b) A detailed schedule of completed and planned expenditures for the projects as specified in the department-approved qualified zone academy bond application, identified by building with certification by the district that a minimum of ninety-five percent of the voter-approved qualified zone academy bonds will be expended within ten years from the date of the sale of bonds; and

(c) The business name, office location, state of incorporation, and names of any representative of the bonding institution and bond counsel, if applicable, who handled the qualified zone academy bond issuance, including all individuals who signed correspondence to or made presentations to the school district concerning such bonds; and providing the amount of fees or costs of issuance paid to the bonding institution and bond counsel stated as a whole dollar amount and as a percentage of the qualified zone academy bond;

(5) Any transfer made pursuant to subdivision (1) or (2) of this subsection shall be reported on the district's fiscal year 2003 financial records;

(6) If the district fails to provide the information in the manner prescribed by the department on the annual secretary of the board report by December 31, 2003, the amount of unrestricted fund balance transferred into the debt service fund from the capital projects fund or incidental fund shall be returned to the original fund from which the transfer was made and an annual tax established in the debt service fund sufficient to pay the principal and interest of the bonds as they fall due.

15. On or before August 31, 2005, a school district located in a county of the third classification without a township form of government and with more than thirty-seven thousand two hundred but less than thirty-seven thousand three hundred inhabitants and in a county of the third classification without a township form of government and with more than nine thousand four hundred fifty but less than nine thousand five hundred fifty inhabitants and a school district with an assessed valuation of no less than twenty-one million seven hundred fifty thousand dollars and no more than twenty-two million dollars located in a county of the third classification without a township form of government and with more than forty thousand eight hundred but less than forty thousand nine hundred inhabitants shall be permitted to make a one-time additional transfer from the incidental fund to the capital projects fund in an appropriate amount for the specific purpose of completing a sewer project in order to comply with regulations established by the department of natural resources.

16. On or before August 31, 2005, a school district with an assessed valuation of at least thirty-one million dollars and less than thirty-two million dollars located in a county of the third classification without a township form of government and with more than thirty-one thousand but less than thirty-one thousand one hundred inhabitants shall be permitted to make a one-time additional transfer from the incidental fund to the capital projects fund in an appropriate amount for the specific purpose of improving the library media and technology center that serves the district's high school and middle school.

17. In addition to other transfers authorized pursuant to this section, an eligible school district may transfer from the incidental fund to the capital projects fund to make expenditures which decrease the total interest cost of payments for a lease-purchase obligation authorized by section 177.088, RSMo. An eligible school district shall:

(1) Have never made a previous transfer pursuant to this subsection;

(2) Have ending cash reserves during the year of the transfer in incidental and teachers' funds combined equal to or greater than fifteen percent of expenditures;

(3) Decrease the interest cost of all remaining lease-purchase payments by at least the cost of refinancing plus ten percent;

(4) Make payments equal to or greater than the amount of the transfer for a lease-purchase obligation meeting an eligibility requirement of subsection 5 or 6 of this section;

(5) Levy in the incidental and teachers' funds a levy greater than two dollars and seventy-five cents during the year of the transfer and each of the two previous years;

(6) Demonstrate compliance with the requirements of section 165.016 or have paid all outstanding penalties to eligible staff for five consecutive years prior to the year of the transfer; and

(7) Have an average salary for teachers in the district which equals or exceeds for three consecutive years prior to the year of the transfer at least one of the following:

(a) The average salary for teachers statewide; or

(b) The average salary for teachers in its senatorial district.]

**165.012. 1. Each school district shall annually report to the department of elementary and secondary education, within thirty days, the following district information as of December thirty-first of the current school year;**

**(1) The district's unrestricted fund balance in the incidental fund and in the teacher's fund;**

**(2) The amount of tax anticipation borrowed funds placed in the incidental fund and in the teacher's fund since the beginning of the school year; and**

**(3) The net amount of transfer from the incidental fund and teacher's fund to the capital projects fund and to the debt service fund since the beginning of the school year.**

**2. For the 2005-2006 school year, each school district shall also provide the same information required under subsection 1 of this section as of December 31, 2003, and as of December 31, 2004.**

**3. The information reported under this section shall be included on the department's website, for the current school year and for each of the preceding four school years to the extent that such information was required to be reported under subsections 1 and 2 of this section.**

165.016. 1. A school district shall expend as a percentage of current operating cost, for tuition, teacher retirement and compensation of certificated staff, a percentage that is for the 1994-95 and 1995-96 school years no less than three percentage points less than the base school year certificated salary percentage and for the 1996-97 school year, no less than two percentage points less than the base school year certificated salary percentage. A school district may exclude transportation and school safety and security expenditures from the current operating cost calculation of the base year and the year or years for which the compliance percentage is calculated. The base school year certificated salary percentage shall be the two-year average percentage of the

1991-92 and 1992-93 school years except as otherwise established by the state board under subsection 4 of this section; except that, for any school district experiencing, over a period of three consecutive years, an average yearly increase in average daily attendance of at least three percent, the base school year certificated salary percentage may be the two-year average percentage of the last two years of such period of three consecutive years, at the discretion of the school district.

2. Beginning with the 1997-98 school year, a school district shall:

(1) Expend, as a percentage of current operating cost, as determined in subsection 1 of this section, for tuition, teacher retirement and compensation of certificated staff, a percentage that is no less than two percentage points less than the base school year certificated salary percentage; or

(2) For any year in which no payment of a penalty is required for the district under subsection 6 of this section, have an unrestricted fund balance in the combined incidental and teachers' funds on June thirtieth which is equal to or less than ten percent of the combined expenditures for the year from those funds.

3. Beginning with the 1999-2000 school year:

(1) As used in this subsection, "fiscal instructional ratio of efficiency" or "FIRE" means the quotient of the sum of the district's current operating costs, [as defined in section 163.011, RSMo,] **which for this section shall mean all expenditures for instruction and support services, excluding capital outlay and debt service expenditures less the revenue from federal categorical sources, food service, student activities, and payments from other districts,** for all kindergarten through grade twelve direct instructional and direct pupil support service functions plus the costs of improvement of instruction and the cost of purchased services and supplies for operation of the facilities housing those programs, and excluding student activities, divided by the sum of the district's current operating cost, **as defined in this subdivision,** for kindergarten through grade twelve, plus all tuition revenue received from other districts minus all noncapital transportation and school safety and security costs;

(2) A school district shall show compliance with this section in school year 1998-99 and thereafter by the method described in subsections 1 and 2 of this section, or by maintaining or increasing its fiscal instructional ratio of efficiency compared to its FIRE for the 1997-98 base year.

4. (1) The state board of education may exempt a school district from the requirements of this section upon receiving a request for an exemption by a school district. The request shall show the reason or reasons for the noncompliance, and the exemption shall apply for only one school year. Requests for exemptions under this subdivision may be resubmitted in succeeding years.

(2) A school district may request of the state board a one-time, permanent revision of the base school year certificated salary percentage. The request shall show the reason or reasons for the revision.

5. Any school district requesting an exemption or revision under subsection 4 of this section must notify the certified staff of the district in writing of the district's intent. Prior to granting an

exemption or revision, the state board shall consider comments from certified staff of the district. The state board decision shall be final.

6. Any school district which is determined by the department to be in violation of the requirements of subsection 1 or 2 of this section, or both, shall compensate the building-level administrative staff and nonadministrative certificated staff during the year following the notice of violation by an additional amount which is equal to one hundred ten percent of the amount necessary to bring the district into compliance with this section for the year of violation. In any year in which a penalty is paid, the district shall pay the penalty specified in this subsection in addition to the amount required under this section for the current school year.

7. Any additional transfers from the teachers' or incidental fund to the capital projects fund beyond the transfers authorized by state law and state board policy in effect on January 1, 1996, shall be considered expenditures from the teachers' or incidental fund for the purpose of determining compliance with the provisions of subsections 1, 2 and 3 of this section.

8. The provisions of this section shall not apply to any district [receiving state aid pursuant to subsection 6 of section 163.031, RSMo, based on its 1992-93 payment amount per eligible pupil, which is less than fifty percent of the statewide average payment amount per eligible pupil paid during the previous year] **wherein the local effort is greater than its weighted average daily attendance multiplied by the state adequacy target multiplied by the dollar value modifier under section 163.031, RSMo.**

9. The provisions of subsections 1 to 8 of this section shall not apply to any district that has unrestricted fund balances in the combined incidental and teacher funds on June [thirtieth] **30** of the preceding year which are equal to or less than seventeen percent of the combined expenditure for the preceding year from these funds in any year in which state funds distributed pursuant to **subsections 1 and 2 of** section 163.031, RSMo, [lines 1 to 10 plus line 14] are no more than ninety-six percent of such state funds distributed in fiscal year 2002.

10. The provisions of subsections 1 to 8 of this section shall not apply to any district which meets the following criteria:

(1) With ten percent or more of its assessed valuation that is owned by one person or corporation as commercial or personal property who is delinquent in a property tax payment;

(2) With unrestricted fund balances in the combined incidental and teacher funds on June [thirtieth] **30** of the preceding year which are equal to or less than one-half of the local property tax revenue for the previous year; and

(3) In any year in which state funds distributed pursuant to **subsections 1 and 2 of** section 163.031, RSMo, [lines 1 to 10 plus line 14] are no more than ninety-six percent of such state funds distributed in fiscal year 2002.

**11. The provisions of this section shall terminate on June 30, 2007.**

165.121. 1. The school board of each seven-director district shall cause an audit examination to be made at least biennially of all financial, transportation and attendance records of

the districts. Such examination shall be made in accordance with generally accepted auditing standards applicable in the circumstances, including such reviews and tests of the system of internal check and control and of the books, records and other underlying data as are necessary to enable the independent accountant performing the audit to come to an informed opinion as to the financial affairs (including attendance and transportation transactions) of the district. An independent auditor who is not regularly engaged as an employee of the school board shall perform the audit and make a written report of his findings.

2. The board shall supply each member thereof with a copy of the report and in addition shall furnish one copy each to the state department of elementary and secondary education and to the superintendent of schools of the county in which the district is located. The cost of the audit and report shall be paid for out of the incidental fund of the district.

3. The report shall contain the following information:

- (1) A statement of the scope of examination;
- (2) The auditor's opinion as to whether the audit was made in accordance with generally accepted auditing standards applicable in the circumstances;
- (3) The auditor's opinion as to whether the financial statements included in the audit report present fairly the results of the operations during the period audited;
- (4) The auditor's opinion as to whether the financial statements accompanying the audit report were prepared in accordance with generally accepted accounting principles applicable to school districts;
- (5) The reason or reasons an opinion is not rendered with respect to items (3) and (4) in the event the auditor is unable to express an opinion with respect thereto;
- (6) The auditor's opinion as to whether the district's budgetary and disbursement procedures conform to the requirements of chapter 67, RSMo;
- (7) The auditor's opinion as to whether attendance and transportation records are so maintained by the district as to disclose accurately average daily attendance and average daily transportation of pupils during the period of the audit;
- (8) Financial statements presented in such form as to disclose the operations of each fund of the school district and a statement of the operations of all funds.

4. The school board shall furnish the state department of elementary and secondary education with its copy of the audit report not later than October thirty-first following the close of the fiscal period covered by the audit unless, for good cause shown prior to such date, the commissioner of education or some officer of the department of elementary and secondary education designated by him for this purpose grants an extension of time, not to exceed sixty additional days, for the filing of the report. In the event the report in the approved form is not filed within the period or extension thereof, further state aid to the district shall thereafter be withheld until the audit report has been received by the department of elementary and secondary education.

5. Within thirty days of the receipt of the audit report the school board shall cause a summary of the report to be prepared which shall include, together with any other matter the board deems appropriate, the following:

- (1) A summary statement of fund balances and receipts and disbursements by major classifications of each fund and all funds;
- (2) A summary statement of the scope of the audit examination;
- (3) The auditor's opinion on the financial statements included in the audit report.

Immediately upon the completion of the summary, the school board shall cause it to be published once in a newspaper within the county in which all or a part of the district is located which has general circulation within the district or, if there is none, then the board shall cause the summary to be posted in at least five public places within the district. The publication shall contain information as to where the audit report is available for inspection and examination. The report shall be kept available for such purposes thereafter.

**6. Districts receiving state aid as a result of any additional average daily attendance generated by the weighting factors attributed to students with the characteristics described in subdivisions (6), (9), and (16) of section 163.011, RSMo shall demonstrate that at least fifty percent of the aid attributable to the weighting factors was expended on instruction or instructional support of students who qualify for the weighting factors or on operating expenses for the attendance center attended by such students in proportion to the total percentage of such students in such attendance center.**

166.275. 1. Any amount of the difference by which the total amount appropriated by the state to school districts, in accordance with a judgment or order based on the equal protection clause of the fourteenth amendment to the Constitution of the United States, for fiscal year 1999 is less than the amount appropriated for the same purpose in fiscal year 1994 in addition to any unexpended appropriation for the 1998 fiscal year that results in additional unobligated resources for the state in fiscal year 1999 shall be transferred to the state school moneys fund and distributed in the manner provided in section 163.031, RSMo.

2. If the total amount appropriated by the state to school districts, in accordance with a judgment or order based on the equal protection clause of the fourteenth amendment to the Constitution of the United States, for fiscal year 2000 or any subsequent fiscal year is less than the amount appropriated for the same purpose in fiscal year 1999, any amount of the difference, in addition to any unexpended appropriation for the prior fiscal year that results in additional unobligated resources for the state beginning in fiscal year 2000 shall be distributed as follows:

- (1) Up to the first seventy-five million dollars **of such funds**, or such lesser amount determined by appropriation to be sufficient to fully fund [district entitlements pursuant to] **subsections 1 and 2 of** section 163.031, RSMo, [with a proration factor no less than one, of such

funds] shall be transferred to the state school moneys fund and distributed in the manner provided in section 163.031, RSMo; and

(2) Beginning in fiscal year 2000, after distributing funds pursuant to subdivision (1) of this subsection, the next twenty-five million dollars, or such lesser amount determined by appropriation to be sufficient, of the remaining funds shall be transferred to fully fund increases in appropriations for transportation categorical aid provided pursuant to [line 11 of subsection 6 of] section 163.031, RSMo, and any remainder of such twenty-five million dollars shall be transferred to fund other categorical state aid provided pursuant to section 163.031, RSMo; provided that, for school year 1999-2000 only, such increase in transportation funding may be placed by districts in their capital projects fund and shall be placed as otherwise provided by law in all other years; and

(3) After distributing funds pursuant to subdivisions (1) and (2) of this subsection, [the next twenty-five million dollars] **any remaining funds**, or such amount determined by appropriation to be sufficient to fully fund [district entitlements pursuant to] **subsections 1 and 2 of** section 163.031, RSMo, [with a proration factor no less than one, of such funds] shall be transferred to the state school moneys fund and distributed in the manner provided in section 163.031, RSMo[; and

(4) After distributing funds pursuant to subdivisions (1), (2) and (3) of this subsection, any remaining funds shall be transferred to fully fund categorical state aid provided pursuant to section 163.031, RSMo, for transportation, vocational education, special education, gifted education, remedial reading and implementation costs of assessments established pursuant to section 160.526, RSMo].

167.126. 1. Children who are admitted to programs or facilities of the department of mental health or whose domicile is one school district in Missouri but who reside in another school district in Missouri as a result of placement arranged by or approved by the department of mental health, the department of social services or placement arranged by or ordered by a court of competent jurisdiction shall have a right to be provided the educational services as provided by law and shall not be denied admission to any appropriate regular public school or special school district program or program operated by the state board of education, as the case may be, where the child actually resides because of such admission or placement; provided, however, that nothing in this section shall prevent the department of mental health, the department of social services or a court of competent jurisdiction from otherwise providing or procuring educational services for such child.

2. Each school district or special school district constituting the domicile of any child for whom educational services are provided or procured under this section shall pay toward the per pupil costs for educational services for such child. A school district which is not a special school district shall pay an amount equal to the average sum produced per child by the local tax effort of the district of domicile. A special school district shall pay an amount not to exceed the average sum produced per child by the local tax efforts of the domiciliary districts.

3. When educational services have been provided by the school district or special school district in which a child actually resides, other than the district of domicile, the amounts as provided

in subsection 2 for which the domiciliary school district or special school district is responsible shall be paid by such district directly to the serving district. The school district, or special school district, as the case may be, shall send a written voucher for payment to the regular or special district constituting the domicile of the child served and the domiciliary school district or special school district receiving such voucher shall pay the district providing or procuring the services an amount not to exceed the average sum produced per child by the local tax efforts of the domiciliary districts. In the event the responsible district fails to pay the appropriate amount to the district within ninety days after a voucher is submitted, the state department of elementary and secondary education shall deduct the appropriate amount due from the next payments of any state financial aid due that district and shall pay the same to the appropriate district.

4. In cases where a child whose domicile is in one district is placed in programs or facilities operated by the department of mental health or resides in another district pursuant to assignment by that department or is placed by the department of social services or a court of competent jurisdiction into any type of publicly contracted residential site in Missouri, the department of elementary and secondary education shall, as soon as funds are appropriated, pay the serving district from funds appropriated for that purpose the amount by which the per pupil costs of the educational services exceeds the amounts received from the domiciliary district except that any other state money received by the serving district by virtue of rendering such service shall reduce the balance due.

5. Institutions providing a place of residence for children whose parents or guardians do not reside in the district in which the institution is located shall have authority to enroll such children in a program in the district or special district in which the institution is located and such enrollment shall be subject to the provisions of subsections 2 and 3 of this section. The provisions of this subsection shall not apply to placement authorized pursuant to subsection 1 of this section or if the placement occurred for the sole purpose of enrollment in the district or special district. "Institution" as used in this subsection means a facility organized under the laws of Missouri for the purpose of providing care and treatment of juveniles.

6. Children residing in institutions providing a place of residence for three or more such children whose domicile is not in the state of Missouri may be admitted to schools or programs provided on a contractual basis between the school district, special district or state department or agency and the proper department or agency, or persons in the state where domicile is maintained. Such contracts shall not be permitted to place any financial burden whatsoever upon the state of Missouri, its political subdivisions, school districts or taxpayers.

7. For purposes of this section the domicile of the child shall be the school district where the child would have been educated if the child had not been placed in a different school district. No provision of this section shall be construed to deny any child domiciled in Missouri appropriate and necessary, gratuitous public services.

8. For the purpose of distributing state aid under section 163.031, RSMo, a child receiving educational services provided by the district in which the child actually resides, other than the

district of domicile, shall be included [as an "eligible pupil"] **in average daily attendance**, as defined under section 163.011, RSMo, of the district providing the educational services for the child.

9. Each school district or special school district where the child actually resides, other than the district of domicile, may receive payment from the department of elementary and secondary education, in lieu of receiving the local tax effort from the domiciliary school district. Such payments from the department shall be subject to appropriation and shall only be made for children that have been placed in a school other than the domiciliary school district by a state agency or a court of competent jurisdiction and from whom excess educational costs are billed to the department of elementary and secondary education.

167.151. 1. The school board of any district, in its discretion, may admit to the school pupils not entitled to free instruction and prescribe the tuition fee to be paid by them, except as provided in sections 167.121 and 167.131.

2. Orphan children, children with only one parent living, and children whose parents do not contribute to their support--if the children are between the ages of six and twenty years and are unable to pay tuition--may attend the schools of any district in the state in which they have a permanent or temporary home without paying a tuition fee.

3. Any person who pays a school tax in any other district than that in which he resides may send his children to any public school in the district in which the tax is paid and receive as a credit on the amount charged for tuition the amount of the school tax paid to the district; except that any person who owns real estate of which eighty acres or more are used for agricultural purposes and upon which his residence is situated may send his children to public school in any school district in which a part of such real estate, contiguous to that upon which his residence is situated, lies and shall not be charged tuition therefor; so long as thirty-five percent of the real estate is located in the school district of choice. The school district of choice shall count the children [as eligible pupils] **in its average daily attendance** for the purpose of distribution of state aid through the foundation formula.

4. Any owner of agricultural land who, pursuant to subsection 3 of this section, has the option of sending his children to the public schools of more than one district shall exercise such option as provided in this subsection. Such person shall send written notice to all school districts involved specifying to which school district his children will attend by June [thirtieth] **30** in which such a school year begins. If notification is not received, such children shall attend the school in which the majority of his property lies. Such person shall not send any of his children to the public schools of any district other than the one to which he has sent notice pursuant to this subsection in that school year or in which the majority of his property lies without paying tuition to such school district.

5. If a pupil is attending school in a district other than the district of residence and the pupil's parent is teaching in the school district or is a regular employee of the school district which the pupil

is attending, then the district in which the pupil attends school shall allow the pupil to attend school upon payment of tuition in the same manner in which the district allows other pupils not entitled to free instruction to attend school in the district. The provisions of this subsection shall apply only to pupils attending school in a district which has an enrollment in excess of thirteen thousand pupils and not in excess of fifteen thousand pupils and which district is located in a county of the first classification with a charter form of government which has a population in excess of six hundred thousand persons and not in excess of nine hundred thousand persons.

**167.229. 1. The department of elementary and secondary education shall establish a "Model School Wellness Program", and any moneys appropriated by the general assembly for this program shall be used by selected school districts to establish school-based pilot programs that focus on encouraging students to establish and maintain healthy lifestyles. The moneys appropriated shall be from the Child Nutrition and WIC Reauthorization federal grant money. These programs shall include tobacco prevention education and the promotion of balanced dietary patterns and physical activity to prevent becoming overweight or obese, and discussion of serious and chronic medical conditions that are associated with being overweight. The content of these programs shall address state and national standards and guidelines established by the No Child Left Behind Act, the Healthy People 2010 Leading Health Indicators as compiled by the National Center for Health Statistics, and the Produce for Better Health Foundation's "5 A Day, The Color Way" program.**

**2. School districts may apply for one-year grants for school year 2005-06 under this section. The department shall establish selection criteria and methods for distribution of funds to school districts applying for such funds. The department shall promulgate rules to implement the provisions of this section.**

**3. A school district that receives a grant under this section shall use the funds to plan and implement the program in a diverse sampling of schools in each district. The programs shall address students' academic success as well as health concerns, and encourage links between the school and home settings to promote active healthy lifestyles across the students' learning environments. The tobacco prevention initiative shall focus on grades four and five to target students before they transition into middle grades. The obesity prevention programs will cover sequential wellness education across grades kindergarten through fifth grades. These programs shall:**

- (a) Be multidisciplinary, addressing academic standards in language arts, math, and health;**
- (b) Provide multimedia resources that engage the students;**
- (c) Be evidence-based showing successful implementation including positive changes in desired outcomes, such as changes in body mass index or attitudes towards tobacco use;**
- (d) Be able to be integrated in to the core classroom at the elementary level; and**

(e) Be sustainable and provide open web-based resources to teachers and students across Missouri.

4. Hands-on professional development opportunities shall be provided in local districts for the teachers who will be implementing the program. Ongoing support shall be provided to the teachers and schools during the pilot period.

5. Following the completion of the 2005-2006 school year, the department shall evaluate the effectiveness of the model school wellness program in increasing knowledge, changing body mass index, improving attitudes and behaviors of students related to nutrition, physical activity, or tobacco use.

6. 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, 2005, shall be invalid and void.

7. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

(1) The provisions of the new program authorized under section 167.229 shall automatically sunset six years after the effective date of section 167.229 unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under section 167.229 shall automatically sunset twelve years after the effective date of the reauthorization of section 167.229; and

(3) Section 167.229 shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under section 167.229 is sunset.

8. This section shall become effective August 28, 2005.

167.332. 1. The department of elementary and secondary education shall evaluate each alternative education plan and assess the needs of each area vocational learning center. Each area vocational learning center shall submit annually to the department of elementary and secondary education a detailed instruction plan for the implementation and continuation of the area learning center. For the purposes of receiving state aid pursuant to section 163.031, RSMo, the resident district shall count students who qualify under sections 167.320 to 167.332. A student shall be counted for the period of time he attends the area learning center to a maximum of six hours per day, even if the hours of attendance are not within the schedule of the resident district. [All funds transmitted to the resident district under section 148.360, RSMo, section 149.015, RSMo, and sections 163.031 and 163.087, RSMo, for the portion of time the student attends the area learning center, shall be transferred by the resident district to the area learning center.] Additional state and

federal funds appropriated by the general assembly shall be awarded to the area learning centers as determined by the department of elementary and secondary education based upon each area learning center's needs and on the level of the appropriation.

2. Updated instructional plans and year-end student reports shall be required annually from the area vocational learning centers and shall be a condition for additional funding. New area vocational learning centers shall be funded on a priority basis determined by the potential to be served and the community demand.

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

- (1) Determination of the date of beginning and length of the next school year;
- (2) Fixing the amount of annual compensation for the following school year as provided by the salary schedule adopted by the board of education applicable to all teachers. **Districts may provide a salary that includes hiring incentives or salary schedule modifications, which may include but are not limited to credit for all prior years of service in another district, to attract and retain teachers based upon demonstrated need for teachers certified in shortage areas. Districts may also provide such incentives or schedule modifications to attract and retain teachers with qualities, experience, or credentials that are exceptionally well suited to a district's needs for academic improvement. In exchange for such incentives, teachers may be required to teach in the district offering the incentive for a period of up to three school years. Districts shall have the decision-making authority on whether to provide such incentives and modifications within the limits of this section.** The modifications shall be effective at the beginning of the next school year. All teachers affected by the modification shall be furnished written copies of the modifications within thirty days after their adoption by the board of education.

168.126. 1. A board of education at a regular or special meeting may contract with and employ by a majority vote legally qualified probationary teachers for the school district. The contract shall be made by order of the board; shall specify the number of months school is to be taught and the wages per month to be paid; shall be signed by the probationary teacher and the president of the board, or a facsimile signature of the president may be affixed at his discretion; and the contract shall be attested by the secretary of the board by signature or facsimile. **Districts may provide a salary that includes hiring incentives or salary schedule modifications, which may include but are not limited to credit for all prior years of service in another district, to attract and retain teachers based upon demonstrated need for teachers certified in shortage areas. Districts may also provide such incentives or schedule modifications to attract and retain teachers with qualities, experience, or credentials that are exceptionally well suited to a district's needs for academic improvement. In exchange for such incentives, teachers may be required to teach in the district offering the incentive for a period of up to three school years. Districts shall have the decision-making authority on whether to provide such incentives and**

**modifications within the limits of this section.** The board shall not employ one of its members as a teacher; nor shall any person be employed as a teacher who is related within the fourth degree to any board member, either by consanguinity or affinity, where the vote of the board member is necessary to the selection of the person.

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

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

168.281. 1. After completion of satisfactory probationary service, appointments of employees shall become permanent subject to removal for any one or more causes herein described as well as to the right of the board to terminate services of all who attain the age of compulsory retirement fixed by the retirement system.

2. (1) No employee whose appointment has become permanent may be removed, aside from compulsory retirement, except for one or more of the following causes: Immorality, **felony**

**conviction of a crime under any state or federal criminal statute, inefficiency or incompetency** in line of duty, violation of the published regulations of the school district, violation of the laws of Missouri governing the public schools of the state, or that his physical or mental condition is such that it incapacitates him from properly performing his duties or from properly associating with children, and then only after the personnel director has given written notice to the employee, by registered mail with return receipt of his suspension and proposed discharge. The registered letter is to notify the employee:

- (a) Of the charges on which the suspension and proposed discharge is based;
- (b) Of the date, time, and place of the hearing of the charges by the personnel committee;
- (c) Of the employee's right to be present at the hearing and to have counsel or other representative of his choice;
- (d) Of his right to testify and to offer testimony of witnesses as well as other evidence sustaining his defense, and to cross-examine adverse witnesses and to generally conduct a defense;
- (e) And of the necessity, in order for him to avail himself of the aforesaid opportunity to defend himself against the charges, that he notify the personnel director in writing, at least three days before the date of the hearing, of his intention to offer the defense.

(2) The hearing of the committee is to be held not less than ten nor more than fifteen days after the mailing date of the notice of hearing to the employee, except by mutual agreement of the committee and the employee. Failure of the employee to give the three days' notice in writing of his election to defend, or having given the notice, failure of the employee to appear at the hearing, shall each be considered by the committee as an admission of the truth of the charges and the committee may rule accordingly. The committee may, in its discretion, to avoid undue hardship, and upon a sufficient showing by the employee of valid and cogent reasons for his failure to notify the committee of his election to defend, or of his subsequent failure to appear at the hearing, reset the hearing in the same manner as before.

(3) Upon conducting the hearing of the charges, or if no defense is offered, upon considering the charges, the personnel committee by majority vote shall make its decision as soon as practicable and shall immediately thereafter notify the employee of its decision by registered mail. The committee may rule

- (a) That the employee's suspension was justified and that he is discharged with loss of pay as of the date of his suspension;
- (b) That the suspension was unjustified and no grounds calling for his discharge have been proven and that the employee shall immediately be restored to his former position without any loss of pay;
- (c) That the proven charges are of such a nature that they can be removed or remedied by transferring the employee to a different position, grade, classification, school or building in which case the employee shall lose no pay during his suspension prior to the committee's decision;

(d) Or the committee may make any ruling, less severe than that of discharge, which the committee may deem meet and just under the circumstances including suspension with the loss of pay. The decision of the personnel committee shall be final; provided, however, that upon the request of the employee affected the board shall review the record of the proceedings before the personnel committee and may, in its discretion, grant the employee a hearing before the board. Upon hearing the board may affirm, rescind or modify the decision of the committee and make any other orders in connection therewith that are appropriate under the circumstances.

3. No employee whose appointment has become permanent shall be suspended without pay, nor be demoted nor shall his salary be reduced unless the same procedure is followed as herein stated for the removal of the employee because of inefficiency in line of duty, and any employee whose salary is reduced or who is demoted may waive the presentment of charges against him and a hearing thereon by the committee. Nothing herein shall in any way restrict or limit the powers of the board of education to make reductions in the number of employees because of insufficient funds or decrease in pupil enrollment or lack of work.

168.515. 1. Each teacher selected to participate in a career plan established under sections 168.500 to 168.515, who meets the requirements of such plan, shall receive a salary supplement, the state's share of which shall be distributed under section 163.031, RSMo, equal to the following amounts applied to the career ladder entitlement [of line 15 of subsection 6] of section 163.031, RSMo:

- (1) Career stage I teachers may receive up to an additional one thousand five hundred dollars per school year;
- (2) Career stage II teachers may receive up to an additional three thousand dollars per school year;
- (3) Career stage III teachers may receive up to an additional five thousand dollars per school year.

All teachers within each stage within the same school district shall receive equal salary supplements.

2. The state shall make payments pursuant to section 163.031, RSMo, to the local school district for the purpose of reimbursing the local school district for the payment of any salary supplements provided for in this section, subject to the availability of funds as appropriated each year and distributed on a variable match formula which shall be based on [equalized] assessed valuation of the district for the second preceding school year. [A district's equalized assessed valuation shall be multiplied by the district income factor defined in section 163.011, RSMo, and shall be known as the adjusted equalized assessed valuation.]

3. In distributing these matching funds, school districts shall be ranked by the [adjusted equalized] assessed valuation for the second preceding school year per [eligible pupil] **weighted average daily attendance** from the highest to the lowest and divided into three groups. Group one

shall contain the highest twenty-five percent of all public school districts, groups two and three combined shall contain the remaining seventy-five percent of all public school districts. The districts in groups two and three shall be rank-ordered from largest to smallest based on enrollment as of the last Wednesday in September during the second preceding school year, group two shall contain twenty-five percent of all public school districts that are larger on the enrollment-based rank-ordered list and group three shall contain the remaining fifty percent of all public school districts. Pursuant to subsection 4 of this section, districts in group one shall receive forty percent state funding and shall contribute sixty percent local funding, group two shall receive fifty percent state funding and shall contribute fifty percent local funding and group three shall receive sixty percent state funding and shall contribute forty percent local funding.

4. The incremental groups are as follows:

Group	Percentage of Districts	Percentage of State Funding	Percentage of Local Funding
1	25%	40%	60%
2	25%	50%	50%
3	50%	60%	40%

5. Beginning in the 1996-97 school year, any school district in any group which participated in the career ladder program in 1995-96 and paid less than the local funding percentage required by subsection 4 of this section shall increase its local share of career ladder costs by five percentage points from the preceding year until the district pays the percentage share of cost required by subsection 4 of this section, and in no case shall the local funding percentage be increased by a greater amount for any year. For any district, the state payment shall not exceed the local payment times the state percentage share divided by the local percentage share. Any district not participating in the 1995-96 school year or any district which interrupts its career ladder program for any subsequent year shall enter the program on the cost-sharing basis required by subsection 4 of this section.

6. Not less than every fourth year, beginning with calendar year 1988, the general assembly, through the joint committee established under section 160.254, RSMo, shall review the amount of the career pay provided for in this section to determine if any increases are necessary to reflect the increases in the cost of living which have occurred since the salary supplements were last reviewed or set.

7. To participate in the salary supplement program established under this section, a school district may submit to the voters of the district a proposition to increase taxes for this purpose. If a school district's current tax rate ceiling is at or above the rate from which an increase would require a two-thirds majority, the school board may submit to the voters of the district a proposition to reduce or eliminate the amount of the levy reduction resulting from section 164.013, RSMo. If a majority of the voters voting thereon vote in favor of the proposition, the board may certify that

seventy-five percent of the revenue generated from this source shall be used to implement the salary supplement program established under this section.

8. In no case shall a school district use state funds received under this section nor local revenue generated from a tax established under subsection 7 of this section to comply with the minimum salary requirements for teachers established pursuant to section 163.172, RSMo.

9. Beginning in the 1996-97 school year, for any teacher who participated in the career program in the 1995-96 school year, continues to participate in the program thereafter, and remains qualified to receive career pay pursuant to section 168.510, the state's share of the teacher's salary supplement shall continue to be the percentage paid by the state in the 1995-96 school year, notwithstanding any provisions of subsection 4 of this section to the contrary, and the state shall continue to pay such percentage of the teacher's salary supplement until any of the following occurs:

- (1) The teacher ceases his or her participation in the program; or
- (2) The teacher suspends his or her participation in the program for any school year after the 1995-96 school year. If the teacher later resumes participation in the program, the state funding shall be subject to the provisions of subsection 4 of this section.

170.051. 1. As used in this section, the term "textbook" means workbooks, manuals, or other books, whether bound or in loose-leaf form, intended for use as a principal source of study material for a given class or group of students, a copy of which is expected to be available for the individual use of each pupil in such class or group.

2. Each public school board shall purchase and loan free all textbooks for all children who are enrolled in grades kindergarten through twelve in the public schools of the district, and may purchase textbooks and instructional materials for prekindergarten students.

3. Only textbooks which are filed with the state board of education pursuant to section 170.061 shall be purchased and loaned under this section. No textbooks shall be purchased or loaned under this section to be used in any form of religious instruction or worship.

4. Each school board shall purchase [from the free textbook fund, or] from the incidental fund of the district [if the free textbook fund is insufficient,] all the new or used textbooks for all the pupils in all grades and preschool programs of the public schools of the district. The board may also expend [either textbook fund moneys or] incidental fund moneys to provide supplementary texts, library and reference books, contractual educational television services, and any other instructional supplies for all the pupils of the public schools of the district. [The board may, in its discretion, expend textbook fund moneys to provide any other instructional materials and supplies for the pupils of the public schools of the district.] All books purchased from district funds are the property of the district but shall be furnished, under rules and regulations prescribed by the school board, to the pupils without charge, except for abuse or willful destruction.

170.055. [1. When the money apportioned under the provisions of section 148.360, RSMo, is received by the treasurers of the various school districts it shall be placed to the credit of the free textbook fund of the district.

2.] No school board shall pay a higher price for books than is paid by any other school district in this state, or in any other state purchasing textbooks in the open market. No contract for books for a period of more than five years shall be made by any school district under the provisions of this law. Any owner, agent, solicitor or publisher of textbooks who shall offer for sale in this state or sell to any board of directors or board of education textbooks at a higher price than herein specified shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not less than five hundred dollars and not more than ten thousand dollars for each offense.

171.121. If any district in this state has an average daily attendance of less than fifteen pupils as shown by the records of the last previous school year, the state board of education, after investigation that convinces it that it would be to the best interests of all concerned, shall require the board to provide for the tuition and transportation of the pupils of the district to other public schools. Separate records of the attendance of pupils from the closed district shall be kept and the district shall receive the same apportionment under [subsection 1 of] section 163.031, RSMo, as it would have received otherwise. For the first year after the closing of a district, apportionment shall be made under [subsection 3 of] section 163.031, RSMo, to the closed district on the basis of the average daily attendance of the preceding year and shall be paid by the closed district to the districts receiving its pupils in proportion to the number of pupils received by each.

178.296. 1. The school districts, except school districts which are part of a special school district, and special school districts in which county- or court-operated facilities for the care and protection of juveniles are located shall provide appropriate educational programs for those juveniles of school age who have not been graduated from the twelfth grade and who are placed in such facilities.

2. School districts and special school districts providing educational programs pursuant to subsection 1 shall be entitled to receive, for nonhandicapped children, the aid provided in section 163.031, RSMo, [and in addition special aid calculated in accordance with subsection 1 of section 162.975, RSMo, for classes approved by the department of elementary and secondary education]. Aid for programs for handicapped and severely handicapped children shall be allocated as provided by law. No school district or special school district providing educational programs pursuant to subsection 1 shall be required to expend on such programs funds in excess of those received by the district under the provisions of sections 178.295 to 178.298.

360.106. 1. As used in this section and sections 360.111 to 360.118, the following terms mean:

(1) "Funding agreement", any loan agreement, financing agreement or other agreement between the authority and a participating district under this section, providing for the use of proceeds of, security for, and the repayment of, school district bonds, and shall include a complete waiver by the participating district of all powers, rights and privileges conferred upon the participating district to institute any action authorized by any act of the Congress of the United States relating to bankruptcy on the part of the participating district;

(2) "Participating district", with respect to a particular issue of bonds, notes or other financial obligations, any school district and any public community junior college in this state which voluntarily enters into a funding agreement with the authority pursuant to this section;

(3) "School district bonds", any bonds, notes or other obligations issued by the authority for the purpose of making loans to, purchasing the bonds or notes of or otherwise by agreement using or providing for the use of the proceeds of the obligations by a participating district under this section and all related costs of issuance of the obligations including, but not limited to, all costs, charges, fees and expenses of underwriters, financial advisors, attorneys, consultants, accountants and of the authority.

2. In addition to other powers granted to the authority by sections 360.010 to 360.140, the authority shall have the power to issue school district bonds or notes for the purpose of making loans to, or purchasing the bonds, notes or other financial instruments of:

(1) Any school district or any public community junior college in this state for the use of the various funds of such school district or public community junior college for any lawful purpose; and

(2) Any school district in this state with respect to obligations issued by such school district pursuant to sections 164.121 to 164.301, RSMo, or otherwise by law.

3. In connection with the issuance of school district bonds pursuant to the powers granted in this section, the authority shall have all powers as set forth elsewhere in sections 360.010 to 360.140, and the provisions of sections 360.010 to 360.140 shall be applicable to the issuance of school district bonds to the extent that they are not inconsistent with the provisions of this section.

4. School district bonds issued pursuant to this section may be secured by a pledge of payments made to the authority by the participating district, by the bonds or notes of the participating district, or by a pooling of such payments, bonds or notes of two or more of such participating districts or as otherwise set forth in the funding agreements.

5. The authority may invest any funds held pursuant to powers granted under this section, which are not required for immediate disbursement, in any investment approved by the authority and specified in the trust indenture or resolution pursuant to which such bonds or notes are issued without regard to any limitation otherwise imposed by section 360.120 or otherwise by law; provided, however, that each participating district shall receive the earnings, or a credit for such earnings, to the extent any such amounts invested are attributable to a particular participating district.

6. (1) In connection with school district bonds, upon certification by the authority to the commissioner of education and the state treasurer that the funding agreement provides for consent by a participating district for direct deposit of its state payments to the trustee, the state treasurer shall transfer, but only out of funds described in this section, directly to the trustee for such school district bonds, the amounts needed to pay the principal and interest when due on the school district

bonds attributable to a particular participating district. Such transfers for any school district bonds attributable to a particular participating district shall only be made out of, and to the extent of, the state payments and distributions from all funds to be made by the state to such participating district pursuant to sections 163.011 to 163.195, RSMo[, and the distributions from the fair share fund to be made by the state to such participating district pursuant to section 149.015, RSMo]. Any such transfer by the state on behalf of a participating district shall discharge the state's obligation to make such state payments to such participating district to the extent of such transfer;

(2) A participating district shall withdraw amounts from any of its funds established pursuant to section 165.011, RSMo, to the extent such amounts could have been used to make the payments made on its behalf by the state treasurer as provided in subdivision (1) of this subsection. Notwithstanding any provisions of section 108.180, RSMo, to the contrary, such amounts shall be deposited into the participating district's funds as provided by law in lieu of the state payments transferred to the trustee under the funding agreement;

(3) The authority shall from time to time develop guidelines containing certain criteria with respect to participating school districts and with respect to the issuance of school district bonds;

(4) Transfers made under this subsection pursuant to a school district's participation in a funding agreement under this section shall be made at no cost to the school district.

7. The authority shall provide for the payment of costs of issuance, costs of credit enhancement and any other costs or fees related to the issuance of any school district bonds other than reserve funds, out of the proceeds thereof or out of amounts distributed annually to the authority pursuant to sections 160.534 and 164.303, RSMo. The authority shall annually submit a request for funding of such costs to the commissioner of education in such form and at such time as he may request. A copy of such request shall be forwarded to the commissioner of administration. The authority shall provide for the payment of costs pursuant to this subsection only for bonds issued for the purpose of financing construction or renovation projects approved by voters after January 1, 1995, or refinancing construction or renovation projects or for refinance of lease purchase obligations with general obligation bonds.

8. Any refunding or refinancing of existing bonds of a school district under this section shall have a net present value savings of at least one and one-half percent of the par amount of the refunded bonds.

9. The commissioner of education shall serve as an ex officio, nonvoting, advisory member of the authority solely with regard to the exercise of powers granted pursuant to this section.

10. Nothing in this section or sections 360.111 to 360.118 shall be construed to relieve a school district or public community junior college of its obligation to levy a debt service levy or capital projects levy sufficient to retire any obligation of the district or college as otherwise provided by law.

11. Any professional services provided in connection with the sale of such bonds pursuant to this section, including, but not limited to, underwriters, bond counsel, underwriters' counsel,

trustee and financial advisors, shall be obtained through competitive bidding. The initial bid for professional services shall be for a period of not longer than two years, and thereafter such bids shall be awarded for a period not longer than one year.

12. The authority shall review the cost effectiveness of the program established under this section and sections 360.111 to 360.118 and shall, on or before the fifteenth of August of each year, provide a report to the general assembly which shall contain a report on the program, the authority's findings and a recommendation of whether this section should be repealed, strengthened or otherwise amended.

**Section 1. 1. The joint committee on tax policy, as established in section 21.810, RSMo, shall review and analyze the local property tax assessment practices of this state. The committee shall make recommendations to the general assembly regarding its findings with regard to the state's assessment practices. The committee shall submit a preliminary report to the general assembly by January 1, 2006, and a final report by June 30, 2006.**

**2. The committee shall report to the state tax commission any counties which it considers to be underassessed. The state tax commission shall adjust local assessments to ensure that all counties are accurately assessed, as provided by statute.**

**3. If a school district is determined to be utilizing assessed valuations in the base year for sections 163.011 and 163.031, RSMo, that are underassessed for purposes of this formula calculation, when the state adequacy target calculated under subsection (18) of section 163.031, RSMo, is recalculated, the district local effort calculation for school districts that were underassessed shall be corrected to utilize the correct assessed valuation; provided, however, that no school district shall receive less state aid per pupil than in school year 2006-2007.**

[160.264. 1. The "Incentives for School Excellence Program" is hereby established to promote and encourage all local school district initiatives for excellence in education, and shall commence with the 1986-87 school year. The incentives for school excellence program is a matching fund program of variable match rates.

2. The general assembly shall make an annual appropriation to the excellence in education fund established under section 160.268 for the purpose of providing the state's portion for the incentives for school excellence program.

3. There is hereby established within the department of elementary and secondary education, an advisory committee which shall be composed of twenty-one members to be appointed by the state board of education on the recommendation of the commissioner of education. This advisory committee shall make recommendations to the department regarding the incentives for school excellence program. The advisory committee shall also collect information on local school initiatives that promote excellences and shall disseminate information regarding such initiatives and the incentives program to all school districts.

4. The state board of education, on the recommendation of the commissioner of education, shall establish eligibility guidelines for participation by a district, a school, a group of teachers, or an individual teacher, in the incentive for school

excellence program, and such pro rata provisions as are necessary. Copies of the guidelines established under this subsection shall be provided to all school districts in this state.

5. Program topics suitable for obtaining matching funds under the incentives for school excellence program, which matching funds may include in-kind donations, may include, but shall not be limited to, the following school improvement activities:

- (1) Teacher aides to assist in classrooms in grades K-3;
- (2) Business/education partnerships;
- (3) Extended contracts for teachers and administrators;
- (4) School improvement councils;
- (5) Improved attendance plans;
- (6) School volunteer projects;
- (7) Parent participation programs;
- (8) Instructional improvement projects;
- (9) Writing programs;
- (10) Higher technology projects;
- (11) Advanced placement programs;

(12) Opportunity classes for children who are at risk in reading and math in grades 1, 2, and 3. All districts are eligible to participate in the incentives for the school excellence program.

6. The commissioner of education shall cause guidelines to be developed by the department of elementary and secondary education which shall include, but shall not be limited to, information concerning the application procedures for school districts desiring to participate in the incentives for school excellence program.

7. The state board of education, with recommendation from the advisory committee, shall determine the district-revenue match needed to qualify for a state-revenue match under the incentives for school excellence program. The board shall recognize a school district's ability to raise the necessary matching funds to participate in the program established under this section.

8. Local school districts may use available revenues from any existing fund or source, except the teachers' fund, including gifts, grants, and bequests from federal, private, or other sources made available for the purpose of the incentives for school excellence program. Other provisions of this section notwithstanding, revenues in the teachers' fund may only be used for programs which relate to teachers' salaries. In no case shall a local school district use as its matching funds to participate in this program any state aid provided pursuant to sections 163.031 and 163.172, RSMo, or sections 168.500 to 168.520, RSMo.

9. The state board of education, at its discretion, may designate a portion of the appropriation for the incentives for school excellence program as a match-free incentive to be awarded to a school, a group of teachers, or an individual teacher to implement exemplary and innovative programs designed to improve instruction. Such match-free incentives shall be awarded to school districts for the benefit of the school, a group of teachers, or an individual teacher on a competitive grant basis according to criteria established by the state board of education with advice of the advisory committee.

10. Participation in the incentives for school excellence program requires the school district, school, teachers or teacher receiving the funds from the program to provide, upon request, such data as the department of elementary and secondary education deems necessary.]

[160.531. 1. Beginning with fiscal year 2005 and for all fiscal years thereafter, an amount, as specified in subsection 2 of this section, of the appropriation to the department of elementary and secondary education otherwise distributed to the public schools of the state pursuant to the provisions of section 163.031, RSMo, shall be distributed by the department of elementary and secondary education to establish and fund family literacy programs in school attendance centers declared academically deficient by the state board of education as authorized by section 160.538 or school districts declared unaccredited or provisionally accredited by the state board of education pursuant to section 161.092, RSMo.

2. The amount to be distributed by the department of elementary and secondary education to establish and fund family literacy programs pursuant to subsection 1 of this section shall be one and one-half percent of the total line 14 distribution.

3. The department of elementary and secondary education shall promulgate rules for the distribution of family literacy funds.

4. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.]

[160.550. 1. There is hereby authorized a program, subject to appropriation, for the 1995, 1996, and 1997 fiscal years to provide incentive payments to school districts to reduce pupil/teacher ratios and promote student achievement in grades kindergarten to three. In providing incentive payments authorized by this section, the state board of education, by rule and regulation, shall take into account the instructional methods that school districts use to qualify for the incentive payment. The state board of education shall promulgate any rules it deems necessary to effectively implement the provisions of this section. Any school district which achieves a pupil/teacher ratio of twenty-five to one or lower in any grades kindergarten to three shall be eligible for incentive payments pursuant to this section.

2. For the purposes of this section, the term "teacher" means a certificated teacher licensed to teach in Missouri, who is a regular classroom teacher in a regular instructional program. The term shall not include aides, administrators, or teachers with temporary certificates.

3. School districts shall be eligible for incentive payments only where the district can substantiate according to rules and regulations of the state board of education that the pupil/teacher ratio in the grade levels not affected by the program authorized by this section did not increase in order to meet the requirements for the incentive payment. Further, by rule and regulation of the state board of education, criteria shall be established to disqualify school districts from receiving incentive

payments outlined in this section if such qualification is due to enrollment decreases in the district that have occurred in grades kindergarten to three.

4. Nothing in this section shall be construed to preclude the teaching staff within a school from grouping pupils in alternative ways for instruction, including, but not limited to, team teaching, class-within-a-class, cooperative learning, and ungraded approaches to teaching; provided, however, that such alternative instructional groupings are not used in grade levels not affected by the program outlined in this section in order to meet the criteria to qualify for receiving incentive payments for the reduction in class size in grades kindergarten to three.

5. No rule or portion of a rule promulgated under the authority of sections 160.500 to 160.538, sections 160.545 and 160.550, sections 161.099 and 161.610, RSMo, sections 162.203 and 162.1010, RSMo, section 163.023, RSMo, sections 166.275 and 166.300, RSMo, section 170.254, RSMo, section 173.750, RSMo, and sections 178.585 and 178.698, RSMo, shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

[162.792. In addition to any other funds provided by law, the Missouri School for the Blind in St. Louis, and the Missouri School for the Deaf in Fulton, and the state schools for the severely handicapped shall, any other provision of law to the contrary notwithstanding, be entitled to funds under section 148.360, RSMo. The number of full-time students in those institutions described in this section shall be considered as "September membership" for the apportioning of funds under section 148.360, RSMo, to each institution respectively.]

[162.975. 1. Each school district or special school district which provides approved special education services for handicapped or severely handicapped children under sections 162.670 to 162.995 or approved extended school year services for such children, shall be entitled under section 163.031, RSMo, to receive state aid. Additional state aid for such programs shall be allocated as follows in the following order of priority:

(1) A school district or special school district shall receive state aid for each child receiving services on homebound status or served by contractual arrangement with a private or public agency approved by the department of elementary and secondary education. The amount paid from state aid for such services shall be adjusted annually by the percent change in the appropriation of state funds to this section for the current fiscal year compared with that for the first preceding fiscal year.

(2) A school district or special school district shall receive state aid for approved extended school year services for handicapped or severely handicapped children. Prior to full implementation of subdivisions (4), (5) and (6) of this subsection, state aid paid for each approved staff member shall bear the same ratio to the amount payable for such staff during the immediate preceding school year as the ratio of the number of hours in the approved extended school year program bears to the number of hours in regular term programs for each respective school district or special school district approved under this section; provided that this amount shall be adjusted annually by the percentage change in the appropriation of state funds to

this section for the current fiscal year compared with the appropriation level for the first preceding fiscal year. After full implementation of subdivisions (4), (5) and (6) of this subsection, state aid shall be paid for each approved staff in an amount which bears the same ratio to the amount payable for such staff during the immediate preceding school year as the ratio of the number of hours in the approved extended school year program bears to the number of hours in regular term programs for each respective school district or special school district approved pursuant to this section; provided that the amount payable per approved staff member pursuant to this subdivision for the year of full implementation of subdivisions (4), (5) and (6) of this subsection and thereafter shall be, on a prorated basis, two times the amount payable per approved staff member pursuant to subdivision (4) of this subsection for the current school year.

(3) The division of youth services within the Missouri department of social services shall receive state aid for approved special education services. State aid shall be paid for each full-time equivalent professional and paraprofessional staff member approved by the department of elementary and secondary education at the rate paid during the first full fiscal year preceding the year in which this section becomes effective plus an annual adjustment equal to the percent change in the appropriation of state funds to this section for the current fiscal year compared with the appropriation level for the first preceding year.

(4) A school district or special school district shall receive state aid for approved professional and paraprofessional staff who are employed or contracted to provide special education services for handicapped and severely handicapped children, including staff used by a school district or special school district to provide services before and after the normal school day for students attending nonpublic schools, who are in compliance with section 167.031, RSMo. Each school district or special school district employing or contracting for professional services or paraprofessional staff in the provision of special education services, as defined and approved by the department of elementary and secondary education, shall receive state aid at a full-time equivalent rate based upon the total allocation of funds pursuant to this subdivision, after sufficient funds are allocated for subdivisions (1), (2) and (3) of this subsection. Paraprofessional staff shall be paid at one-half the rate paid full-time equivalents of professional staff and contractors.

(5) Each school district or special school district providing special education services for handicapped or severely handicapped children shall receive state aid pursuant to section 163.031, RSMo, for each such eligible pupil, and such school district shall receive state aid for each child domiciled in the district and enrolled in a nonpublic school, who are in compliance with section 167.031, RSMo. The per resident student rate paid for students enrolled in nonpublic schools shall be one-half that paid per eligible pupil for students enrolled in a school district or special school district.

(6) No more than fifty percent of the total state aid appropriated pursuant to subdivisions (4) and (5) of this subsection shall be distributed pursuant to subdivision (5) of this subsection. No less than fifty percent of the state aid appropriated pursuant to subdivisions (4) and (5) of this subsection shall be distributed pursuant to subdivision (4) of this subsection. A sufficient share of the funds appropriated

pursuant to this subsection shall be appropriated pursuant to subdivisions (1), (2) and (3) of this subsection to meet the requirements of those subdivisions. To the extent allowed by appropriations, the share of funds appropriated pursuant to subdivisions (4) and (5) of this subsection under subdivision (5) shall be increased until that share is equal to fifty percent, at which time subdivisions (4), (5) and (6) of this subsection shall be considered fully implemented, and such share shall remain equal to fifty percent for all years thereafter. No district shall receive less state aid under this section than received during the year preceding that when the phased implementation was begun.

(7) Contractors providing professional services funded under this section shall meet the state licensing and certification requirements appropriate to their contracted duties, as determined by the department of elementary and secondary education.

2. For approved special education and related services provided for handicapped and severely handicapped children under five years of age, but not under the age of three, entitlements for state aid established pursuant to this section and distributed pursuant to section 163.031, RSMo, shall not exceed ninety percent of the cost of the programs as specified in project applications and approved by the department of elementary and secondary education. Such programs shall not be eligible to receive funds allocated pursuant to subsection 1 of this section.

3. Each school district or special school district which provides an approved remedial reading program under provisions of sections 162.670 to 162.995 shall receive state aid established pursuant to this subsection and distributed pursuant to section 163.031, RSMo. The amount paid from state aid for such services per full-time equivalent remedial reading teacher shall be adjusted annually by the percentage change in the appropriation of state funds for the state school aid district entitlements as established pursuant to section 163.031, RSMo, for the current fiscal year compared with that for the first preceding fiscal year. Such programs shall not be eligible to receive funds allocated pursuant to subsection 1 of this section.

4. For approved programs for gifted children, districts shall receive state aid under section 163.031, RSMo, not to exceed seventy-five percent of the cost of instructional personnel and special materials listed in project applications and approved by the department of elementary and secondary education. Such programs shall not be eligible to receive funds allocated pursuant to subsection 1 of this section.]

[163.005. The "Schools of the Future Fund" is hereby created in the state treasury. Moneys deposited in this fund shall be considered state funds pursuant to article IV, section 15 of the Missouri Constitution. All interest received on the schools of the future fund shall be credited to the schools of the future fund. Appropriation of the moneys deposited into the schools of the future fund shall be used solely for the purpose of fully funding state aid to public schools pursuant to section 163.031.]

[163.014. Notwithstanding the provisions of section 163.011 to the contrary, beginning with the 1997-1998 payment year, the calculation of the magnitude of a

tax rate decrease due to reassessment shall exclude any voted increase occurring in the year of reassessment dating from tax year 1995.]

[163.015. 1. Notwithstanding any other provision of law, for districts not making transfers pursuant to subsection 4 of section 165.011, RSMo, nor making payments or expenditures related to obligations made pursuant to section 177.088, RSMo, nor any combination of such transfers, payments or expenditures, the district's operating levy for school purposes shall include the sum of tax rates levied for incidental, teachers', debt service and capital projects funds, with no more than eighteen cents of the sum levied in the debt service and capital projects funds. Any portion of the operating levy for school purposes levied in the debt service and capital projects funds in excess of a sum of ten cents must be authorized by a vote of the people, after August 28, 1998, approving an increase in the operating levy, or a full waiver of the rollback pursuant to section 164.013, RSMo, with a tax rate ceiling in excess of the minimum tax rate or an issuance of general obligation bonds.

2. Notwithstanding any other provision of law, beginning with the tax year which commences January 1, 1998, and for the 1998-99 school year and subsequent tax and school years, no school district shall receive more state aid, as calculated under section 163.031, for its education program, exclusive of categorical add-ons, than it received per eligible pupil for the school year 1993-94, unless it has an operating levy for school purposes of not less than two dollars and seventy-five cents after all adjustments and reductions, with no more than ten cents of this tax rate levied in the debt service and capital projects funds and eligible for entry on line 1 of the state school aid formula contained in subsection 6 of section 163.031; except that any district which is required, pursuant to article X, section 22 of the Missouri Constitution, to reduce its operating levy below the minimum tax rate otherwise required under subsection 2 of section 163.021 shall not be construed to be in violation of subsection 2 of section 163.021 for making such tax rate reduction.

3. Notwithstanding any other provision of law, the portion of state aid received by the district pursuant to section 163.031, based upon the portion of the tax rate in the debt service or capital projects fund, respectively, which is included in the operating levy for school purposes shall be placed to the credit of the debt service fund or capital projects fund, respectively.]

[163.032. Other provisions of law to the contrary notwithstanding, beginning with the 1994-95 school year, the revenue per eligible pupil received by a district from the following sources under subsection 6 of section 163.031: line one minus line ten, or zero if line one minus line ten is less than zero, plus line fourteen; plus the product of the current assessed valuation of the district multiplied by the following tax rate - the greater of zero or the minimum rate required for the current year by subsection 2 of section 163.021, minus the sum of the district's equalized operating levy for school purposes of 1993 and any equalized operating levy for school purposes levied for 1993 by a special school district in which the district is located, shall not be less than the revenue per eligible pupil received by a district in the 1992-93 school year from the foundation formula entitlement payment amount. The department of elementary and secondary education shall make an addition in the

payment amount of line nineteen of subsection 6 of section 163.031 to assure compliance with the provisions contained in this section. For all purposes of law, a school district's equalized operating levy for school purposes does not include any equalized operating levy for school purposes levied by a special school district in which the district is located.]

[163.034. Other provisions of subsection 5 of section 163.031, to the contrary notwithstanding, beginning with the 1995-96 school year, the revenue per eligible pupil received by a district from the following sources: line 1 minus line 10 or zero if line 1 minus line 10 is less than zero, plus line 14 as those amounts are established in subsection 6 of section 163.031, shall not be less than the revenue per eligible pupil received by a district in the 1992-93 school year from the foundation formula entitlement payment amount; provided that this section shall not be construed to limit the authority of the department of elementary and secondary education to reduce state aid payments pursuant to subsection 11 of section 177.088, RSMo, or subsection 8 of section 165.011, RSMo. The department of elementary and secondary education shall make an addition in the payment amount of line 19 of subsection 6 of section 163.031, to assure compliance with the provisions contained in this section, prior to making any deductions authorized under subsection 11 of section 177.088, RSMo, or subsection 8 of section 165.011, RSMo.]

[163.035. 1. The repeal and reenactment of sections 163.011 and 163.031 and the enactment of section 162.1060, RSMo, shall become effective on July 1, 1999, if notification has been provided pursuant to subsection 2 of this section.

2. On or within thirty days prior to March 15, 1999, the attorney general shall provide notice to the revisor of statutes as to whether a final judgment as to the state of Missouri and its officials is entered or has been entered in each pending case as of May 15, 1998, which subjects one or more school districts in this state to a federal court's jurisdiction, and if the notice provides that a final judgment as to the state of Missouri and its officials has not been entered in each such case, the repeal and reenactment of sections 163.011 and 163.031 and the enactment of section 162.1060, RSMo, shall not become effective. As used in this section, "final judgment" shall include only a judgment which disposes of all claims involving the state of Missouri and its officials and for which final disposition of appeals has been rendered and may include a consent judgment. Provided, however that a settlement among the parties may include provisions for payment for capital to be made after March 15, 1999, as long as the final judgment approving such settlement fixes with finality the financial obligations of the state.]

[165.015. 1. Notwithstanding the provisions of subsection 8 of section 165.011 to the contrary, any repayment of moneys pursuant to subsection 8 of section 165.011 may be completed no later than the fifth fiscal year following the year of violation.

2. Notwithstanding the provisions of subsection 8 of section 165.011 of Senate Substitute No. 2 for House Committee Substitute for House Bill No. 889, as truly agreed and finally passed by the first regular session of the ninetieth general

assembly, any school district that made an illegal transfer of funds from the incidental fund to the capital projects fund that occurred in both fiscal years 1998 and 1999 shall not be allowed to make a repayment of funds after April 30, 2000, pursuant to the provisions of this section or subsection 8 of section 165.011 of Senate Substitute No. 2 for House Committee Substitute for House Bill No. 889, as truly agreed and finally passed by the first regular session of the ninetieth general assembly unless the voters of such district approve an operating levy increase to the greater of two dollars and eighty-five cents or the levy which produces an increase in total state and local revenues as determined by the department of elementary and secondary education which is equal to or greater than the amount of state aid to be deducted pursuant to subsection 8 of section 165.011 by April 30, 2000. If the voters of such district fail to approve such levy such district shall repay any funds that were illegally transferred by December 31, 2000.]

[166.260. There is hereby created the "Children At-Risk in Education Program" which shall be administered by the commissioner of education. The program shall be funded by moneys provided to school districts pursuant to line 14 of subsection 6 of section 163.031, RSMo, and used solely as determined by local boards of education for: reductions of class size in schools containing high concentrations of children who are least advantaged or who have specially identified educational needs according to rule and regulation of the state board of education; or the following:

- (1) The program of half-day instruction for developmentally delayed and at-risk children established pursuant to section 167.260, RSMo;
- (2) The program to provide teacher assistants in grades kindergarten through three established pursuant to section 167.263, RSMo;
- (3) The program of family literacy for children and families of children at risk of dropping out of school pursuant to section 160.531, RSMo;
- (4) The program to provide guidance counselors in grades kindergarten through nine established pursuant to section 167.265, RSMo;
- (5) The programs for pupils at risk of becoming high school dropouts established pursuant to section 167.270, RSMo, including specialized courses of instruction, alternative education programs for pregnant teens and teen mothers and supplemental services for teen mothers;
- (6) The program of support services to pupils identified as having a high risk of dropping out of school established pursuant to section 167.280, RSMo;
- (7) The program of professional development committees for in-service training on teaching children identified as at risk of failing in school pursuant to section 168.400, RSMo;
- (8) A program to contract for mental health services to meet the needs of children who are identified as being at risk of failing school as a result of emotional or environmental factors. Eligible contractors shall be approved by the department of mental health;
- (9) The program of special education and other special services for at-risk and handicapped children in grades kindergarten through third grade emphasizing

prevention and early intervention, rather than remediation, known as the "Success for All Program";

(10) Paying for building site operating costs in the proportion that the free and reduced-price meal eligible student count is to the total enrollment in that building; and

(11) Other programs as approved by the commissioner of education that are exclusively targeted to provide educational services for students who are least advantaged or who have specially identified educational needs.]

Section B. 1. The enactment of sections 142.816, 163.042, 163.043, 163.044, 165.012, and 1, the repeal and reenactment of sections 148.360, 149.015, 160.415, 160.530, 160.534, 161.527, 162.081, 162.935, 163.011, 163.021, 163.023, 163.025, 163.028, 163.031, 163.036, 163.071, 163.073, 163.081, 163.087, 163.091, 163.172, 164.011, 164.303, 165.011, 165.016, 165.121, 166.275, 167.126, 167.151, 167.332, 168.110, 168.126, 168.281, 168.515, 170.051, 170.055, 171.121, 178.296, and 360.106, and the repeal of sections 160.264, 160.531, 160.550, 162.792, 162.975, 163.005, 163.014, 163.015, 163.032, 163.034, 163.035, 165.015, and 166.260, of section A of this act shall become effective July 1, 2006, if notification has been timely provided pursuant to subsection 2 of this section.

2. On or before September 1, 2005, the attorney general shall provide notice to the revisor of statutes that a final judgment has been entered dismissing with prejudice Case No. 04CV323022, pending as of January 1, 2005, in the Circuit Court of Cole County. If such a final judgment as to the state of Missouri and its officials has not been entered in such case at such time, no notice shall be given and section A of this act shall not become effective. As used in this section, "final judgment" shall include only a judgment which disposes of all claims involving the state of Missouri and its officials and for which final disposition of appeals has been rendered and may include a consent judgment.

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