Journal of the Senate

FIRST REGULAR SESSION

SIXTY-SIXTH DAY—MONDAY, MAY 7, 2007

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

"A lot of 'distractions' would vanish if we realized that we are not bound at all times to ignore the practical problems of our life when we are at prayer. On the contrary, sometimes these problems actually ought to be the subject of meditation" (Thomas Merton)

As we begin a new week O Lord, help us be mindful to turn to You in prayer at all times and about all things so that our work might not be bogged down by distractions but seen clearly as to course we are to follow and the path our votes are to take. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

A quorum being established, the Senate proceeded with its business.

The Journal for Thursday, May 3, 2007 was read and approved.

The following Senators were present during the day's proceedings:

Present—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—34		

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The Lieutenant Governor was present.

The Senate observed a moment of silence in memory of former State Senator Phil Curls.

RESOLUTIONS

Senator Purgason offered Senate Resolution No. 1206, regarding Reagan Caldwell, Lynchburg, which was adopted.

Senator Stouffer offered Senate Resolution No. 1207, regarding Don Lefman, Higginsville, which was adopted.

Senator Stouffer offered Senate Resolution No. 1208, regarding Gwen Hill, Odessa, which was adopted.

Senator Stouffer offered Senate Resolution No. 1209, regarding Charles Ferguson, Marshall, which was adopted.

Senator Stouffer offered Senate Resolution No. 1210, regarding the death of Robert L. "Bob" Dyer, Boonville, which was adopted.

Senator Days offered Senate Resolution No. 1211, regarding Cheryl Gragert, Bridgeton, which was adopted.

Senator Engler offered Senate Resolution No. 1212, regarding Yvonne Hessenaur, which was adopted.

Senator Barnitz offered Senate Resolution No. 1213, regarding the Sixtieth Wedding Anniversary of Mr. and Mrs. Willard "Bill" Schaeperkoetter, Mt. Sterling, which was adopted.

Senator Barnitz offered Senate Resolution No. 1214, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Anthony "Tony" Viessman, Rolla, which was adopted.

Senator Crowell offered Senate Resolution No. 1215, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Denzel Thompson, Jackson, which was adopted.

Senator Crowell offered Senate Resolution No. 1216, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Olen Hayes, Perryville, which was adopted.

Senator Crowell offered Senate Resolution No. 1217, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Harold Curnell, Jackson, which was adopted.

Senator Champion offered Senate Resolution No. 1218, regarding Central Assembly of God Church, Springfield, which was adopted.

Senator Champion offered Senate Resolution No. 1219, regarding Katherine Etheridge, which was adopted.

Senator Wilson offered Senate Resolution No. 1220, regarding Reverend Elijah Clark, Jr., which was adopted.

Senator Crowell offered Senate Resolution No. 1221, regarding Mettie Penzel, Cape Girardeau, which was adopted.

Senator McKenna offered Senate Resolution No. 1222, regarding Norma Overberg, which was adopted.

Senator McKenna offered Senate Resolution No. 1223, regarding Paul Richard "Rick" Overberg, which was adopted.

Senator Stouffer offered Senate Resolution No. 1224, regarding James R. McCrary, Lexington, which was adopted.

Senator Stouffer offered Senate Resolution No. 1225, regarding Richard Kaullen, Lexington, which was adopted.

Senator Stouffer offered Senate Resolution No. 1226, regarding Kathryn J. Pierce, Lexington, which was adopted.

Senator Stouffer offered Senate Resolution No. 1227, regarding Christopher Cain, which was adopted.

Senator Stouffer offered Senate Resolution No. 1228, regarding Allison Staples, which was adopted.

Senator Stouffer offered Senate Resolution No. 1229, regarding Sarah Lewis, which was adopted.

Senator Gross offered Senate Resolution No. 1230, regarding Tom Wapelhorst, St. Charles, which was adopted.

Senator Gross offered Senate Resolution No. 1231, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. William C. Braudis, St. Peters, which was adopted.

Senator Gross offered Senate Resolution No. 1232, regarding the Seventieth Wedding Anniversary of Mr. and Mrs. William Mullins, St. Charles, which was adopted.

Senator Coleman offered Senate Resolution No. 1233, regarding Carl Bruce, which was adopted.

HOUSE BILLS ON THIRD READING

Senator Rupp moved that **HB 265**, with **SA 5** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SA 5 was again taken up.

At the request of Senator Justus, the above amendment was withdrawn.

Senator Bray offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend House Bill No. 265, Page 2, Section 162.963, Line 25, by inserting immediately after all of said line the following:

"169.596. 1. Notwithstanding any other provision of this chapter to the contrary, a retired certificated teacher receiving a retirement benefit from the retirement system established pursuant to sections 169.010 to 169.141 may, without losing his or her retirement benefit, teach **up to** full time for up to two years for a school district covered by such retirement system; provided that the school district has a shortage of certified teachers, as determined by the school district, and provided that no such retired certificated teacher shall be employed as a superintendent. The total number of such retired certificated teachers shall not exceed, at any one time, the lesser of ten percent of the total teacher staff for that school district, or five certificated teachers.

2. Notwithstanding any other provision of this chapter to the contrary, a person receiving a retirement benefit from the retirement system established pursuant to sections 169.600 to 169.715 may, without losing his or her retirement benefit, be employed **up to** full time for up to two years for a school district covered by such retirement system; provided that the school district has a shortage of noncertificated employees, as determined by the school district. The total number of such retired noncertificated employees shall not exceed, at any one time, the lesser of ten percent of the total noncertificated staff for that school district, or five employees.

3. The employer's contribution rate shall be paid by the hiring school district.

4. In order to hire teachers and noncertificated employees pursuant to the provisions of this section, the school district shall:

(1) Show a good faith effort to fill positions with nonretired certificated teachers or nonretired noncertificated employees;

(2) Post the vacancy for at least one month;

(3) Have not offered early retirement incentives for either of the previous two years;

(4) Solicit applications through the local newspaper, other media, or teacher education programs;

(5) Determine there is an insufficient number of eligible applicants for the advertised position; and

(6) Declare a critical shortage of certificated teachers or noncertificated employees that is active for one year.

5. Any person hired pursuant to this section shall be included in the State Directory of New Hires for purposes of income and eligibility verification pursuant to 42 U.S.C. Section 1320b-7."; and

Further amend the title and enacting clause accordingly.

Senator Bray moved that the above amendment be adopted, which motion prevailed.

Senator Shields assumed the Chair.

Senator Rupp offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend House Bill No. 265, Page 1, In the Title, Line 3, by striking: "due process hearings"; and

Further amend said bill, Page 1, Section A,

Line 2, by inserting after all of said line the following:

"160.900. 1. The state of Missouri shall participate in the federal Infant and Toddler Program, Part C of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1431, et seq., and provide early intervention services to infants and toddlers determined eligible under state regulations.

2. The state agency designated by the governor as the lead agency shall be responsible for the administration and implementation of Part C of IDEA through a regional Part C early intervention system and shall promulgate rules implementing the requirements of Part C of IDEA consistent with federal regulations, 34 C.F.R. 303, et seq.

3. 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 sections 160.900 to 160.925 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. Sections 160.900 to 160.925 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, 2005, shall be invalid and void.

4. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the provisions of this section shall not sunset.

160.905. 1. The lead agency shall establish a "State Interagency Coordinating Council" for the state Part C early intervention system. The composition of the council shall include the members required under Part C of the IDEA consistent with federal regulations, 34 C.F.R. 303.601, appointed by the governor.

2. The state interagency coordinating council shall meet at least quarterly and shall comply with chapter 610, RSMo.

3. The state interagency coordinating council shall advise and assist the lead agency pursuant to IDEA requirements, 34 C.F.R. 303.650 to 303.654.

4. The state interagency coordinating council shall assist the lead agency in the preparation and submission of an annual report to the governor and to the secretary of the United States Department of Education on the status of infant and toddler early intervention programs in the state and report any recommendations for improvements to such programs.

5. The lead agency, in consultation with any other state agencies involved in the Part C early intervention system, shall submit rules and regulations, other than emergency rules and regulations, to the council for review prior to the lead agency's final approval. The council shall review all proposed rules and regulations and report its recommendations thereon to the lead agency within thirty days. The lead agency shall respond to the council's recommendations providing reasons for proposed rules and regulations that are not consistent with the council's recommendations.

6. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the provisions of this section shall not sunset.

160.910. 1. The lead agency shall maintain a state Part C early intervention system under Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Section 1431, et seq., for eligible children and families of such children which shall be administered through the regional Part C early intervention system.

2. The lead agency shall compile data in the system on the number of eligible children in the state in need of early intervention services, the number of eligible children and their families served, the types of services provided, and other

information as deemed necessary by the agency.

3. The state Part C early intervention system shall include a comprehensive child-find system and public awareness program to ensure that eligible children are identified, located, referred to the system, and evaluated for eligibility.

4. The lead agency shall monitor system expenditures for administrative services and regional offices to ensure maximum utilization of state funds for all children determined to be eligible for early intervention services. The lead agency or its designee shall provide regional offices with the necessary financial data to assist regional offices in monitoring their expenditures and the cost of direct services. Such data shall include the number of children eligible from the most recent child count from that region and monthly data reports on the costs spent by providers in their network.

5. The lead agency shall establish a bidding process for determining regional offices across the state. The bidding process shall establish criteria for allowing regions to implement models that will serve the unique needs of their community. Such process shall encourage organizations bidding for a center to demonstrate agreements:

(1) With other state and local government entities that provide services to infants and toddlers with developmental disabilities including regional centers as defined in section 633.005, RSMo, and boards established under sections 205.968 to 205.973, RSMo; and

(2) To collaborate with established, quality early intervention providers in the region to establish a network for early intervention services.

6. The lead agency shall establish a centralized system of provider enrollment to assure that all Part C early intervention system providers meet requirements of Part C regulations and the Missouri state plan.

7. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the provisions of this section shall not sunset.

160.915. 1. Each regional office shall include in their proposal the following assurances and documentation of their plan to:

(1) Provide those functions that are specifically identified under federal and state regulations implementing Part C of IDEA, 20 U.S.C. Section 1431, as functions to be provided at public expense, with no cost to the parent;

(2) Contract with established community early intervention providers or hire providers as geographic necessity requires to ensure all services are available and accessible within the region;

(3) Implement a system of provider oversight to ensure:

(a) That all services are available and accessible within that region including the use of providers hired by the regional office where geographic necessity requires this practice; and

(b) Compliance by all providers in the regional office's provider network, including but not limited to upholding the requirements of Part C of IDEA;

(4) Include in each child's individual family service plan family-oriented approaches to support the child's developmental goals;

(5) Incorporate as the focus of the individualized family service plan best available practices and coaching approaches that support the family's capacity to meet the developmental needs of their child;

(6) Develop or maintain resources or utilize multiple funding sources for providing early intervention services for children with disabilities in the region for which they are bidding; and

(7) Implement a system for reutilization of assistive technology devices and oversight of assistive technology authorizations.

2. The lead agency may determine other assurances and request additional documentation

they deem to be necessary and reasonable to achieve the purpose of this section and to comply with applicable federal law and regulation.

3. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the provisions of this section shall not sunset.

160.920. 1. No funds appropriated to the lead agency for the implementation and administration of sections 160.900 to 160.925 shall be used to satisfy a financial commitment for services that should have been paid from another public or private source. Federal funds available under Part C of the IDEA, 20 U.S.C. Section 1431, et seq., shall be used whenever necessary to prevent the delay of early intervention services to the eligible child or family. When funds are used to reimburse the service provider to prevent a delay of the provision of services, the funds shall be recovered from the public or private source that has ultimate responsibility for the payment.

2. Nothing in this section shall be construed to permit any other state agency providing medically related services to reduce medical assistance to eligible children.

3. Payments for the provision of direct early intervention services to children and families shall be paid in the manner prescribed by the lead agency.

4. The lead agency shall promulgate rules for the reimbursement of services from all third-party payers, both private and public.

5. The lead agency or its designee shall, in the first instance and where applicable, seek payment from all third-party payers prior to claiming payment from the state Part C early intervention system for services rendered to eligible children.

6. The lead agency or its designee may pay required deductibles, co-payments, coinsurance or other out-of-pocket expenses for a Part C early intervention program eligible child directly to a provider.

7. The lead agency shall promulgate rules that establish a schedule of monthly cost participation fees for early intervention services per qualifying family regardless of the number of children participating or the amount of services provided. Such fees shall not include services to be provided to the family at no cost as established in Part C of IDEA, 20 U.S.C. Section 1431, et seq. Fees shall be based on a sliding scale to become effective October 1, 2005, that contemplates the following elements:

(1) Adjusted gross income, family size, financial hardship and Medicaid eligibility with the fee implementation beginning at two hundred percent of the federal poverty guidelines;

(2) A minimum fee amount of five dollars to the maximum amount of one hundred dollars monthly, with the lead agency retaining the right to revise the fee schedule no earlier than the third year after the family cost participation effective date;

(3) An increased fee schedule for parents who have insurance and elect not to assign such right of recovery or indemnification to the lead agency;

(4) Procedures for notifying the regional office that a family is not complying with the cost participation fee and procedures for suspending services.

8. All amounts generated by family cost participation, insurance reimbursements, and Medicaid reimbursement shall be deposited to the fund created in section 160.925.

9. The lead agency may assign the collection of early intervention participation fees, payments, and public or private insurance to a designee, contractor, provider, third-party agent, or designated clearinghouse participating in the Part C early intervention system. Such fees, payments, or insurance amounts shall be paid to the department, its designee, contractor, provider, third-party agent, or designated clearinghouse in a timely manner. Notice of collection procedures,

schedule of fees or payments, and guidelines for inability to pay shall be made available to parents of eligible children.

10. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the provisions of this section shall not sunset.

160.925. **1.** There is hereby created in the state treasury the "Part C Early Intervention System Fund" for implementing the provisions of sections 160.900 to 160.925. Moneys deposited in the fund shall be considered state funds under article IV, section 15 of the Missouri Constitution. The state treasurer shall be custodian of the fund and shall disburse moneys from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of sections 160.900 to 160.925. **[**Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.**]** The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. At the end of each biennium and after all statutorily or constitutionally required transfer of funds have been made, the state treasurer shall transfer the balance in the fund, except for gifts, donations, bequests, or money received from a federal source, created in subsection 1 of this section in excess of two hundred percent of the previous fiscal year's expenditures into the state general revenue fund.

3. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the provisions of this section shall not sunset.

160.932. 1. Subject to appropriations, the department of elementary and secondary education shall implement a pilot program allowing the regional interagency coordinating council of the greater St. Louis system point of entry to hire a part-time child-find coordinator to conduct the child-find requirements under subsection 3 of section 160.910 for the region. The part-time child-find coordinator shall be hired, selected, and employed by the regional interagency coordinating council of the greater St. Louis system point of entry by July 1, 2008.

2. By September 1, 2010, the greater St. Louis system point of entry shall conduct a study on the effect of hiring the child-find coordinator under this section. The study shall be submitted to the department, the state interagency coordinating council and the general assembly.

3. The provisions of this section shall expire on September 1, 2011.

160.933. 1. There is hereby created in the state treasury the "Part C Early Intervention Pilot Program Fund" for implementing the provisions of section 160.932. Moneys deposited in the fund shall be considered state funds under article IV, section 15 of the Missouri constitution. The state treasurer shall be custodian of the fund and may disburse moneys from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for administration of section 160.932. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. At the end of each biennium and after all statutorily or constitutionally required transfer of funds have been made, the state treasurer shall transfer the balance in the fund, except for gifts, donations, bequests, or money received from a federal source, created in subsection 1 of this section in excess of two hundred percent of the previous fiscal year's expenditures into the state general revenue fund.

3. The department of elementary and

secondary education shall promulgate rules to implement the provisions of section 160.932. 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 under 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, 2007, shall be invalid and void.

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

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

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

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

(3) "Severely handicapped children", handicapped children under the age of twenty-one years who meet the eligibility criteria for state schools for severely handicapped children, identified in state regulations that implement the Individuals with Disabilities Education Act;

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

162.700. 1. The board of education of each school district in this state, except school districts which are part of a special school district, and the board of education of each special school district shall provide special educational services for **[**handicapped**]** children **with disabilities** three years of age or more residing in the district as required by P.L. 99-457, as codified and as may be amended. Any child, determined to be **[**handicapped**] a child with disabilities**, shall be eligible for such services upon reaching his or her third birthday and state school funds shall be apportioned accordingly. This subsection shall apply to each full school year beginning on or after July 1, 1991. In the event that federal funding fails to be appropriated at the authorized level as described in 20 U.S.C. 1419(b)(2), the implementation of this subsection relating to services for **[**handicapped**]** children **with disabilities** three and four years of age may be delayed until such time as funds are appropriated to meet such level. Each local school district and each special school district shall be responsible to engage in a planning process to design the service delivery system necessary to provide special education and related services for children three and four years of age with **[**handicaps**] disabilities**. The planning process shall include public, private**,** and private not-for-profit agencies which have provided such services for this population. The

school district, or school districts, or special school district, shall be responsible for designing an efficient service delivery system which uses the present resources of the local community which may be funded by the department of elementary and secondary education or the department of mental health. School districts may coordinate with public, private**,** and private not-for-profit agencies presently in existence. The service delivery system shall be consistent with the requirements of the department of elementary and secondary education to provide appropriate special education services in the least restrictive environment.

2. Every local school district or, if a special district is in operation, every special school district shall obtain current appropriate diagnostic reports for each **[**handicapped**]** child **with disabilities** prior to assignment in a special program. These records may be obtained with parental permission from previous medical or psychological evaluation, may be provided by competent personnel of such district or special district, or may be secured by such district from competent and qualified medical, psychological**,** or other professional personnel.

3. Evaluations of private school students suspected of having a disability under the Individuals With Disabilities Education Act will be conducted as appropriate by the school district in which the private school is located or its contractor.

4. Where special districts have been formed to serve **[**handicapped**]** children **with disabilities** under the provisions of sections 162.670 to 162.995, such children shall be educated in programs of the special district, except that component districts may provide education programs for **[**handicapped**]** children **with disabilities** ages three and four inclusive in accordance with regulations and standards adopted by the state board of education.

5. For the purposes of this act, remedial reading programs are not a special education service as defined by subdivision (4) of section 162.675.

6. Any and all state costs required to fund special education services for three- and four-year-old children **[**pursuant to**] under** this section shall be provided for by a specific, separate appropriation and shall not be funded by a reallocation of money appropriated for the public school foundation program.

7. School districts providing early childhood special education shall give consideration to the value of continuing services with Part C early intervention system providers for the remainder of the school year when developing an individualized education program for a student who has received services **[**pursuant to**] under** Part C of the Individuals With Disabilities Education Act and reaches the age of three years during a regular school year. Services provided shall be only those permissible according to Section 619 of the Individuals with Disabilities Education Act.

8. 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**] under** 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, 2002, shall be invalid and void."; and

Further amend said bill, Page 2, Section 162.963, Line 25, by inserting after all of said line the following:

"376.1218. 1. Any health carrier or health benefit plan that offers or issues health benefit plans, other than Medicaid health benefit plans, which are delivered, issued for delivery, continued,

or renewed in this state on or after January 1, 2006, shall provide coverage for early intervention services described in this section that are delivered by early intervention specialists who are health care professionals licensed by the state of Missouri and acting within the scope of their professions for children from birth to age three identified by the Part C early intervention system as eligible for services under Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Section 1431, et seq. Such coverage shall be limited to three thousand dollars for each covered child per policy per calendar year, with a maximum of nine thousand dollars per child.

2. As used in this section, "health carrier" and "health benefit plan" shall have the same meaning as such terms are defined in section 376.1350.

3. In the event that any health benefit plan is found not to be required to provide coverage under subsection 1 of this section because of preemption by a federal law, including but not limited to the act commonly known as ERISA contained in Title 29 of the United States Code, or in the event that subsection 1 of this section is found to be unconstitutional, then the lead agency shall be responsible for payment and provision of any benefit provided under this section.

4. For purposes of this section, "early intervention services" means medically necessary speech and language therapy, occupational therapy, physical therapy, and assistive technology devices for children from birth to age three who are identified by the Part C early intervention system as eligible for services under Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Section 1431, et seq. Early intervention services shall include services under an active individualized family service plan that enhance functional ability without effecting a cure. An individualized family service plan is a written plan for providing early intervention services to an eligible child and the child's family that is adopted in accordance with 20 U.S.C. Section 1436. The Part C early intervention system, on behalf of its contracted regional Part C early intervention system centers and providers, shall be considered the rendering provider of services for purposes of this section.

5. No payment made for specified early intervention services shall be applied by the health carrier or health benefit plan against any maximum lifetime aggregate specified in the policy or health benefit plan if the carrier opts to satisfy its obligations under this section under subdivision (2) of subsection 7 of this section. A health benefit plan shall be billed at the applicable Medicaid rate at the time the covered benefit is delivered, and the health benefit plan shall pay the Part C early intervention system at such rate for benefits covered by this section. Services under the Part C early intervention system shall be delivered as prescribed by the individualized family service plan and an electronic claim filed in accordance with the carrier's or plan's standard format. Beginning January 1, 2007, such claims' payments shall be made in accordance with the provisions of sections 376.383 and 376.384.

6. The health care service required by this section shall not be subject to any greater deductible, co-payment, or coinsurance than other similar health care services provided by the health benefit plan.

7. (1) Subject to the provisions of this section, payments made during a calendar year by a health carrier or group of carriers affiliated by or under common ownership or control to the Part C early intervention system for services provided to children covered by the Part C early intervention system shall not exceed one-half of one percent of the direct written premium for health benefit plans as reported to the department of insurance on the health carrier's most recently filed annual financial statement.

(2) In lieu of reimbursing claims under this section, a carrier or group of carriers affiliated by or under common ownership or control may, on

behalf of all of the carrier's or carriers' health benefit plan or plans providing coverage under this section, directly pay the Part C early intervention system by January thirty-first of the calendar year an amount equal to one-half of one percent of the direct written premium for health benefit plans as reported to the department of insurance on the health carrier's most recently filed annual financial statement, or five hundred thousand dollars, whichever is less, and such payment shall constitute full and complete satisfaction of the health benefit plan's obligation for the calendar year. Nothing in this subsection shall require a health carrier or health benefit plan providing coverage under this section to amend or modify any provision of an existing policy or plan relating to the payment or reimbursement of claims by the health carrier or health benefit plan.

8. This section shall not apply to a supplemental insurance policy, including a life care contract, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, hospitalization-surgical care policy, policy that is individually underwritten or provides such coverage for specific individuals and members of their families, long-term care policy, or short-term major medical policies of six months or less duration.

9. Except for health carriers or health benefit plans making payments under subdivision (2) of subsection 7 of this section, the department of insurance shall collect data related to the number of children receiving private insurance coverage under this section and the total amount of moneys paid on behalf of such children by private health carriers or health benefit plans. The department shall report to the general assembly regarding the department's findings no later than January 30, 2007, and annually thereafter.

10. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the provisions of this section shall not sunset."; and

Further amend the title and enacting clause accordingly.

Senator Rupp moved that the above amendment be adopted, which motion prevailed.

Senator Scott assumed the Chair.

Senator Rupp offered **SA 8**:

SENATE AMENDMENT NO. 8

Amend House Bill No. 265, Page 2, Section 162.963, Line 25, by inserting after all of said line the following:

"**170.135. 1. As used in this section, the following terms mean:**

(1) "Captions", when the audio portion of video programming is displayed as text superimposed over the video;

(2) "Closed captions", captions that may be turned on or off by the viewer;

(3) "Electronic video instructional materials", materials designed, marketed, and sold for use in the instructional programs of educational institutions in Missouri, including but not limited to materials on videotape, CD-ROM, digital video disc (DVD), and film;

(4) "Open captions", captions that are always viewable and cannot be turned on and off by the viewer.

2. Beginning January 1, 2008, every publisher or manufacturer of electronic video instructional materials offered for adoption or sale in the state shall supply such materials with open captions or closed captions, except for the following:

(1) Video products or portions of video products for which the publisher does not have the rights to add captions; and

(2) Video products or portions of video products for which the user does not receive a physical copy of the product, but rather the product is otherwise broadcast into the

instructional environment through television programming, teleconferences, and/or products distributed over the Internet or World Wide Web.

3. If the publisher or manufacturer fails to comply with the requirements of this section, the publisher or manufacturer shall be liable to the entity that purchased the electronic video instructional materials in the amount of three times the amount paid by the purchasing entity to have captions placed on the materials.

4. In order to ensure the effective implementation of subsection 3 of this section, a liability claim may be made on behalf of the purchasing entity by either the individual purchaser; a school, school district, college, or university that employs the individual purchaser; the Missouri department of elementary and secondary education; or the Missouri department of higher education."; and

Further amend the title and enacting clause accordingly.

Senator Rupp moved that the above amendment be adopted, which motion prevailed.

Senator Wilson offered **SA 9**:

SENATE AMENDMENT NO. 9

Amend House Bill No. 265, Page 1, Section A, Line 2, by inserting after all of said line the following:

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

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

3. Each district's antibullying policy shall be founded on the assumption that all students need a safe learning environment. Policies shall treat students equally and shall not contain specific lists of protected classes of students who are to receive special treatment. Policies may include age appropriate differences for schools based on the grade levels at the school. Each such policy shall contain a statement of the consequences of bullying.

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

Further amend the title and enacting clause accordingly.

Senator Wilson moved that the above amendment be adopted.

Senator Justus offered **SSA 1** for **SA 9**:

SENATE SUBSTITUTE AMENDMENT NO. 1
FOR SENATE AMENDMENT NO. 9

Amend House Bill No. 265, Page 1, Section A, Line 2, by inserting after all of said line the following:

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

2. "Bullying" means **discrimination,** intimidation**,** or harassment that causes a reasonable student to fear for his or her physical safety or property**; substantially interferes with a student's educational performance, opportunities, or benefits; or substantially disrupts the orderly operation of the school**. Bullying may consist of physical actions, including gestures, or oral **[**or**],** written**, cyberbullying, or electronic** communication, and any threat of retaliation for reporting of such acts. **Bullying is prohibited by school employees or students on school property, at any school function, or on a school bus.**

3. Each district's antibullying policy shall be

founded on the assumption that all students need a safe learning environment. Policies shall treat students equally and shall **[**not contain specific lists of protected classes of students who are to receive special treatment.**]** **include an educational component delineating the effects of bullying motivated by, but not limited to, actual or perceived race, color, religion, ancestry, national origin, gender, sexual orientation as defined in section 557.035, RSMo, intellectual ability, physical appearance, or a mental, physical or sensory disability or disorder, or on the basis of association with others identified by these categories.** Policies may include age appropriate differences for schools based on the grade levels at the school. Each such policy shall contain a statement of the consequences of bullying.

4. Each district's antibullying policy shall require**, at a minimum, the following components:**

(1) A statement prohibiting bullying;

(2) A statement requiring district employees to report any instance of bullying of which the employee has **reliable information or** firsthand knowledge**[**. The district policy shall address training of employees in the requirements of the district policy.**];**

(3) A procedure for reporting an act of bullying;

(4) A procedure for prompt investigation of reports of serious violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation;

(5) The range of ways in which a school will respond once an incident of bullying is confirmed;

(6) A statement that prohibits reprisal or retaliation against any person who reports an act of bullying and the consequence and appropriate remedial action for a person who engages in reprisal or retaliation;

(7) A statement of how the policy is to be publicized; and

(8) A process for discussing the district's antibullying policy with students and training school employees and volunteers who have significant contact with students in the requirements of the policy.

Notice of each district's policy shall appear in any school district publication that sets forth the comprehensive rules, procedures, and standards of conduct for schools within the school district, and in any student or school employee handbook.

5. The state board of education shall develop model policies to assist local school districts in developing policies for the prevention of bullying no later than September 1, 2008."; and

Further amend the title and enacting clause accordingly.

Senator Justus moved that the above substitute amendment be adopted.

Senator Crowell requested a roll call vote be taken on the adoption of **SSA 1** for **SA 9** and was joined in his request by Senators Bray, Mayer, Nodler and Ridgeway.

SSA 1 for **SA 9** failed of adoption by the following vote:

YEAS—Senators

Bray	Coleman	Days	Graham
Green	Justus	Kennedy	Smith
Wilson—9			

NAYS—Senators

Barnitz	Callahan	Champion	Clemens
Crowell	Engler	Gibbons	Goodman
Griesheimer	Gross	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Stouffer	Vogel—24

Absent—Senators—None

Absent with leave—Senator Bartle—1

Vacancies—None

SA 9 was again taken up.

Senator Wilson moved that the above amendment be adopted and requested a roll call vote be taken. She was joined in her request by Senators Bray, Days, Kennedy and McKenna.

SA 9 was adopted by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Champion
Clemens	Coleman	Crowell	Days
Engler	Gibbons	Goodman	Graham
Green	Griesheimer	Gross	Justus
Kennedy	Koster	Lager	Loudon
Mayer	McKenna	Nodler	Purgason
Ridgeway	Rupp	Scott	Shields
Shoemyer	Smith	Stouffer	Vogel

Wilson—33

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senator Bartle—1

Vacancies—None

Senator Rupp offered **SA 10**:

SENATE AMENDMENT NO. 10

Amend House Bill No. 265, Page 2, Section 162.963, Line 25, by inserting immediately after all of said line the following:

"**[**160.930. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the program authorized under sections 160.900 to 160.925, section 162.700, RSMo, and section 376.1218, RSMo, shall automatically sunset two years after August 28, 2005, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under sections 160.900 to 160.925, section 162.700, RSMo, and section 376.1218, RSMo, shall automatically sunset twelve years after the effective date of the reauthorization of sections 160.900 to 160.925, section 162.700, RSMo, and section 376.1218, RSMo; and

(3) Sections 160.900 to 160.925, section 162.700, RSMo, and section 376.1218, RSMo, shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under sections 160.900 to 160.925, section 162.700, RSMo, and section 376.1218, RSMo, is sunset.**]**"; and

Further amend the title and enacting clause accordingly.

Senator Rupp moved that the above amendment be adopted, which motion prevailed.

Senator Rupp offered **SA 11**:

SENATE AMENDMENT NO. 11

Amend House Bill No. 265, Page 1, Section A, Line 2, by inserting after all of said line the following:

"162.961. 1. A parent, guardian or the responsible educational agency may request a due process hearing by the state board of education with respect to any matter relating to identification, evaluation, educational placement, or the provision of a free appropriate public education of the child. Such request shall include the child's name, address, school, issue, and suggested resolution of dispute if known. Except as provided in subsection 4 of this section, the board or its delegated representative shall within fifteen days after receiving notice empower a hearing panel of three persons who are not directly connected with the original decision and who are not employees of the board to which the appeal has been made. All of the panel members shall have some knowledge or training involving children with disabilities, none

shall have a personal or professional interest which would conflict with his or her objectivity in the hearing, and all shall meet the department of elementary and secondary education's training and assessment requirements pursuant to state regulations and federal law and regulation requirements of the Individuals With Disabilities Education Act. One person shall be chosen by the local school district board or its delegated representative or the responsible educational agency, and one person shall be chosen at the recommendation of the parent or guardian. If either party has not chosen a panel member ten days after the receipt by the department of elementary and secondary education of the request for a due process hearing, such panel member shall be chosen instead by the department of elementary and secondary education. Each of these two panel members shall be compensated pursuant to a rate set by the department of elementary and secondary education. The third person shall be appointed by the state board of education and shall serve as the chairperson of the panel. The chairperson shall be an attorney licensed to practice law in this state. During the pendency of any three-member panel hearing, or prior to the empowerment of the panel, the parties may, by mutual agreement, submit their dispute to a mediator pursuant to section 162.959.

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

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

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

5. If the responsible public agency requests a due process hearing to seek a forty-five school day alternative educational placement for a dangerous or violent student, the agency shall show by substantial evidence that there is a substantial likelihood the student will injure himself or others and that the agency made reasonable efforts to minimize that risk, and shall show that the forty-five school day alternative educational placement will provide a free appropriate public education which includes services and

modifications to address the behavior so that it does not reoccur, and continue to allow progress in the general education curriculum.

6. Any due process hearing request and responses to the request shall conform to the requirements of the Individuals With Disabilities Education Act (IDEA). Determination of the sufficiency shall be made by the chairperson of the three-member hearing panel, or in the case of an expedited due process hearing, by the hearing officer. The chairperson or hearing officer shall implement the process and procedures, including time lines, required by the IDEA, related to sufficiency of notice, response to notice, determination of sufficiency dispute, and amendments of the notice.

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

Further amend the title and enacting clause accordingly.

Senator Rupp moved that the above amendment be adopted, which motion prevailed.

Senator Rupp offered **SA 12**, which was read:

SENATE AMENDMENT NO. 12

Amend House Bill No. 265, Page 1, In the Title, Lines 2-3, by striking "special education due process hearings." and inserting in lieu thereof the following: "education.".

Senator Rupp moved that the above amendment be adopted, which motion prevailed.

Senator Loudon offered **SA 13**:

SENATE AMENDMENT NO. 13

Amend House Bill No. 265, Page 2, Section 162.963, Line 25, by inserting after all of said line the following:

"**163.045. 1. The general assembly hereby finds and declares that the safety and security of our school children is of the utmost importance to our society. The purpose of this act is to secure the safety of our children while they attend school so that they may be free to attain a diffuse range of knowledge in an environment free of malaise and to ensure that our school teachers have an environment free of fear or reprisal in order to better educate our children.**

2. Beginning with the 2009 fiscal year and in each subsequent fiscal year, the general assembly shall appropriate nine million dollars to the safe schools fund, as established in subsection 6 of this section. The department of elementary and secondary education shall annually distribute the moneys in the fund to each school district in this state in proportion to their average daily attendance, as such term is defined in section 163.011.

3. Districts may use the moneys received from this fund in any of the following ways:

(1) To hire and pay professional peace officers and/or school resource officers;

(2) To purchase, install, and maintain safety-related hardware, such as locking systems;

(3) To purchase, install, and maintain camera systems in school buildings and/or buses;

(4) To carry out point-of-entry inspections;

(5) To provide Internet predator education;

(6) To provide training in order to prevent bullying and/or sexual misconduct;

(7) To institute a lock-down procedure to be implemented in the case of a potentially dangerous or armed intruder as specified in subsection 5 of this section; and

(8) For other safety-related expenditures with prior approval of the department.

4. Each district shall annually notify the department of elementary and secondary education of the manner in which the funds received under this section were utilized. Should the department determine that the district utilized such funds in a manner inconsistent with the provisions of subsection 3 of this section, the department may withhold all or any future payments under this section to such district.

5. As a condition of receiving funds under this section, each school district shall:

(1) Ensure that each school building in the district both institutes a lock-down procedure to be implemented in case a potentially dangerous or armed intruder enters the school and conducts a drill at least once a school year in order to prepare for such a scenario. The department of elementary and secondary education shall establish guidelines no later than January 1, 2008, to assist districts in implementing such procedures; and

(2) Adopt and implement an antibullying policy as described in section 160.775, RSMo.

6. There is hereby created in the state treasury the "Safe Schools Fund". The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund."; and

Further amend the title and enacting clause accordingly.

Senator Loudon moved that the above amendment be adopted.

Senator Loudon offered **SA 1** to **SA 13**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 13

Amend Senate Amendment No. 13 to House Bill No. 265, Page 1, Section 163.045, Line 11, by adding after "2." the following:

"Subject to appropriation".

Senator Loudon moved that the above amendment be adopted.

At the request of Senator Loudon, **SA 1** to **SA 13** was withdrawn.

Senator Loudon offered **SSA 1** for **SA 13**:

SENATE SUBSTITUTE AMENDMENT NO. 1
FOR SENATE AMENDMENT NO. 13

Amend House Bill No. 265, Page 2, Section 162.963, Line 25, by inserting after all of said line the following:

"**163.045. 1. The general assembly hereby finds and declares that the safety and security of our school children is of the utmost importance to our society. The purpose of this act is to secure the safety of our children while they attend school so that they may be free to attain a diffuse range of knowledge in an environment free of malaise and to ensure that our school teachers have an environment free of fear or reprisal in order to better educate our children.**

2. Beginning with the 2009 fiscal year and in each subsequent fiscal year, the general assembly may appropriate nine million dollars to the safe schools fund, as established in

subsection 6 of this section. The department of elementary and secondary education shall annually distribute the moneys in the fund to each school district in this state in proportion to their average daily attendance, as such term is defined in section 163.011.

3. Districts may use the moneys received from this fund in any of the following ways:

(1) To hire and pay professional peace officers and/or school resource officers;

(2) To purchase, install, and maintain safety-related hardware, such as locking systems;

(3) To purchase, install, and maintain camera systems in school buildings and/or buses;

(4) To carry out point-of-entry inspections;

(5) To provide Internet predator education;

(6) To provide training in order to prevent bullying and/or sexual misconduct;

(7) To institute a lock-down procedure to be implemented in the case of a potentially dangerous or armed intruder as specified in subsection 5 of this section; and

(8) For other safety-related expenditures with prior approval of the department.

4. Each district shall annually notify the department of elementary and secondary education of the manner in which the funds received under this section were utilized. Should the department determine that the district utilized such funds in a manner inconsistent with the provisions of subsection 3 of this section, the department may withhold all or any future payments under this section to such district.

5. As a condition of receiving funds under this section, each school district shall:

(1) Ensure that each school building in the district both institutes a lock-down procedure to be implemented in case a potentially dangerous or armed intruder enters the school and conducts a drill at least once a school year in order to prepare for such a scenario. The department of elementary and secondary education shall establish guidelines no later than January 1, 2008, to assist districts in implementing such procedures; and

(2) Adopt and implement an antibullying policy as described in section 160.775, RSMo.

6. There is hereby created in the state treasury the "Safe Schools Fund". The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund."; and

Further amend the title and enacting clause accordingly.

Senator Loudon moved that the above substitute amendment be adopted.

Senator Gross offered **SA 1** to **SSA 1** for **SA 13**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE SUBSTITUTE AMENDMENT NO. 1
FOR SENATE AMENDMENT NO. 13

Amend Senate Substitute Amendment No. 1 for Senate Amendment No. 13 to House Bill No. 265, Page 3, Section 163.045, Line 15, by inserting immediately after "fund." the following:

"**At the end of each biennium and after all statutorily or constitutionally required transfer**

of funds have been made, the state treasurer shall transfer the balance in the fund, except for gifts, donations, bequests, or money received from a federal source, created in this subsection in excess of two hundred percent of the previous fiscal year's expenditures into the state general revenue fund.".

Senator Gross moved that the above amendment be adopted, which motion prevailed.

SSA 1 for **SA 13**, as amended, was again taken up.

Senator Loudon moved that the above substitute amendment be adopted, which motion prevailed.

Senator Ridgeway offered **SA 14**:

SENATE AMENDMENT NO. 14

Amend House Bill No. 265, Page 2, Section 162.963, Line 25, by inserting immediately after all of said line the following:

"167.121. **1.** If the residence of a pupil is so located that attendance in the district of residence constitutes an unusual or unreasonable transportation hardship because of natural barriers, travel time, or distance, the commissioner of education or his designee may assign the pupil to another district. Subject to the provisions of this section, all existing assignments shall be reviewed prior to July 1, 1984, and from time to time thereafter, and may be continued or rescinded. The board of education of the district in which the pupil lives shall pay the tuition of the pupil assigned. The tuition shall not exceed the pro rata cost of instruction.

2. (1) For the school year beginning July 1, 2008, and each succeeding school year, a parent or guardian residing in a lapsed public school district or a district that has scored unaccredited on two consecutive annual performance reports or provisionally accredited in two consecutive annual performance reports may enroll the parent's or guardian's child in the Missouri virtual school created in section 161.670, RSMo.

(2) A pupil's residence, for purposes of this section, means residency established under section 167.020. Except for students residing in a K-8 district attending high school in a district under section 167.131, the board of the home district shall pay to the virtual school the amount required under section 161.670, RSMo. The home district shall include such student's completion of virtual school credit in the district's average daily attendance."; and

Further amend the title and enacting clause accordingly.

Senator Ridgeway moved that the above amendment be adopted, which motion prevailed.

Senator Coleman offered **SA 15**:

SENATE AMENDMENT NO. 15

Amend House Bill No. 265, Page 2, Section 162.963, Line 25, by inserting immediately after all of said line the following:

"**Section 1. Whenever any school district in this state attains a score or displays criteria for classification of the district on its annual performance review consistent with the classification of "unaccredited", the state board of education shall, within ninety days, study all of the pertinent, current data from the district and shall either classify the district as "unaccredited" or issue a report to the general assembly and the governor delineating the factors considered and the reasons for not classifying the district as "unaccredited". Should the state board vote to classify a district as "unaccredited", the board may vote to apply such classification prospectively to a date no later than ten days after the last scheduled day of classes for the district in the current academic year.**"; and

Further amend the title and enacting clause accordingly.

Senator Coleman moved that the above amendment be adopted, which motion prevailed.

Senator Engler offered **SA 16**:

SENATE AMENDMENT NO. 16

Amend House Bill No. 265, Page 1, Section A, Line 2, by inserting immediately after said line the following:

"**160.782. As used in sections 160.782 to 160.797, the following terms shall mean:**

(1) "Certified laboratory", a laboratory that is certified by the Substance Abuse and Mental Health Services Administration of the federal Department of Health and Human Services to engage in drug testing for federal agencies;

(2) "Confirmatory drug test", a test by a gas chromatography/mass spectrometry testing procedure of a urine specimen conducted after an initial positive drug test result;

(3) "Confirmed breath alcohol test", a second breath alcohol specimen provided by the employee fifteen minutes after the initial positive breath alcohol screening test to confirm the alcohol concentration of the four hundreds of one percent or more by weight of alcohol in the blood;

(4) "Confirmed positive breath alcohol test", a confirmed alcohol concentration of the amount of four hundreds of one percent or more by weight of alcohol in the blood;

(5) "Confirmed positive drug test result", a finding by a confirmatory test of the presence in the tested urine of any of the drugs or their metabolites at or above the minimum detection level specified in section 160.791;

(6) "Employee", a laborer, worker, mechanic, or truck driver who performs work on a project as described in section 160.785;

(7) "Employer", a contractor, subcontractor, or agent of a contractor or subcontractor that performs work on a project as described in section 160.785;

(8) "Initial breath alcohol screening test", an initial breath specimen provided by the employee to determine the weight of alcohol in the blood;

(9) "Initial drug screening test", a test by an immunoassay procedure of a urine specimen;

(10) "Initial positive breath alcohol screening test", an alcohol concentration of the amount of four hundreds of one percent or more by weight of alcohol in the blood;

(11) "Initial positive drug test result", a finding by an initial screening test of the presence in the tested urine of any of the drugs or their metabolites at or above the minimum detection level specified in section 160.791;

(12) "Medical review officer", a licensed physician who has knowledge of substance abuse disorders, laboratory testing procedures, and chain-of-custody procedures and who has the necessary medical training to interpret and evaluate a confirmed positive drug test result, a person's medical history, and any other relevant biomedical information;

(13) "Third-party administrator", a person contracted by an employer, either directly or in cooperation with other employers or organizations, to administer the drug and alcohol testing program of the employer under sections 160.782 to 160.797;

(14) "Verified positive drug test result", a confirmed positive drug test result that has been verified by a medical review officer for the presence in the tested urine of any of the drugs or their metabolites at or above the minimum detection level specified in section 160.791.

160.785. 1. Any entity that provides construction services under contract on the

property of a public or private elementary or secondary school, public vocational school, or public or private junior college, college, university, land grant university, or any state owned building shall have in place before any work on the project commences, a drug and alcohol testing program that complies with sections 160.782 to 160.797. An employer may contract with a third-party administrator to administer the employer's drug and alcohol testing program under this section.

2. A bidder for contracts as described in subsection 1 of this section shall submit with the bid all of the following:

(1) A statement that the bidder has in place, before any work on the project commences, a drug and alcohol testing program that complies with sections 160.782 to 160.797;

(2) A statement from each subcontractor or agent that will be performing work on the project that the subcontractor or agent has in place, or will have in place before any work on the project commences, a drug and alcohol testing program that complies with sections 160.782 to 160.797.

3. An employer that is required under sections 160.782 to 160.797 to have, but that does not have, a drug and alcohol testing program in place on August 28, 2007 shall provide notice to all of its employees that a drug and alcohol testing program is being implemented and may not begin actual drug and alcohol testing until sixty days after the date of the notice.

160.788. Before an employee is tested for the presence of drugs or alcohol, an employer or third-party administrator shall provide the employee with a written policy statement that contains the following:

(1) A statement that an employee who receives a verified positive drug test result may challenge or explain the result to the medical review officer within two working days after receiving notification of the test result; that, if the explanation is unsatisfactory to the medical review officer, the medical review officer will report the test result to the employer; and that the employee may, within two working days after receiving that notice, request a retest of the specimen that tested positive by a certified laboratory chosen by the employee at the expense of the employee;

(2) A statement that the employee shall be given the opportunity to provide any information that he or she considers relevant to the test, including identification of any prescription drugs or nonprescription drugs that he or she is currently using or has recently used or any other relevant medical information.

160.791. 1. An employer may not permit an employee to work on a project unless the employee has tested negative for the presence of drugs or alcohol in the employee's system not more than twelve months preceding the date on which the employee commences work on the project.

2. After an employee begins work on a project, the employer may require the employee to submit to testing if the employer has a reasonable belief, based on specific, objective, and articulable facts and reasonable inferences drawn from those facts, that the employee is using or has used drugs or alcohol in violation of the employer's policy. Those facts and inferences may be based on any of the following:

(1) Facts or events observed while the employee is at work, such as direct observation of drug or alcohol use or of the physical symptoms or manifestations of being under the influence of drugs or alcohol;

(2) Abnormal conduct or erratic behavior of the employee while at work or a significant deterioration in the employee's work

performance;

(3) A report of drug or alcohol use provided by a reliable and credible source;

(4) Evidence that the employee has tampered with a drug test during his or her employment with the employer or after receiving an offer of employment with the employer;

(5) Evidence that the employee has used, possessed, attempted to possess, distributed, or delivered drugs or alcohol while at work, while on the employer's premises or on the site of the project, or while operating the employer's vehicles, machinery, or equipment;

(6) Any other fact or event that provides a reasonable belief that the employee is using or has used drugs or alcohol in violation of the employer's policy.

3. After an employee begins work on a project, the employer shall require the employee to submit to random testing. Employees tested under this subsection shall be selected for random testing according to objective, neutral, and nondiscriminatory criteria, and the testing shall be spread out throughout the life of the project so that on any given day, any given employee has an equal chance of being tested. Testing under this subsection shall be conducted without prior warning.

4. An employee who under any other state or federal law is required to submit to random drug and alcohol testing that is at least as strict as the testing required under this section is not required to submit to testing under this section.

5. Testing under this section shall be performed by a certified laboratory selected by the employer or third-party administrator and shall be conducted in accordance with scientific and technical guidelines established by the Substance Abuse and Mental Health Services Administration of the federal Department of Health and Human Services for those certified laboratories. At a minimum, an employee shall be tested for all of the following:

(1) Amphetamines, with the following minimum detection levels constituting a positive drug test result:

(a) A level of one thousand nanograms per milliliter constituting an initial positive drug test result;

(b) A level of five hundred nanograms per milliliter constituting a confirmed positive drug test result;

(2) Barbiturates, with the following minimum detection levels constituting a positive drug test result:

(a) A level of three hundred nanograms per milliliter constituting an initial positive drug test result;

(b) A level of three hundred nanograms per milliliter constituting a confirmed positive drug test result;

(3) Benzodiazepines, with the following minimum detection levels constituting a positive drug test result:

(a) A level of three hundred nanograms per milliliter constituting an initial positive drug test result;

(b) A level of three hundred nanograms per milliliter constituting a confirmed positive drug test result;

(4) Cocaine metabolites, with the following minimum detection levels constituting a positive drug test result:

(a) A level of three hundred nanograms per milliliter constituting an initial positive drug test result;

(b) A level of one hundred fifty nanograms per milliliter constituting a confirmed positive drug test result;

(5) Marijuana metabolites, with the following minimum detection levels constituting a positive drug test result:

(a) A level of fifty nanograms per milliliter constituting an initial positive drug test result;

(b) A level of fifteen nanograms per milliliter constituting a confirmed positive drug test result;

(6) Methadone, with the following minimum detection levels constituting a confirmed positive drug test result:

(a) A level of three hundred nanograms per milliliter constituting an initial positive drug test result;

(b) A level of three hundred nanograms per milliliter constituting a confirmed positive drug test result;

(7) Opiates, with the following minimum detection levels constituting a positive drug test result:

(a) A level of two thousand nanograms per milliliter constituting an initial positive drug test result;

(b) A level of two thousand nanograms per milliliter constituting a confirmed positive drug test result;

(8) Phencyclidine, with the following minimum detection levels constituting a positive drug test result:

(a) A level of twenty-five nanograms per milliliter constituting an initial positive drug test result;

(b) A level of twenty-five nanograms per milliliter constituting a confirmed positive drug test result;

(9) Propoxyphene, with the following minimum detection levels constituting a positive drug test result:

(a) A level of three hundred nanograms per milliliter constituting an initial positive drug test result;

(b) A level of three hundred nanograms per milliliter constituting a confirmed positive drug test result;

(10) Alcohol, with an alcohol concentration of the amount of four-hundredths of one percent or more by weight of alcohol in the blood constituting a confirmed positive alcohol test result as determined by an analysis of a breath specimen provided by the employee.

6. This section shall not be construed to prohibit an employer from establishing and enforcing reasonable work rules relating to the use, possession, distribution, or delivery of drugs or alcohol in the workplace.

160.794. 1. An employee shall be given the opportunity to provide to the medical review officer any information that he or she considers relevant to the test, including identification of any prescription drugs or nonprescription drugs that he or she is currently using or has recently used or any other relevant medical information.

2. Within one working day after receipt of a verified positive test result, the employer or third-party administrator shall inform the employee of the test result, the consequences of the test result, and the options available to the employee. On request, the third-party administrator or medical review officer shall provide a copy of the test result to the employee.

3. Within two working days after receiving a verified positive test result, the employee may request a retest of the specimen that tested positive by a certified laboratory chosen by the employee. The employee shall pay the cost of any retesting requested by the employee but not required by the employer, subject to reimbursement by the employer if the result of the retest is negative.

4. If testing is conducted based on

reasonable suspicion, the employer shall document in writing the circumstances upon which that reasonable suspicion is based and, upon request, shall provide a copy of that documentation to the employee. The employer shall retain a copy of that documentation for not less than one year.

5. Any test of an employee conducted under this section shall occur immediately before, during, or immediately after the regular work period of the employee. If the test is conducted during an employee's regular work period, the employee shall be paid for the time lost from work at the employee's hourly basic rate of pay, plus the hourly contribution for health insurance benefits, vacation benefits, pension benefits, and any other bona fide economic benefits payable to the employee. If the test is conducted outside the employee's regular work period, the employee shall be paid for the time necessary to take the test, including reasonable travel time, at the employee's hourly basic rate of pay. The employer shall pay the cost of all testing required by the employer. The employee shall pay the cost of any retesting or additional testing requested by the employee, but not required by the employer, subject to reimbursement by the employer if the result of the retest or additional test is negative.

6. Except as required or permitted under this section, any information, written or otherwise, relating to the result of a test conducted under this section shall remain confidential and may be disclosed only as follows:

(1) On the specific written consent of the employee who is the subject of the test. That consent shall state the name of the person who is authorized to obtain the information, the purpose of the disclosure, the precise information to be disclosed, and the duration of the consent and shall be signed by the person authorizing the disclosure;

(2) On the order of a court, hearing examiner, arbitrator, or other decision maker for purposes of a court proceeding, administrative proceeding, grievance proceeding, or any other proceeding arising out of an adverse employment action taken as a result of a test conducted under this section.

160.797. 1. An employee who refuses to submit to testing as required under sections 160.782 to 160.797 or who is the subject of a verified positive test result may not be permitted to work on a project until the employee tests negative for the presence of drugs or alcohol in his or her system. An employee who is the subject of more than one verified positive test result during the life of a project may not work on the project for the life of the project.

2. Any employer that knowingly permits an employee of the employer to work on a project in violation of sections 160.782 to 160.797 may be fined not more than two hundred dollars or imprisoned for not more than six months, or both. Each day that a violation continues is a separate offense.

160.798. The requirements of sections 160.782 to 160.797 shall not apply to employers who are party to a program for drug and alcohol testing, which program has been in existence since at least January 1, 2005, provided that such program:

(1) Requires the testing of substances which include those substances set forth in subsection 5 of section 160.791;

(2) Utilizes detection levels which are at least as stringent as those set forth in subsection 5 of section 160.791;

(3) Provides for random testing and reasonable suspicion testing;

(4) Provides for review of test results by a medical review officer;

(5) Allows the employee to have a positive test specimen retested, at the employee's expense;

(6) Provides that an employee who tests positive or refuses to submit to a test shall not be permitted to resume employment until he or she tests negative for the presence of drugs or alcohol."; and

Further amend the title and enacting clause accordingly.

Senator Engler moved that the above amendment be adopted, which motion prevailed.

Senator Smith offered **SA 17**:

SENATE AMENDMENT NO. 17

Amend House Bill No. 265, Page 1, Section A, Line 2, by inserting after all of said line the following:

"162.626. **1.** There is hereby established in he metropolitan school district a pilot program of multiyear teacher-student groupings. The program shall be implemented in **[**no fewer than**]** ten schools in the district and shall be implemented for no less than five consecutive years in each of such schools and in **[**at least six**]** classrooms in each of such schools. Pupil-teacher ratios in such classrooms shall not exceed twenty-five to one. The program shall seek to improve student learning by providing a long-term relationship between the student and a particular teacher. **[**The board shall develop a plan for grade-level groups throughout which participating classes shall maintain the same group of students with the same teacher for multiyear periods. The grade-level groups shall include at least two grade levels and shall not exceed four grade levels in the same group.**] The board shall develop a plan for five of the schools to provide for grade-level groups of kindergarten through second grade, third through fifth grade, and sixth through eighth grade throughout which classes shall maintain the same group of students with the same teacher for three-year periods. The board shall develop a plan for the remaining five schools to provide for grade-level groups of kindergarten through first grade, second through third grade, fourth through fifth grade, sixth grade, and seventh through eighth grade throughout which classes shall maintain the same group of students with the same teacher for two-year periods, except for sixth grade.** The plan shall provide for voluntary participation by students. The board shall establish a policy and a procedure to review and act upon requests by a student or the parent of a student that the student be transferred to a different class with a different teacher. All policies and plans established by the board pursuant to this section shall be subject to review and approval of the state board of education.

2. Beginning four years after the implementation of the pilot program required by this section, the department of elementary and secondary education shall conduct a study of the pilot program in order to measure student achievement, parent and teacher satisfaction and discipline issues in schools participating in the pilot program. The department shall issue a report to the general assembly and the governor within thirty days of completing the study."; and

Further amend the title and enacting clause accordingly.

Senator Smith moved that the above amendment be adopted.

At the request of Senator Rupp, **HB 265**, with **SA 17** (pending), was placed on the Informal Calendar.

REPORTS OF STANDING COMMITTEES

Senator Shields, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, submitted the following report:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **HCS** for **SCS** for **SB 288** and **SB 152** and

SCS for **SB 115**, begs leave to report that it has examined the same and finds that the bill has been duly enrolled and that the printed copies furnished the Senators are correct.

On behalf of Senator Goodman, Chairman of the Committee on Governmental Accountability and Fiscal Oversight, Senator Lager submitted the following reports:

Mr. President: Your Committee on Governmental Accountability and Fiscal Oversight, to which were referred **SCS** for **HB 41**; **SS** for **SCS** for **HB 255**; **HCS** for **HB 461**; **SS** for **HB 744**; **HCS** for **HB 818**, with **SCS**; and **HCS** for **HB 820**, begs leave to report that it has considered the same and recommends that the bills do pass.

On motion of Senator Shields, the Senate recessed until 8:00 p.m.

RECESS

The time of recess having expired, the Senate was called to order by Senator Mayer.

HOUSE BILLS ON THIRD READING

HCS for **HB 165**, with **SCS**, was placed on the Informal Calendar.

HB 579 was placed on the Informal Calendar.

HB 462 was placed on the Informal Calendar.

HB 134 was placed on the Informal Calendar.

HCS for **HB 894**, with **SCS**, was placed on the Informal Calendar.

HB 1014, with **SCS**, was placed on the Informal Calendar.

HCS for **HBs 654** and **938** was placed on the Informal Calendar.

HJR 19 was placed on the Informal Calendar.

HCS for **HB 181** was placed on the Informal Calendar.

HCS No. 2 for **HB 28** was placed on the Informal Calendar.

HCS for **HB 1055**, with **SCA 1**, was placed on the Informal Calendar.

HCS for **HB 461**, entitled:

An Act to repeal sections 36.030, 36.031, 306.161, 306.163, and 650.005, RSMo, and to enact in lieu thereof ten new sections relating to the water patrol, with an emergency clause.

Was taken up by Senator Shields.

On motion of Senator Shields, **HCS** for **HB 461** was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Coleman	Crowell	Days
Engler	Gibbons	Goodman	Graham
Green	Griesheimer	Justus	Koster
Lager	Loudon	Mayer	McKenna
Nodler	Purgason	Ridgeway	Rupp
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—30		

NAYS—Senators—None

Absent—Senators

Clemens	Gross	Kennedy	Scott—4

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Coleman	Crowell	Days
Engler	Gibbons	Goodman	Graham
Green	Griesheimer	Justus	Koster
Lager	Loudon	Mayer	McKenna
Nodler	Purgason	Ridgeway	Rupp
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—30		

NAYS—Senators—None

Absent—Senators

Clemens Gross Kennedy Scott—4

Absent with leave—Senators—None

Vacancies—None

On motion of Senator Shields, title to the bill was agreed to.

Senator Shields moved that the vote by which the bill passed be reconsidered.

Senator Gibbons moved that motion lay on the table, which motion prevailed.

MESSAGES FROM THE HOUSE

The following message was received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SS No. 6** for **SCS** for **SB 389**.

Bill ordered enrolled.

PRIVILEGED MOTIONS

Senator Goodman moved that the Senate refuse to concur in **HCS** for **SB 416** and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

HOUSE BILLS ON THIRD READING

Senator Stouffer moved that **SS** for **HB 744**, as amended, be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

On motion of Senator Stouffer, **SS** for **HB 744**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bartle	Callahan	Champion	Coleman
Days	Engler	Gibbons	Goodman
Graham	Griesheimer	Koster	Loudon
McKenna	Nodler	Ridgeway	Rupp
Scott	Shields	Stouffer	Vogel—20

NAYS—Senators

Barnitz	Bray	Crowell	Green
Justus	Kennedy	Lager	Mayer
Purgason	Shoemyer	Smith	Wilson—12

Absent—Senators

Clemens Gross—2

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

The emergency clause failed to receive the necessary two-thirds majority by the following vote:

YEAS—Senators

Bartle	Callahan	Champion	Clemens
Coleman	Days	Engler	Gibbons
Goodman	Graham	Griesheimer	Koster
Loudon	McKenna	Nodler	Rupp
Scott	Shields	Stouffer	Vogel

Wilson—21

NAYS—Senators

Barnitz	Bray	Crowell	Green
Justus	Kennedy	Lager	Mayer
Purgason	Ridgeway	Shoemyer	Smith—12

Absent—Senator Gross—1

Absent with leave—Senators—None

Vacancies—None

On motion of Senator Stouffer, title to the bill was agreed to.

Senator Stouffer moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

Senator Loudon moved that **SCS** for **HB 41**, as amended, be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

On motion of Senator Loudon, **SCS** for **HB 41**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—34		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Barnitz	Bartle	Callahan	Champion
Clemens	Coleman	Crowell	Days
Engler	Gibbons	Goodman	Graham
Griesheimer	Gross	Justus	Kennedy
Koster	Lager	Loudon	Mayer
McKenna	Nodler	Purgason	Ridgeway
Rupp	Scott	Shields	Shoemyer
Smith	Stouffer	Vogel	Wilson—32

NAYS—Senators

Bray	Green—2

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

On motion of Senator Loudon, title to the bill was agreed to.

Senator Loudon moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

Senator Vogel moved that **SS** for **SCS** for **HB 255**, as amended, be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

On motion of Senator Vogel, **SS** for **SCS** for **HB 255**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bartle	Bray	Callahan	Champion
Clemens	Coleman	Crowell	Days
Engler	Gibbons	Goodman	Graham
Green	Griesheimer	Gross	Justus
Kennedy	Koster	Lager	Loudon
Mayer	McKenna	Nodler	Purgason
Ridgeway	Rupp	Scott	Shields
Shoemyer	Smith	Stouffer	Vogel
Wilson—33			

NAYS—Senator Barnitz—1

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Bartle	Bray	Callahan	Champion
Coleman	Crowell	Days	Engler
Gibbons	Goodman	Graham	Green
Griesheimer	Gross	Justus	Kennedy
Koster	Lager	Loudon	Mayer
McKenna	Nodler	Purgason	Ridgeway

Rupp	Scott	Shields	Shoemyer
Smith	Stouffer	Vogel	Wilson—32

NAYS—Senator Barnitz—1

Absent—Senator Clemens—1

Absent with leave—Senators—None

Vacancies—None

On motion of Senator Vogel, title to the bill was agreed to.

Senator Vogel moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

Senator Rupp moved that **HB 265**, with **SA 17** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SA 17 was again taken up.

Senator Smith moved that the above amendment be adopted, which motion prevailed.

Senator Coleman offered **SA 18**:

SENATE AMENDMENT NO. 18

Amend House Bill No. 265, Page 1, Section A, Line 2, by inserting after all of said line the following:

"**162.079. 1. Whenever any school district in this state is classified as "unaccredited" by the state board of education, there shall be established within sixty days a school district to be known as the "Transitional School District of (name of political subdivision)", which shall be a body corporate and politic and a subdivision of the state. The boundaries of the transitional school district shall be coterminous with the unaccredited school district.**

2. Prior to or at the time any school district in this state shall lapse, but after the school district has been classified as unaccredited, the department of elementary and secondary education shall conduct a public hearing at a location in the unaccredited school district. The purpose of the hearing shall be to:

(1) Review any plan by the district to achieve an accreditation level; or

(2) Offer any technical assistance that can be provided to the district.

3. The governing board of the transitional school district shall consist of three individuals:

(1) One person shall be appointed by the governor of this state, with the advice and consent of the senate; and

(2) One person who is a resident of the school district and has a demonstrated background in elementary and secondary education shall be appointed by the local board of education, provided that the local board shall not appoint a sitting member of said board or an employee of the district; and

(3) One person, who is a resident of the school district, shall be appointed by the following:

(a) For each metropolitan school district, the mayor shall make said appointment;

(b) For each urban district containing most or all of a city with a population greater than three hundred fifty thousand inhabitants, the mayor of the city shall make said appointment;

(c) For any other district, the primary administrative offices of which are located in a city, town, or village, the mayor shall make said appointment;

(d) For any other district with its primary administrative offices not located in a city, town, or village, the presiding commissioner of the county commission of the county in which the district's primary administrative offices are located shall make the appointment.

(4) If any appointment required under this section is not made within one hundred twenty days of the formation of the transitional district, such appointment shall be selected by the state board of education, provided that such person is a resident of the school district.

4. The transitional school district shall retain authority until such time as the school district achieves an accreditation level or until the state board takes action under section 162.081. At such time that the school district achieves an accreditation level, authority over the school district shall be immediately returned from the transitional school district to the local board of education and the transitional school district shall be dissolved.

5. The local board of education of the school district shall remain in existence during the time in which the transitional school district has authority and shall operate in an advisory capacity to the transitional school district. Elections for seats on the local board of education shall continue to be held during the time in which the transitional school district has authority.

6. The transitional school district may be dissolved as provided in section 162.081.

7. The transitional school district shall assume any powers and duties held by the local board of education from which it gained authority so long as the transitional school district exists.

8. The powers and duties of the transitional school district shall include, but not be limited to:

(1) The power to increase the length of the school day, notwithstanding the provisions of section 171.031, RSMo;

(2) Supervising 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;

(3) Creating an academic accountability plan, taking corrective action in underperforming schools, and seeking relief from state-mandated programs;

(4) Exploration of alternative forms of governance for the district;

(5) Authority to contract with nonprofit corporations to provide for the operation of schools;

(6) Oversight of facility planning, construction, improvement, repair, maintenance, and rehabilitation;

(7) Authority to establish school site councils to facilitate site-based school management and to improve the responsiveness of the schools to the needs of the local geographic attendance region of the school.

9. The governing board of the transitional school district established in this section shall develop, implement, monitor, and evaluate a comprehensive school improvement plan, and such plan shall be subject to review and approval of the state board of education. The plan shall ensure that all students meet or exceed grade-level standards established by the state board of education pursuant to section 160.514, RSMo.

10. The transitional school district shall establish student performance standards consistent with the standards established by the state board of education pursuant to section 160.514, RSMo, for preschool through grade twelve in all skill and subject areas, subject to review and approval of the state board of education for the purpose of determining whether the standards are consistent with standards established by the state board of education pursuant to section 160.514, RSMo.

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. 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 after the school district has been classified as unaccredited, the department of elementary and secondary education shall conduct a public hearing at a location in the unaccredited school 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. 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 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.

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

(1) **Allow the transitional school district created in section 162.079 to continue to operate the school district; or**

(2) Dissolve the transitional school district created in section 162.079, and do one of the following:

(a) 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**. 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**;

[(2)**] (b)** Attach the territory of the lapsed district to another district or districts for school purposes; or

[(3)**] (c)** 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 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.

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.**] 3.** 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.**] 4.** 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.**] 5.** 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.**] 6.** 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.**] 7.** (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.**] 8.** 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.”; and

Further amend said bill, page 2, section 162.963, line 25 by inserting after all of said line

the following:

"162.1100. 1. There is hereby established within each city not within a county a school district to be known as the "Transitional School District of (name of city)", which shall be a body corporate and politic and a subdivision of the state. The transitional school district shall be coterminous with the boundaries of the city in which the district is located. Except as otherwise provided in this section and section 162.621, the transitional school district shall be subject to all laws pertaining to "seven-director districts", as defined in section 160.011, RSMo. The transitional school district shall have the responsibility for educational programs and policies determined by a final judgment of a federal school desegregation case to be needed in providing for a transition of the educational system of the city from control and jurisdiction of a federal court school desegregation order, decree or agreement and such other programs and policies as designated by the governing body of the school district.

2. (1) The governing board of the transitional school district shall consist of three residents of the district: one shall be appointed by the governing body of the district, one shall be appointed by the mayor of the city not within a county and one shall be appointed by the president of the board of aldermen of the city not within a county. The members of the governing board shall serve without compensation for a term of three years, or until their successors have been appointed, or until the transitional district is dissolved or terminated. Any tax approved for the transitional district shall be assigned to the governing body of the school district in a city not within a county after dissolution or termination of the transitional district.

(2) In the event that the state board of education shall declare the school district of a city not within a county to be unaccredited, the member of the governing board of the transitional district appointed by the governing body of the district as provided in subdivision (1) of this subsection shall, within ninety days, be replaced by a chief executive officer nominated by the state board of education and appointed by the governor with the advice and consent of the senate. The chief executive officer need not be a resident of the district but shall be a person of recognized administrative ability, shall be paid in whole or in part with funds from the district, and shall have all other powers and duties of any other general superintendent of schools, including appointment of staff. The chief executive officer shall serve for a term of three years or until his successor is appointed or until the transitional district is dissolved or terminated. His salary shall be set by the state board of education.

3. In the event that the school district loses its accreditation, upon the appointment of a chief executive officer, any powers granted to any existing school board in a city not within a county on or before August 28, 1998, shall be vested with the special administrative board of the transitional school district containing such school district so long as the transitional school district exists, except as otherwise provided in section 162.621.

4. The special administrative board's powers and duties shall include:

(1) Creating an academic accountability plan, taking corrective action in underperforming schools, and seeking relief from state-mandated programs;

(2) Exploration of alternative forms of governance for the district;

(3) Authority to contract with nonprofit corporations to provide for the operation of schools;

(4) Oversight of facility planning, construction, improvement, repair, maintenance and rehabilitation;

(5) Authority to establish school site councils to facilitate site-based school management and to improve the responsiveness of the schools to the

needs of the local geographic attendance region of the school;

(6) Authority to submit a proposal to district voters pursuant to section 162.666 regarding establishment of neighborhood schools**;**

(7) The power to increase the length of the school day, notwithstanding the provisions of section 171.031, RSMo.

5. (1) The provisions of a final judgment as to the state of Missouri and its officials in a school desegregation case which subjects a district in which a transitional district is located in this state to a federal court's jurisdiction may authorize or require the governing body of a transitional school district established under this section to establish the transitional district's operating levy for school purposes, as defined pursuant to section 163.011, RSMo, at a level not to exceed eighty-five cents per one hundred dollars assessed valuation in the district or a sales tax equivalent amount as determined by the department of elementary and secondary education which may be substituted for all or part of such property tax.

(2) Any other statute to the contrary notwithstanding, no tax authorized pursuant to this subsection shall:

(a) Be subject to any certificate of tax abatement issued after August 28, 1998, pursuant to sections 99.700 to 99.715, RSMo; and

(b) Effective January 1, 2002, be subject to any new or existing tax increment financing adopted by a city not within a county pursuant to sections 99.800 to 99.865, RSMo, except that any redevelopment plan and redevelopment project concerning a convention headquarters hotel adopted by ordinance by a city not within a county prior to August 28, 2003, shall be subject to such tax increment financing.

(3) The transitional school district shall not be subject to the provisions of section 162.081, sections 163.021 and 163.023, RSMo, with respect to any requirements to maintain a minimum value of operating levy or any consequences provided by law for failure to levy at least such minimum rate. No operating levy or increase in the operating levy or sales tax established pursuant to this section shall be collected for a transitional school district unless prior approval is obtained from a simple majority of the district's voters. The board of the transitional district shall place the matter before the voters prior to March 15, 1999.

6. (1) The special administrative board established in this section shall develop, implement, monitor and evaluate a comprehensive school improvement plan, and such plan shall be subject to review and approval of the state board of education. The plan shall ensure that all students meet or exceed grade-level standards established by the state board of education pursuant to section 160.514, RSMo;

(2) The special administrative board shall establish student performance standards consistent with the standards established by the state board of education pursuant to section 160.514, RSMo, for preschool through grade twelve in all skill and subject areas, subject to review and approval of the state board of education for the purpose of determining whether the standards are consistent with standards established by the state board of education pursuant to section 160.514, RSMo;

(3) All students in the district who do not achieve grade-level standards shall be required to attend summer school; except that the provisions of this subsection shall not apply to students receiving special education services pursuant to sections 162.670 to 162.999;

(4) No student shall be promoted to a higher grade level unless that student has a reading ability at or above one grade level below the student's grade level; except that the provisions of this subsection shall not apply to students receiving special education services pursuant to sections 162.670 to 162.999;

(5) The special administrative board

established in this section shall develop, implement and annually update a professional development plan for teachers and other support staff, subject to review and approval of the state board of education.

7. The school improvement plan established pursuant to this section shall ensure open enrollment and program access to all students in the district, and, consistent with the Missouri and United States Constitutions, shall give first priority to residents of the city for admission to magnet schools. The school board shall take all practicable and constitutionally permissible steps to ensure that all magnet schools operate at full capacity. Students who change residence within the district shall be allowed to continue to attend the school in which they were initially enrolled for the remainder of their education at grade levels served by that school, and transportation shall be provided by the district to allow such students to continue to attend such school of initial enrollment.

8. To the extent practicable, the special administrative board shall ensure that per pupil expenditures and pupil-teacher ratios shall be the same for all schools serving students at a given grade level.

9. The special administrative board shall ensure that early childhood education is available throughout the district.

10. The special administrative board shall ensure that vocational education instruction is provided within the district.

11. The special administrative board shall establish an accountability officer whose duty shall be to ensure that academically deficient schools within the district are raised to acceptable condition within two years.

12. The transitional school district in any city not within a county shall be dissolved on July 1, 2008, unless the state board determines, prior to that date, that it is necessary for the transitional district to continue to accomplish the purposes for which it was created. The state board of education may cause the termination of the transitional school district at any time upon a determination that the transitional district has accomplished the purposes for which it was established and is no longer needed. The state board of education may cause the reestablishment of the transitional school district at any time upon a determination that it is necessary for the transitional district to be reestablished to accomplish the purposes established in this section. The state board of education shall provide notice to the governor and general assembly of the termination or reestablishment of the transitional school district and the termination or reestablishment shall become effective thirty days following such determination. Upon dissolution of a transitional school district pursuant to this section, nothing in this section shall be construed to reduce or eliminate any power or duty of any school district or districts containing the territory of the dissolved transitional school district unless such transitional school district is reestablished by the state board of education pursuant to this section. **The provisions of this section shall expire upon notification by the state board of education to the revisor of statutes that the school district has achieved an accreditation level after August 28, 2007.**"; and

Further amend the title and enacting clause accordingly.

Senator Coleman moved that the above amendment be adopted and requested a roll call vote be taken. She was joined in her request by Senators Callahan, Days, Kennedy and Smith.

Senator Shields assumed the Chair.

SA 18 failed of adoption by the following vote:

YEAS—Senators

Barnitz	Bray	Coleman	Days
Graham	Green	Justus	Kennedy
McKenna	Shoemyer	Smith—11	

NAYS—Senators

Bartle	Callahan	Champion	Clemens
Crowell	Engler	Gibbons	Goodman
Griesheimer	Gross	Koster	Lager
Loudon	Mayer	Nodler	Purgason
Ridgeway	Rupp	Scott	Shields
Stouffer	Vogel	Wilson—23	

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

Senator Crowell offered **SA 19**:

SENATE AMENDMENT NO. 19

Amend House Bill No. 265, Page 1, In the Title, Line 2, by striking "special"; and further amend line 3 by striking "due process hearings"; and

Further amend said bill and page, section A, line 2, by inserting after all of said line the following:

"**135.099. 1. As used in this section, the following terms mean:**

(1) "After school program", a state-licensed program in a school district that is classified as "unaccredited" or "provisionally accredited" by the state board of education for public school students that operates in a school building before and after the regular school day, is operated for students within the school building at which they are enrolled, is led by staff who have been trained to interact with students, and shall consist of activities of a pedagogical nature that may include, but not be limited to:

(a) Providing academic support or academic enrichment to students;

(b) Providing opportunities for participation in the visual arts and the performing arts;

(c) Providing physical fitness opportunities and instruction on nutrition and healthy living;

(d) Fostering positive relationships with peers and adults;

(e) Enhancing skills such as decision-making, negotiation, and communication;

(f) Providing opportunities for personal growth and character development; and

(g) Allowing opportunities for parent and family involvement;

(2) "Contribution", a donation of cash, stock, bonds, or other marketable securities, or real property solely for the benefit of after school programs in any school district that is classified as "unaccredited" or "provisionally accredited" by the state board of education;

(3) "Department", the department of elementary and secondary education;

(4) "Director", the director of the department of revenue;

(5) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer under the provisions of chapters 143, 147, 148, and 153, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer under the provisions of chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions;

(6) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this

state under the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state under chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo.

2. For all tax years beginning on or after January 1, 2008, a taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal to fifty percent of such taxpayer's contribution to an after school program operating within the boundaries of any school district that is classified as "unaccredited" or "provisionally accredited" by the state board of education.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year for which the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next four succeeding taxable years until the full credit has been claimed.

4. The department shall make every effort to ensure that the number of tax credits issued annually in conjunction with any tax credits to be carried over in any tax year shall not exceed two million dollars. Upon receipt of a contribution, the department shall issue the taxpayer making such contribution a tax credit certificate detailing the amount of the contribution or its fair market value, and the date of such contribution. The department shall provide information to the director concerning the identity of each taxpayer making a contribution who is claiming a tax credit under this section and the amount of such contribution.

5. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing in any one fiscal year shall not exceed two million dollars. Tax credits shall be issued in the order contributions are received.

6. The department and the department of revenue may promulgate rules necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under 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, 2007, shall be invalid and void.

7. Under section 23.253, RSMo, of the Missouri sunset act:

(1) Any new program authorized under this section shall automatically sunset six years after August 28, 2007, unless reauthorized by an act of the general assembly; and

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

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

160.261. 1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be

applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to **all** teachers **at the attendance center** and **in addition, to** other school district employees with a need to know. For the purposes of this chapter or chapter 167, RSMo, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in subdivision (6) of section 565.002, RSMo, to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following felonies, or any act which if committed by an adult would be one of the following felonies:

(1) First degree murder under section 565.020, RSMo;

(2) Second degree murder under section 565.021, RSMo;

(3) Kidnapping under section 565.110, RSMo;

(4) First degree assault under section 565.050, RSMo;

(5) Forcible rape under section 566.030, RSMo;

(6) Forcible sodomy under section 566.060, RSMo;

(7) Burglary in the first degree under section 569.160, RSMo;

(8) Burglary in the second degree under section 569.170, RSMo;

(9) Robbery in the first degree under section 569.020, RSMo;

(10) Distribution of drugs under section 195.211, RSMo;

(11) Distribution of drugs to a minor under section 195.212, RSMo;

(12) Arson in the first degree under section 569.040, RSMo;

(13) Voluntary manslaughter under section 565.023, RSMo;

(14) Involuntary manslaughter under section 565.024, RSMo;

(15) Second degree assault under section 565.060, RSMo;

(16) Sexual assault under section 566.040, RSMo;

(17) Felonious restraint under section 565.120, RSMo;

(18) Property damage in the first degree under section 569.100, RSMo;

(19) The possession of a weapon under chapter 571, RSMo;

(20) Child molestation in the first degree pursuant to section 566.067, RSMo;

(21) Deviate sexual assault pursuant to section

566.070, RSMo;

(22) Sexual misconduct involving a child pursuant to section 566.083, RSMo; or

(23) Sexual abuse pursuant to section 566.100, RSMo;

committed on school property, including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities. The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties. The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged.

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his or her suspension the requirement that such student is not allowed, while on such suspension, to be within one thousand feet of any **[**public**]** school **property** in the school district where such student attended school **or any activity of that district, regardless of whether or not the activity takes place on district property** unless:

(1) Such student is under the direct supervision of the student's parent, legal guardian, or custodian **and the superintendent or the superintendent's designee has authorized the student to be on school property**;

(2) Such student is under the direct supervision of another adult designated by the student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school which suspended the student **and the superintendent or the superintendent's designee has authorized the student to be on school property**;

(3) Such student is **enrolled** in **and attending** an alternative school that is located within one thousand feet of a public school in the school district where such student attended school; or

(4) Such student resides within one thousand feet of any public school in the school district where such student attended school in which case such student may be on the property of his or her residence without direct adult supervision.

4. Any student who violates the condition of suspension required pursuant to subsection 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of sections 167.161, 167.164, and 167.171, RSMo. In making this determination consideration shall be given to whether the student poses a threat to the safety of any child or school employee and whether such student's unsupervised presence within one thousand feet of the school is disruptive to the educational process or undermines the effectiveness of the school's disciplinary policy. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. **This section shall not limit a school district's ability to:**

(1) Prohibit all students who are suspended from being on school property or attending an activity while on suspension;

(2) Discipline students for off-campus conduct that negatively affects the educational environment to the extent allowed by law.

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the

school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

6. For the purpose of this section, the term "weapon" shall mean a firearm as defined under 18 U.S.C. 921 and the following items, as defined in section 571.010, RSMo: a blackjack, a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except that this section shall not be construed to prohibit a school board from adopting a policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for educational purposes so long as the firearm is unloaded. The local board of education shall define weapon in the discipline policy. Such definition shall include the weapons defined in this subsection but may also include other weapons.

7. All school district personnel responsible for the care and supervision of students are authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any property of the school, on any school bus going to or returning from school, during school-sponsored activities, or during intermission or recess periods.

8. Teachers and other authorized district personnel in public schools responsible for the care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable care by the school district, shall not be civilly liable when acting in conformity with the established **[**policy of discipline**]** **policies** developed by each board **[**under this section**]**, **including but not limited to policies of student discipline** or when reporting to his or her supervisor or other person as mandated by state law acts of school violence or threatened acts of school violence, within the course and scope of the duties of the teacher, authorized district personnel or volunteer, when such individual is acting in conformity with the established policies developed by the board. Nothing in this section shall be construed to create a new cause of action against such school district, or to relieve the school district from liability for the negligent acts of such persons.

9. Each school board shall define in its discipline policy acts of violence and any other acts that constitute a serious violation of that policy. Acts of violence as defined by school boards shall include but not be limited to exertion of physical force by a student with the intent to do serious bodily harm to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. School districts shall for each student enrolled in the school district compile and maintain records of any serious violation of the district's discipline policy. Such records shall be made available to teachers and other school district employees with a need to know while acting within the scope of their assigned duties, and shall be provided as required in section 167.020, RSMo, to any school district in which the student subsequently attempts to enroll.

10. Spanking **or the use of force to protect persons or property**, when administered by **[**certificated**]** personnel of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210, RSMo. The provisions of sections 210.110 to 210.165, RSMo, notwithstanding, the **children's** division **[**of family services**]** shall not have jurisdiction over or investigate any report of

alleged child abuse arising out of or related to any spanking administered in a reasonable manner by any **[**certificated**]** school personnel pursuant to a written policy of discipline established by the board of education of the school district. Upon receipt of any reports of child abuse by the division of family services pursuant to sections 210.110 to 210.165, RSMo, which allegedly involves personnel of a school district, the division of family services shall notify the superintendent of schools of the district or, if the person named in the alleged incident is the superintendent of schools, the president of the school board of the school district where the alleged incident occurred. If, after an initial investigation, the superintendent of schools or the president of the school board finds that the report involves an alleged incident of child abuse other than the administration of a spanking **or the use of force to protect persons or property** by **[**certificated**]** school personnel pursuant to a written policy of discipline or **[**a**] that the** report **was** made for the sole purpose of harassing a public school employee, the superintendent of schools or the president of the school board shall immediately refer the matter back to the **children's** division **[**of family services**]** and take no further action. In all matters referred back to the **children's** division **[**of family services**]**, the division **[**of family services**]** shall treat the report in the same manner as other reports of alleged child abuse received by the division. If the report pertains to an alleged incident which arose out of or is related to a spanking **or the use of force to protect persons or property** administered by **[**certificated**]** personnel of a school district pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, a notification of the reported child abuse shall be sent by the superintendent of schools or the president of the school board to the juvenile officer of the county in which the alleged incident occurred. The report shall be jointly investigated by the juvenile officer or a law enforcement officer designated by the juvenile officer and the superintendent of schools or, if the subject of the report is the superintendent of schools, by the juvenile officer or a law enforcement officer designated by the juvenile officer and the president of the school board or such president's designee. The investigation shall begin no later than forty-eight hours after notification from the **children's** division **[**of family services**]** is received, and shall consist of, but need not be limited to, interviewing and recording statements of the child and the child's parents or guardian within two working days after the start of the investigation, of the school district personnel allegedly involved in the report, and of any witnesses to the alleged incident. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel shall issue separate reports of their findings and recommendations after the conclusion of the investigation to the school board of the school district within seven days after receiving notice from the **children's** division **[**of family services**]**. The reports shall contain a statement of conclusion as to whether the report of alleged child abuse is substantiated or is unsubstantiated. The school board shall consider the separate reports and shall issue its findings and conclusions and the action to be taken, if any, within seven days after receiving the last of the two reports. The findings and conclusions shall be made in substantially the following form:

(1) The report of the alleged child abuse is unsubstantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school board personnel agree that the evidence shows that no abuse occurred;

(2) The report of the alleged child abuse is substantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel agree that the evidence is sufficient to support a finding that the alleged incident of child abuse did occur;

(3) The issue involved in the alleged incident of child abuse is unresolved. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school personnel are unable to agree on their findings and conclusions on the alleged incident.

11. The findings and conclusions of the school board shall be sent to the **children's** division **[**of family services**]**. If the findings and conclusions of the school board are that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and no record shall be entered in the **children's** division **[**of family services'**]** central registry. If the findings and conclusions of the school board are that the report of the alleged child abuse is substantiated, the **children's** division **[**of family services**]** shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school district and shall include the information in the division's central registry. If the findings and conclusions of the school board are that the issue involved in the alleged incident of child abuse is unresolved, the **children's** division **[**of family services**]** shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school board, however, the incident and the names of the parties allegedly involved shall not be entered into the central registry of the **children's** division **[**of family services**]** unless and until the alleged child abuse is substantiated by a court of competent jurisdiction.

12. Any superintendent of schools, president of a school board or such person's designee or juvenile officer who knowingly falsifies any report of any matter pursuant to this section or who knowingly withholds any information relative to any investigation or report pursuant to this section is guilty of a class A misdemeanor.

13. In order to ensure the safety of all students, should a student be expelled for bringing a weapon to school, violent behavior, or for an act of school violence, that student shall not, for the purposes of the accreditation process of the Missouri school improvement plan, be considered a dropout or be included in the calculation of that district's educational persistence ratio.

160.400. 1. A charter school is an independent public school.

2. Charter schools may be operated only in a metropolitan school district or in an urban school district containing most or all of a city with a population greater than three hundred fifty thousand inhabitants**, or in any district that is not a K-8 district, that has an enrollment of at least two thousand students, and that has been provisionally accredited for any period of three consecutive years since July 1, 1999,** and may be sponsored by any of the following:

(1) The school board of the district;

(2) **[**A public four-year college or university with its primary campus in the school district or in a county adjacent to the county in which the district is located, with an approved teacher education program that meets regional or national standards of accreditation;

(3)**]** A community college **[**located in**] whose service area includes any portion of** the district; or

[(4)**] (3)** Any private **or public** four-year college or university **[**located in a city not within a county with an enrollment of at least one thousand students, and**]** with an approved teacher preparation program **and its primary campus located in the state;**

(4) The mayor of a city not within a county.

3. **[**The mayor of**] In** a city not within a county **[**may request a sponsor under subdivision (2), (3), or (4) of subsection 2 of this section to consider sponsoring a**], charter school also include** workplace charter **[**school**] schools**, which **[**is**] are** defined for purposes of sections 160.400 to 160.420 as a charter school with the ability to

target prospective students whose parent or parents are employed in a business district, as defined in the charter, which is located in the city.

4. No sponsor shall receive from an applicant for a charter school any fee of any type for the consideration of a charter, nor may a sponsor condition its consideration of a charter on the promise of future payment of any kind.

5. The charter school shall be a Missouri nonprofit corporation incorporated pursuant to chapter 355, RSMo. The charter provided for herein shall constitute a contract between the sponsor and the charter school.

6. As a nonprofit corporation incorporated pursuant to chapter 355, RSMo, the charter school shall select the method for election of officers pursuant to section 355.326, RSMo, based on the class of corporation selected. Meetings of the governing board of the charter school shall be subject to the provisions of sections 610.010 to 610.030, RSMo, the open meetings law.

7. A sponsor of a charter school, its agents and employees are not liable for any acts or omissions of a charter school that it sponsors, including acts or omissions relating to the charter submitted by the charter school, the operation of the charter school and the performance of the charter school.

8. A charter school may affiliate with a four-year college or university, including a private college or university, or a community college as otherwise specified in subsection 2 of this section when its charter is granted by a sponsor other than such college, university or community college. Affiliation status recognizes a relationship between the charter school and the college or university for purposes of teacher training and staff development, curriculum and assessment development, use of physical facilities owned by or rented on behalf of the college or university, and other similar purposes. The primary campus of the college or university must be located within the county in which the school district lies wherein the charter school is located or in a county adjacent to the county in which the district is located. A university, college or community college may not charge or accept a fee for affiliation status.

9. The expenses associated with sponsorship of charter schools shall be defrayed by the department of elementary and secondary education retaining one and five-tenths percent of the amount of state and local funding allocated to the charter school under section 160.415, not to exceed one hundred twenty-five thousand dollars, adjusted for inflation. Such amount shall not be withheld when the sponsor is a school district or the state board of education. The department of elementary and secondary education shall remit the retained funds for each charter school to the school's sponsor, provided the sponsor remains in good standing by fulfilling its sponsorship obligations under sections 160.400 to 160.420 and 167.349, RSMo, with regard to each charter school it sponsors.

10. No university, college or community college shall grant a charter to a nonprofit corporation if an employee of the university, college or community college is a member of the corporation's board of directors.

11. No sponsor shall grant a charter under sections 160.400 to 160.420 and 167.349, RSMo, without ensuring that a criminal background check and child abuse registry check are conducted for all members of the governing board of the charter schools or the incorporators of the charter school if initial directors are not named in the articles of incorporation, nor shall a sponsor renew a charter without ensuring a criminal background check and child abuse registry check are conducted for each member of the governing board of the charter school.

12. No member of the governing board of a charter school shall hold any office or employment from the board or the charter school while serving as a member, nor shall the member have any substantial interest, as defined in section 105.450, RSMo, in any entity employed by or contracting

with the board. No board member shall be an employee of a company that provides substantial services to the charter school. All members of the governing board of the charter school shall be considered decision-making public servants as defined in section 105.450, RSMo, for the purposes of the financial disclosure requirements contained in sections 105.483, 105.485, 105.487, and 105.489, RSMo.

13. A sponsor shall provide timely submission to the state board of education of all data necessary to demonstrate that the sponsor is in material compliance with all requirements of sections 160.400 to 160.420 and 167.349, RSMo.

14. The state board of education shall ensure each sponsor is in compliance with all requirements under sections 160.400 to 160.420 and 167.349, RSMo, for each charter school sponsored by any sponsor. The state board shall notify each sponsor of the standards for sponsorship of charter schools, delineating both what is mandated by statute and what best practices dictate. The state board, after a public hearing, may require remedial action for a sponsor that it finds has not fulfilled its obligations of sponsorship, such remedial actions including withholding the sponsor's funding and suspending for a period of up to one year the sponsor's authority to sponsor a school that it currently sponsors or to sponsor any additional school. If the state board removes the authority to sponsor a currently operating charter school, the state board shall become the interim sponsor of the school for a period of up to three years until the school finds a new sponsor or until the charter contract period lapses.

160.660. 1. On or before July 1, 2001, the state board of education shall add to any school facilities and safety criteria developed for the Missouri school improvement program provisions that require:

(1) Each school district's designated safety coordinator to have a thorough knowledge of all federal, state and local school violence prevention programs and resources available to students, teachers or staff in the district; and

(2) Each school district to fully utilize all such programs and resources that the local school board or its designee determines are necessary and cost-effective for the school district.

2. **On or before July 1, 2009, the state board of education shall add to any school facilities and safety criteria developed for the Missouri school improvement program provisions that suggest that the drills required pursuant to the standard for safe facilities occur at least annually and require that all staff receive sufficient training on the security and crisis management plan to ensure familiarity with the plan details is maintained throughout the school year.**

3. 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, 2000, shall be invalid and void.

161.650. 1. The department of elementary and secondary education shall identify and adopt an existing program or programs of educational instruction regarding violence prevention to be administered by public school districts pursuant to subsection 2 of this section, and which shall include, but shall not be limited to, instructing students of the negative consequences, both to the individual and to society at large, of membership in or association with criminal street gangs or participation in criminal street gang activity, as

those phrases are defined in section 578.421, RSMo, and shall include related training for school district employees directly responsible for the education of students concerning violence prevention and early identification of and intervention in violent behavior. The state board of education shall adopt such program or programs by rule as approved for use in Missouri public schools. The program or programs of instruction shall encourage nonviolent conflict resolution of problems facing youth; present alternative constructive activities for the students; encourage community participation in program instruction, including but not limited to parents and law enforcement officials; and shall be administered as appropriate for different grade levels and shall not be offered for academic credit.

2. All public school districts within this state with the approval of the district's board of education may administer the program or programs of student instruction adopted pursuant to subsection 1 of this section to students within the district starting at the kindergarten level and every year thereafter through the twelfth-grade level.

3. Any district adopting and providing a program of instruction pursuant to this section shall be entitled to receive state aid pursuant to section 163.031, RSMo. If such aid is determined by the department to be insufficient to implement any program or programs adopted by a district pursuant to this section:

(1) The department may fund the program or programs adopted pursuant to this section or pursuant to subsection 2 of section 160.530, RSMo, or both, after securing any funding available from alternative sources; and

(2) School districts may fund the program or programs from funds received pursuant to subsection 1 of section 160.530, RSMo**[**, and section 166.260, RSMo**]**.

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

161.660. The department of elementary and secondary education shall designate, by July 1, 2008, a teacher assessment program for use by all school districts within this state. Such assessment shall be a comprehensive, performance-based evaluation of the teacher. The assessment designated by the department shall be an existing assessment tool, such as the Praxis Examination, the National Teacher Examination, or another existing assessment tool. Multiple assessments shall be designated in order to assess each teacher according to the specific subject area taught by the teacher. The department may promulgate rules in order to effectuate the provisions of this section, including objective measures to determine whether a teacher demonstrates a minimum level of competency in the teacher's subject area, as well as whether a teacher demonstrates a high level of competency in the teacher's subject area based on a score of ninety percent or better on the assessment. 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, 2007, shall be invalid and void.

Further amend said bill and section, page 2, line 25, by inserting after all of said line the following:

"**162.1031. 1. The provisions of this section**

shall be known as the "Students First Act".

2. For the school year beginning July 1, 2008, and each succeeding school year, a parent or guardian residing in a lapsed public school district or a district that has scored unaccredited on two consecutive annual performance reports or provisionally accredited in two consecutive annual performance reports may enroll the parent's or guardian's child in the Missouri virtual school created in section 161.670, RSMo.

3. The parent or guardian of any student who wishes to participate in open enrollment shall declare the student's intent by March first preceding the school year in which the student wishes to participate. Open enrollment requests shall be for an entire school year.

4. A pupil's residence, for purposes of this section mean residency established under section 167.020, RSMo. Except for students residing in K-8 district attending high school in a district under section 167.131, RSMo, the board of the home district shall pay to the virtual school the amount required under section 161.670, RSMo.

5. Students who participate in open enrollment shall be treated like resident students of the home district for school activities participation in any team, and no organization shall prevent such students from participating in school activities. Districts and organizations involved in school activities in open enrollment districts shall make a good faith effort to facilitate participation.

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, 2007, shall be invalid and void.

162.1153. 1. In order to attract and retain teachers with demonstrable or measurable qualities, experience, or credentials that are exceptionally well suited to the needs of any school district that is classified as "unaccredited" or "provisionally accredited" by the state board of education for academic improvement in the areas of math, science, special education, and English as a second language, the school district shall provide, subject to appropriation, an increased starting salary for teachers that work in the areas of math, science, special education, and English as a second language. Such increase shall be between three thousand dollars and five thousand dollars more than the starting salary for a teacher in the district, as determined by the district.

2. In order to attract and retain teachers who are willing to submit to assessment in exchange for agreed upon salary increases and modifications, any applicant for a teaching position at a school within the district or a teacher currently employed as such within the district may enter into an agreement with the district that sets forth the following:

(1) The starting or current salary of the teacher;

(2) Salary increases and incentives that shall be awarded to the teacher if certain performance evaluation standards, as provided in subsection 3 of this section, are met;

(3) The ability of the school district to take disciplinary action, including dismissal, against the teacher if such teacher does not meet the

performance evaluation standards as provided in subsection 3 of this section; and

(4) The consent of the teacher to opt out of the tenure provisions of section 168.221, RSMo.

3. The school district shall create performance evaluation standards to be applied when evaluating teachers subject to the provisions of subsection 2 of this section.

(1) Such standards shall include an annual evaluation of the teacher by a peer review group. For purposes of this subsection, the term "peer review group" shall include the principal of the school where the teacher is employed, one or more teachers employed in the school where the teacher is employed, one or more parents of students attending the school where the teacher is employed, and, for grades six to twelve, one or more students of the teacher. The principal shall appoint such teacher, parent and student members of the peer review group. The peer review group shall evaluate each teacher as performing at an outstanding, good, fair, or poor level. The following one-time bonuses shall be awarded to the teacher based on the evaluation of the peer review group:

(a) Each teacher rated as "outstanding" shall receive a one-time bonus of two thousand dollars;

(b) Each teacher rated as "good" shall receive a one-time bonus of one thousand dollars;

(c) Each teacher rated as "fair" shall receive a one-time bonus of five hundred dollars; and

(d) Each teacher rated as "poor" shall not receive any bonus for that academic year.

(2) The standards shall also include an assessment of the performance of the students taught by the teacher as measured by an assessment of the students at the beginning of the school year compared to an assessment of the students at the end of the school year. Such assessments shall be in accordance with the assessments required by section 162.1159 and shall determine the grade level, in monthly increments, at which the student is proficient. At the conclusion of the academic year, the school district shall determine the average increase or decrease in the proficiency of the students taught by the teacher over the course of the academic year. For each month, in excess of twelve months, that the average grade level of the students has increased over the academic, the salary of the teacher for the upcoming academic year shall be increased by one thousand dollars.

4. Salary increases provided by this section shall be paid from the "Missouri Exceptional Teachers Fund" which is hereby created as a special trust fund in the state treasury. Moneys in the fund shall consist of any grant, gift, or contribution from any and all public and private sources whatsoever that is designated for such purpose, including funds appropriated from the classroom trust fund created in section 163.043, RSMo. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. The department of elementary and secondary education shall administer the fund and shall ensure that money in the fund is used only for the salaries of teachers subject to the provisions of this section, and for the purposes set forth in sections 162.1156 and 162.1165. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

5. Any agreement entered into by a teacher

and a school district under the provisions of this section shall remain valid for the entire length of time that the teacher is employed by the school district, notwithstanding any change in accreditation status of the school district subsequent to the date of the agreement.

162.1156. The department of elementary and secondary education shall annually assess the percentage increase or decrease in the scores of each school within any school district that is classified as "unaccredited" or "provisionally accredited" by the state board of education on the statewide assessment as provided in section 160.518, RSMo. The department shall then annually compile a list of the top ten percent of schools in terms of an increase in the scores on the statewide assessment as compared to the previous year. The following personnel in each of the schools determined by the department to be in the top ten percent shall receive the following one-time bonuses:

(1) The principal of the school shall receive two thousand dollars;

(2) The assistant principal of the school shall receive one thousand five hundred dollars;

(3) Each teacher in the school shall receive five hundred dollars; and

(4) Each employee of the school, except for the principal, the assistant principal and every teacher, shall receive five hundred dollars.

In addition, the school shall receive a one-time stipend of two thousand dollars to be used for the purchase of textbooks or other educational materials, as determined by the principal.

162.1159. Every student enrolled at a school within a school district classified as "unaccredited" or "provisionally accredited" by the state board of education shall be assessed every six weeks to determine the student's proficiency in the knowledge, skills, and competencies adopted by the state board of education under subsection 1 of section 160.514, RSMo. The state board of education shall develop assessment tools to be administered by the school district. Any student that fails to demonstrate the proficiency required by this section shall receive remedial tutoring from the school district until such time as the student has demonstrated the proficiency required by this section. Moneys from the Missouri exceptional teachers fund created in section 162.1153 shall be used to pay for the cost of such remedial tutoring.

162.1162. 1. Beginning August 28, 2008, any school district that is classified as "unaccredited" or "provisionally accredited" by the state board of education shall require each teacher to be assessed every five years to determine the competency of the teacher in the teacher's subject area or areas.

2. The school district shall utilize one or more of the assessments designated by the department of elementary and secondary education in section 161.660, RSMo. The school district shall notify each teacher of the results of the assessment by certified mail sent to the teacher.

3. Any teacher who fails to demonstrate a minimum level of competency, based on the results of the assessment required by subsection 1 of this section, shall be allowed to re-take the assessment no more than one time within three months after receiving notification of the failure. If a teacher fails a second time, or wishes to appeal after an initial failure, the teacher shall present documentation of effectiveness such as student test scores on a value-added instrument advancing, on average, by one grade level. The appeal shall be made through the administrative hearing commission under Chapter 621.

4. Notwithstanding the provisions of sections 168.221, RSMo and 168.281, RSMo, a

teacher that fails to demonstrate a minimum level of competency shall not be considered a permanent employee of the school district.

5. A teacher that demonstrates a high level of competency, as determined by rules promulgated by the department of elementary and secondary education under authority granted in section 161.660, RSMo, shall be exempt from the assessment required by this section for the next five-year period.

6. The provisions of this section shall not apply to a teacher for five years after the teacher first obtains licensure in this state. Any teacher that demonstrates a high level of competency on the initial licensure examination is exempted from the provisions of this section for a period of ten years from the date of initial licensure as a teacher.

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. **For fiscal year 2009 and each fiscal year thereafter, one million dollars of the fund otherwise transferred under the provisions of this subsection shall be transferred to the Missouri exceptional teachers fund created in section 162.1153, RSMo.**

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.

167.020. 1. As used in this section, the term "homeless child" or "homeless youth" shall **[**mean a person less than twenty-one years of age who lacks a fixed, regular and adequate nighttime residence, including a child or youth who:

(1) Is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; is living in motels, hotels, or camping grounds due to lack of alternative adequate accommodations; is living in emergency or transitional shelters; is abandoned in hospitals; or is awaiting foster care placement;

(2) Has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

(3) Is living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(4) Is a migratory child or youth who qualifies as homeless because the child or youth is living in circumstances described in subdivisions (1) to (3) of this subsection**] have the same meaning as the term "homeless children and youths" in 42 U.S.C. Section 11434a**.

2. In order to register a pupil, the parent or legal guardian of the pupil or the pupil himself or herself shall provide, at the time of registration, one of the following:

(1) Proof of residency in the district. Except as otherwise provided in section 167.151, the term "residency" shall mean that a person both physically resides within a school district and is domiciled within that district or, in the case of a private school student suspected of having a disability under the Individuals With Disabilities Education Act, 20 U.S.C. Section 1412, et seq, that the student attends private school within that district. The domicile of a minor child shall be the domicile of a parent, military guardian pursuant to a military-issued guardianship or court-appointed legal guardian; or

(2) Proof that the person registering the student has requested **[**a waiver**] residency review and enrollment** under subsection 3 of this section within the last forty-five days **if the student is living in the district with a person other than the parent, military guardian, or legal guardian**. In instances where there is reason to suspect that admission of the pupil will create an immediate danger to the safety of other pupils and employees of the district, the superintendent or the superintendent's designee may convene a hearing within five working days of the request to register and determine whether or not the pupil may register.

3. **[**Any person subject to the requirements of subsection 2 of this section may request a waiver from the district board of any of those requirements on the basis of hardship or good cause.**] If the student is living in the district with a person other than the parent, military guardian, or legal guardian, the parent or legal guardian of the pupil, or the pupil himself or herself shall request residency review and enrollment. The department of elementary and secondary education shall develop regulations governing the enrollment standards.** Under no circumstances shall athletic ability be a valid basis **[**of hardship or good cause for the issuance of a waiver of the requirements of subsection 2 of this section**] for granting or denying enrollment. The district board may delegate the superintendent or the superintendent's designee to review all requests for residency review and enrollment and may grant the superintendent or the superintendent's designee the authority to allow enrollment of the student. If the superintendent or the superintendent's designee determines that the student is not living in the district or is living in the district for purposes not consistent with the department of elementary and secondary education's enrollment regulations, the superintendent or the superintendent's designee may deny enrollment of the student. The parent or legal guardian, custodian, or the student may request an immediate hearing by the district**. The district board or committee of the board appointed by the president and which shall have full authority to act in lieu of the board shall convene a hearing as soon as possible, but no later than forty-five days after receipt of the **[**waiver**] residency review and enrollment** request made under this subsection or the **[**waiver request**] student** shall be granted**[**. The district board or committee of the board may grant the request for a waiver of any requirement of subsection 2 of this section. The district board or committee of the board may also reject the request for a waiver in which case the pupil shall not be allowed to register**] enrollment**. Any person aggrieved by a decision of a district board or committee of the board on a **residency review and enrollment** request **[**for a waiver under this subsection**]** may appeal such decision to the circuit court in the county where the school district is located.

4. Any person who knowingly submits false information to satisfy any requirement of subsection 2 of this section is guilty of a class A misdemeanor.

5. In addition to any other penalties authorized by law, a district board may file a civil action to recover, from the parent, military guardian or legal guardian of the pupil, the costs of school attendance for any pupil who was enrolled at a school in the district and whose parent, military guardian or legal guardian filed false information

to satisfy any requirement of subsection 2 of this section.

6. Subsection 2 of this section shall not apply to a pupil who is a homeless child or youth, or a pupil attending a school not in the pupil's district of residence as a participant in an interdistrict transfer program established under a court-ordered desegregation program, a pupil who is a ward of the state and has been placed in a residential care facility by state officials, a pupil who has been placed in a residential care facility due to a mental illness or developmental disability, a pupil attending a school pursuant to sections 167.121 and 167.151, a pupil placed in a residential facility by a juvenile court, a pupil with a disability identified under state eligibility criteria if the student is in the district for reasons other than accessing the district's educational program, or a pupil attending a regional or cooperative alternative education program or an alternative education program on a contractual basis.

7. Within two business days of enrolling a pupil, the school official enrolling a pupil, including any special education pupil, shall request **all education records deemed necessary by the school official for enrollment, including but not limited to** those records required by district policy for student transfer**, individual education plans, health records,** and those discipline records required by subsection 9 of section 160.261, RSMo, from all schools previously attended by the pupil within the last twelve months. Any school district that receives a request for such records from another school district enrolling a pupil that had previously attended a school in such district shall respond to such request within five business days of receiving the request. School districts may report or disclose education records to law enforcement **[**and**],** juvenile justice authorities**, or other state or local officials** if the disclosure concerns law enforcement's or juvenile justice authorities' ability to effectively serve, prior to adjudication, the student whose records are released. The officials and authorities to whom such information is disclosed must comply with applicable restrictions set forth in 20 U.S.C. Section 1232g (b)(1)(E).

167.022. Consistent with the provisions of section 167.020, within **[**forty-eight hours**] two business days** of enrolling a nonresident pupil placed pursuant to sections 210.481 to 210.536, RSMo, the school official enrolling a pupil, including any special education pupil, shall request **all education records deemed necessary by the school official for enrollment, including but not limited to** those records required by district policy for student transfer**, individual education plans, health records,** and those discipline records required by subsection **[**7**] 9** of section 160.261, RSMo, from all schools and other facilities previously attended by the pupil and from other state agencies as enumerated in section 210.518, RSMo, and any entities involved with the placement of the student within the last twenty-four months. Any request for records under this section shall include, if applicable to the student, any records relating to an act of violence as defined under subsection **[**7**] 9** of section **[**160.262**] 160.261**, RSMo.

167.023. **1. When a student is found to have committed a reportable offense under subdivisions (1) to (23) of subsection 1 of section 160.261, RSMo, the school district shall attach notice of the commission of the reportable offense to the student's permanent record and to the student's academic transcript.**

2. Prior to admission to any public school, a school board may require the parent, guardian, or other person having control or charge of a child of school age to provide, upon enrollment, a sworn statement or affirmation indicating whether the student has been expelled from school attendance at any school, public or private, in this state or in any other state for an offense in violation of school board policies relating to weapons, alcohol or drugs, or for the willful infliction of injury to another person. Any person making a materially

false statement or affirmation shall be guilty upon conviction of a class B misdemeanor. The registration document shall be maintained as a part of the student's scholastic record.

167.029. **[**A public school district in any city not within a county shall determine whether**] Any school district that is classified as "unaccredited" or "provisionally accredited" by the state board of education shall adopt** a dress code policy requiring pupils to wear a school uniform **[**is appropriate**]** at **[**any**] every** school **[**or schools**]** within such district**[**, and if it is so determined, shall adopt such a policy**]**. The school district may determine the style and color of the school uniform. **In addition to any other enterprise created as part of the vocational enterprise program under sections 217.550 to 217.595, RSMo, the department of corrections shall provide school uniforms to the public school district under the provisions of this section. An individual school within any school district that is classified as "unaccredited" or "provisionally accredited" by the state board of education that has seventy percent or more of its students score proficient or advanced in both communication arts and math subjects on a statewide assessment as described in section 160.518, RSMo, and that have a number of suspensions in the bottom quartile of the district are exempt from the provisions of this section. Any school that is exempted from the provisions of this section may still adopt a dress code policy that meets the provisions of this section.**

167.115. 1. Notwithstanding any provision of chapter 211, RSMo, or chapter 610, RSMo, to the contrary, the juvenile officer, sheriff, chief of police or other appropriate law enforcement authority shall, as soon as reasonably practical, notify the superintendent, or the superintendent's designee, of the school district in which the pupil is enrolled when a petition is filed pursuant to subsection 1 of section 211.031, RSMo, alleging that the pupil has committed one of the following acts:

(1) First degree murder under section 565.020, RSMo;

(2) Second degree murder under section 565.021, RSMo;

(3) Kidnapping under section 565.110, RSMo;

(4) First degree assault under section 565.050, RSMo;

(5) Forcible rape under section 566.030, RSMo;

(6) Forcible sodomy under section 566.060, RSMo;

(7) Burglary in the first degree under section 569.160, RSMo;

(8) Robbery in the first degree under section 569.020, RSMo;

(9) Distribution of drugs under section 195.211, RSMo;

(10) Distribution of drugs to a minor under section 195.212, RSMo;

(11) Arson in the first degree under section 569.040, RSMo;

(12) Voluntary manslaughter under section 565.023, RSMo;

(13) Involuntary manslaughter under section 565.024, RSMo;

(14) Second degree assault under section 565.060, RSMo;

(15) Sexual assault under section 566.040, RSMo;

(16) Felonious restraint under section 565.120, RSMo;

(17) Property damage in the first degree under section 569.100, RSMo;

(18) The possession of a weapon under chapter 571, RSMo;

(19) Child molestation in the first degree pursuant to section 566.067, RSMo;

(20) Deviate sexual assault pursuant to section 566.070, RSMo;

(21) Sexual misconduct involving a child pursuant to section 566.083, RSMo; or

(22) Sexual abuse pursuant to section 566.100, RSMo.

2. The notification shall be made orally or in writing, in a timely manner, no later than five days following the filing of the petition. If the report is made orally, written notice shall follow in a timely manner. The notification shall include a complete description of the conduct the pupil is alleged to have committed and the dates the conduct occurred but shall not include the name of any victim. Upon the disposition of any such case, the juvenile office or prosecuting attorney or their designee shall send a second notification to the superintendent providing the disposition of the case, including a brief summary of the relevant finding of facts, no later than five days following the disposition of the case.

3. The superintendent or the designee of the superintendent shall report such information to **all** teachers **at the student's attendance center** and **to any** other school district employees with a need to know while acting within the scope of their assigned duties. Any information received by school district officials pursuant to this section shall be received in confidence and used for the limited purpose of assuring that good order and discipline is maintained in the school. This information shall not be used as the sole basis for not providing educational services to a public school pupil.

4. The superintendent shall notify the appropriate division of the juvenile or family court upon any pupil's suspension for more than ten days or expulsion of any pupil that the school district is aware is under the jurisdiction of the court.

5. The superintendent or the superintendent's designee may be called to serve in a consultant capacity at any dispositional proceedings pursuant to section 211.031, RSMo, which may involve reference to a pupil's academic treatment plan.

6. Upon the transfer of any pupil described in this section to any other school district in this state, the superintendent or the superintendent's designee shall forward the written notification given to the superintendent pursuant to subsection 2 of this section to the superintendent of the new school district in which the pupil has enrolled. Such written notification shall be required again in the event of any subsequent transfer by the pupil.

7. As used in this section, the terms “school” and “school district” shall include any charter, private or parochial school or school district, and the term “superintendent” shall include the principal or equivalent chief school officer in the cases of charter, private or parochial schools.

8. The superintendent or the designee of the superintendent or other school employee who, in good faith, reports information in accordance with the terms of this section and section 160.261, RSMo, shall not be civilly liable for providing such information.

167.161. 1. The school board of any district, after notice to parents or others having custodial care and a hearing upon charges preferred, may suspend or expel a pupil for conduct which is prejudicial to good order and discipline in the schools or which tends to impair the morale or good conduct of the pupils. In addition to the authority granted in section 167.171, a school board may authorize, by general rule, the immediate removal of a pupil upon a finding by the principal, superintendent, or school board that the pupil poses a threat of harm to such pupil or others, as evidenced by the prior conduct of such pupil. Prior disciplinary actions shall not be used as the sole basis for removal, suspension or expulsion of a pupil. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. At the hearing upon any such removal, suspension or expulsion, the board shall consider the evidence and statements that the

parties present and may consider records of past disciplinary actions, criminal court records or juvenile court records consistent with other provisions of the law, or the actions of the pupil which would constitute a criminal offense. The board may provide by general rule not inconsistent with this section for the procedure and conduct of such hearings. After meeting with the superintendent or his designee to discuss the expulsion, the parent, custodian or the student, if at least eighteen years of age, may, in writing, waive any right to a hearing before the board of education.

2. The school board of any district, after notice to parents or others having custodial care and a hearing upon the matter, may suspend **or expel** a pupil upon a finding that the pupil has been charged, convicted or pled guilty in a court of general jurisdiction for the commission of a felony criminal violation of state or federal law. At a hearing required by this subsection, the board shall consider statements that the parties present. The board may provide for the procedure and conduct of such hearings.

3. The school board shall make a good-faith effort to have the parents or others having custodial care present at any such hearing. Notwithstanding any other provision of law to the contrary, student discipline hearings or proceedings related to the rights of students to attend school or to receive academic credit shall not be required to comply with the requirements applicable to contested case hearings as provided in chapter 536, RSMo, provided that appropriate due process procedures shall be observed which shall include the right for a trial de novo by the circuit court.

167.164. 1. Any suspension **or expulsion** issued **[**pursuant to**] by a public school district under** section 167.161**[**,**]** or this section**[**, or expulsion pursuant to section 167.161,**]** shall not relieve the state or the suspended student's parents or guardians of their responsibilities to educate the student. School districts are encouraged to provide an in-school suspension system and to search for other acceptable discipline alternatives prior to using suspensions of more than ten days or expelling a student from the school. Each school district or special school district constituting the domicile of any child for whom alternative education programs are provided or procured under this section shall pay toward the per pupil costs for alternative education programs 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. 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 of this section 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.

2. A school district may contract with other political subdivisions, public agencies, not-for-profit organizations, or private agencies for the provision of alternative education services for students whose demonstrated disruptive behavior

indicates that they cannot be adequately served in the traditional classroom setting. Such contracting may be included as part of a grant application pursuant to section 167.335 or conducted independent of the provisions of section 167.335.

167.335. 1. The state board of education shall establish a program to award grants to school districts that apply for assistance in providing alternative educational opportunities for students whose demonstrated disruptive behavior indicates that they cannot be adequately served in the traditional classroom setting. The board shall solicit applications from school districts and shall make grants from funds appropriated for that purpose in such amounts and on such terms as it determines best encourages the development of alternative education programs throughout the state. The board shall give preference to applications that demonstrate a need for alternative education services and stress:

(1) A comprehensive, kindergarten through grade twelve approach to preventing problems that result in the need for alternative education services;

(2) Rigorous instruction in core academic disciplines;

(3) Activities designed to enable the student to better perform in the regular classroom and to transition students back to the regular classroom when merited by their performance;

(4) A student-centered approach whereby activities are designed to meet the particular needs of individual students; and

(5) Collaboration with existing community-based service providers, such as cooperative education programs, school to work programs, parents- as-teachers programs, programs developed by the department of economic development and programs developed by local service delivery agencies, and other governmental and private agencies to address student needs beyond those traditionally addressed by schools.

2. School districts may submit joint applications and are encouraged to pursue regional approaches to alternative education where warranted. Area vocational learning centers shall be eligible to submit applications and are encouraged to pursue grants to expand and enhance existing alternative education programs established pursuant to sections 167.320 to 167.332, provided that any additional activities are compatible with subdivisions (1) to (5) of subsection 1 of this section.

3. In selecting school districts for grant awards, the state board of education shall promulgate selection priority criteria that give preference to districts that meet any of the following criteria:

(1) Joint applications and regional approaches to school safety;

(2) Regular and timely meetings of education and social service and law enforcement personnel; or

(3) Use of techniques developed or promulgated by the Missouri Center for Safe Schools at the University of Missouri-Kansas City or other safe school methods recognized by the state board of education.

The state board of education shall develop a method to evaluate applications for preventative approaches and ensure that a portion of grant funds are awarded to districts that are not in crisis mode.

4. The state board of education shall adopt rules necessary to implement the grant program established pursuant to this section, provided that no rule or portion of a rule promulgated pursuant to this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

167.621. 1. Persons providing health services under sections 167.600 to 167.621 shall obtain authorization from a parent or guardian of the child

before providing services as provided by section 431.061, RSMo.

2. No employee of any school district may be required to administer medication or medical services for which the employee is not qualified according to standard medical practices. No **unqualified** employee who refuses to **[**violate this provision**]** **administer medication or medical services** shall be subject to any disciplinary action for such refusal. Nothing herein shall be construed to prevent any employee from providing routine first aid, provided that any employee shall be held harmless **and immune** from any liability if such employee is following a proper procedure adopted by the local school board.

3. Any qualified employee shall be held harmless and immune from any civil liability for administering medication or medical services in good faith and according to standard medical practices.

167.624. Each school board in the state, if the school district does not presently have a program as described below, may develop and implement a program to train the students **and employees** of the district in the administration of cardiopulmonary resuscitation and other lifesaving methods, as they determine best, and may consult the department of public safety, the state fire marshal's office, the local fire protection authorities, and others as the board sees fit. The board may make completion of the program a requirement for graduation. **Any trained employee shall be held harmless and immune from any civil liability for administering cardiopulmonary resuscitation and other lifesaving methods in good faith and according to standard medical practices.**

167.627. 1. For purposes of this section, the following terms shall mean:

(1) "Medication", any medicine prescribed or ordered by a physician for the treatment of asthma or anaphylaxis, including without limitation inhaled bronchodilators and auto-injectible epinephrine;

(2) "Self-administration", a pupil's discretionary use of medication prescribed by a physician or under a written treatment plan from a physician.

2. Each board of education and its employees and agents in this state shall grant any pupil in the school authorization for the possession and self-administration of medication to treat such pupil's **chronic health condition, including but not limited to** asthma or anaphylaxis if:

(1) A licensed physician prescribed or ordered such medication for use by the pupil and instructed such pupil in the correct and responsible use of such medication;

(2) The pupil has demonstrated to the pupil's licensed physician or the licensed physician's designee, and the school nurse, if available, the skill level necessary to use the medication and any device necessary to administer such medication prescribed or ordered;

(3) The pupil's physician has approved and signed a written treatment plan for managing **the pupil's chronic health condition, including** asthma or anaphylaxis episodes **[**of the pupil**]** and for medication for use by the pupil. Such plan shall include a statement that the pupil is capable of self-administering the medication under the treatment plan;

(4) The pupil's parent or guardian has completed and submitted to the school any written documentation required by the school, including the treatment plan required under subdivision (3) of this subsection and the liability statement required under subdivision (5) of this subsection; and

(5) The pupil's parent or guardian has signed a statement acknowledging that the school district and its employees or agents shall incur no liability as a result of any injury arising from the self-administration of medication by the pupil or the administration of such medication by school

staff. Such statement shall not be construed to release the school district and its employees or agents from liability for negligence.

3. An authorization granted under subsection 2 of this section shall:

(1) Permit such pupil to possess and self-administer such pupil's medication while in school, at a school-sponsored activity, and in transit to or from school or school-sponsored activity; and

(2) Be effective only for the same school and school year for which it is granted. Such authorization shall be renewed by the pupil's parent or guardian each subsequent school year in accordance with this section.

4. Any current duplicate prescription medication, if provided by a pupil's parent or guardian or by the school, shall be kept at a pupil's school in a location at which the pupil or school staff has immediate access in the event of an asthma or anaphylaxis emergency.

5. The information described in subdivisions (3) and (4) of subsection 2 of this section shall be kept on file at the pupil's school in a location easily accessible in the event of an **[**asthma or anaphylaxis**]** emergency.

167.630. 1. Each school board may authorize a school nurse licensed under chapter 335, RSMo, who is employed by the school district and for whom the board is responsible for to maintain an adequate supply of prefilled auto syringes of epinephrine with fifteen-hundredths milligram or three-tenths milligram delivery at the school. The nurse shall recommend to the school board the number of prefilled epinephrine auto syringes that the school should maintain.

2. To obtain prefilled epinephrine auto syringes for a school district, a prescription written by a licensed physician, a physician's assistant, or nurse practitioner is required. For such prescriptions, the school district shall be designated as the patient, the nurse's name shall be required, and the prescription shall be filled at a licensed pharmacy.

3. A school nurse **or other school employee trained by and supervised by the nurse** shall have the discretion to use an epinephrine auto syringe on any student the school nurse **or trained employee** believes is having a life-threatening anaphylactic reaction based on the **[**nurse's**]** training in recognizing an acute episode of an anaphylactic reaction.

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

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

3. The applicant shall pay the fee for the state criminal history record information pursuant to section 43.530, RSMo, and sections 210.900 to 210.936, RSMo, and pay the appropriate fee

determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for a position authorized to have contact with pupils pursuant to this section. The department shall distribute the fees collected for the state and federal criminal histories to the Missouri highway patrol.

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

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

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

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

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

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

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

168.350. 1. The department of elementary and secondary education shall develop standards for high-quality mentoring for beginning teachers and beginning principals no later than June 30, 2008. The standards shall be applicable to all public schools.

2. Such standards shall be established for both of the required years of mentoring under subsection 3 of section 168.021 and shall be based upon, but not be limited to, the following principles:

(1) Every district shall have a teacher-driven mentor program in collaboration with and support of the administration;

(2) Guidance and support are required for all beginning teachers, regardless of when they enter the profession;

(3) Communication between mentors and

beginning teachers is open and confidential;

(4) Quality mentors are necessary to establish beginning teachers' trust and respect for their colleagues and profession; and

(5) All staff members provide informal support for beginning teachers.

3. Quality mentor programs shall include, but not be limited to, the following:

(1) An introduction to the cultural environment of the community and the school district;

(2) A systemic and ongoing evaluation by all stakeholders;

(3) An individualized plan for beginning teachers that aligns with the district's goals and needs;

(4) Appropriate criteria for selecting mentors;

(5) Comprehensive mentor training;

(6) A complete list of responsibilities for the mentor, beginning teacher, and administrators; and

(7) Sufficient time for mentors to observe beginning teachers and for the beginning teachers to observe master teachers.

4. In developing such standards, the department shall involve representatives from the state teacher organizations, administration and principal organizations, Missouri advisory council for the certification of educators as created by section 168.015, Missouri Staff Development Council, and from colleges and universities.

169.070. 1. The retirement allowance of a member whose age at retirement is sixty years or more and whose creditable service is five years or more, or whose sum of age and creditable service equals eighty years or more, or who has attained age fifty-five and whose creditable service is twenty-five years or more or whose creditable service is thirty years or more regardless of age, may be the sum of the following items, not to exceed one hundred percent of the member's final average salary:

(1) Two and five-tenths percent of the member's final average salary for each year of membership service;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service not exceeding thirty years.

In lieu of the retirement allowance otherwise provided in subdivisions (1) and (2) of this subsection, a member may elect to receive a retirement allowance of:

(3) Between July 1, 1998, and July 1, **[**2008**]** **2013**, two and four-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-nine years or more but less than thirty years, and the member has not attained age fifty-five;

(4) Between July 1, 1998, and July 1, **[**2008**]** **2013**, two and thirty-five-hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-eight years or more but less than twenty-nine years, and the member has not attained age fifty-five;

(5) Between July 1, 1998, and July 1, **[**2008**]** **2013**, two and three-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-seven years or more but less than twenty-eight years, and the member has not attained age fifty-five;

(6) Between July 1, 1998, and July 1, **[**2008**]** **2013**, two and twenty-five-hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-six years or more but less than twenty-seven years, and the member has not attained age fifty-five;

(7) Between July 1, 1998, and July 1, **[**2008**]** **2013**, two and two-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-five years or more but less than twenty-six years, and the member has not attained age fifty-five;

(8) Between July 1, 2001, and July 1, **[**2008**]** **2013**, two and fifty-five hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is thirty-one years or more regardless of age.

2. In lieu of the retirement allowance provided in subsection 1 of this section, a member whose age is sixty years or more on September 28, 1975, may elect to have the member's retirement allowance calculated as a sum of the following items:

(1) Sixty cents plus one and five-tenths percent of the member's final average salary for each year of membership service;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service not exceeding thirty years;

(3) Three-fourths of one percent of the sum of subdivisions (1) and (2) of this subsection for each month of attained age in excess of sixty years but not in excess of age sixty-five.

3. (1) In lieu of the retirement allowance provided either in subsection 1 or 2 of this section, collectively called "option 1", a member whose creditable service is twenty-five years or more or who has attained the age of fifty-five with five or more years of creditable service may elect in the member's application for retirement to receive the actuarial equivalent of the member's retirement allowance in reduced monthly payments for life during retirement with the provision that:

Option 2. Upon the member's death the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member as the member shall have nominated in the member's election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the retired member elected option 1;

OR

Option 3. Upon the death of the member three-fourths of the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 4. Upon the death of the member one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance shall be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated

who survives the member for the remainder of the one hundred twenty monthly payments, the total of the remainder of such one hundred twenty monthly payments shall be paid to the estate of the last person to receive a monthly allowance. If the total of the one hundred twenty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum;

OR

Option 6. Upon the death of the member prior to the member having received sixty monthly payments of the member's reduced allowance, the remainder of the sixty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the sixty monthly payments, the total of the remainder of such sixty monthly payments shall be paid to the estate of the last person to receive a monthly allowance. If the total of the sixty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum.

(2) The election of an option may be made only in the application for retirement and such application must be filed prior to the date on which the retirement of the member is to be effective. If either the member or the person nominated to receive the survivorship payments dies before the effective date of retirement, the option shall not be effective, provided that:

(a) If the member or a person retired on disability retirement dies after acquiring twenty-five or more years of creditable service or after attaining the age of fifty-five years and acquiring five or more years of creditable service and before retirement, except retirement with disability benefits, and the person named by the member as the member's beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either survivorship benefits under option 2 or a payment of the accumulated contributions of the member. If survivorship benefits under option 2 are elected and the member at the time of death would have been eligible to receive an actuarial equivalent of the member's retirement allowance, the designated beneficiary may further elect to defer the option 2 payments until the date the member would have been eligible to receive the retirement allowance provided in subsection 1 or 2 of this section;

(b) If the member or a person retired on disability retirement dies before attaining age fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the person named as the member's beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either a payment of the member's accumulated contributions, or survivorship benefits under option 2 to begin on the date the member would first have been eligible to receive an actuarial equivalent of the member's retirement allowance, or to begin on the date the member would first have been eligible to receive the retirement allowance provided in subsection 1 or 2 of this section.

4. If the total of the retirement or disability allowance paid to an individual before the death of the individual is less than the accumulated contributions at the time of retirement, the difference shall be paid to the beneficiary of the individual, or to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the individual in that order of precedence. If an optional benefit as provided in option 2, 3 or 4 in subsection 3 of this section had been elected, and the beneficiary dies after receiving the optional benefit, and if the total retirement allowance paid

to the retired individual and the beneficiary of the retired individual is less than the total of the contributions, the difference shall be paid to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the beneficiary, in that order of precedence, unless the retired individual designates a different recipient with the board at or after retirement.

5. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the death of the member shall be paid to the beneficiary of the member or, if there is no beneficiary, to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) to the estate of the member in that order of precedence; except that, no such payment shall be made if the beneficiary elects option 2 in subsection 3 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the beneficiary, in that order of precedence.

6. If a member ceases to be a public school employee as herein defined and certifies to the board of trustees that such cessation is permanent, or if the membership of the person is otherwise terminated, the member shall be paid the member's accumulated contributions with interest.

7. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, if a member ceases to be a public school employee after acquiring five or more years of membership service in Missouri, the member may at the option of the member leave the member's contributions with the retirement system and claim a retirement allowance any time after reaching the minimum age for voluntary retirement. When the member's claim is presented to the board, the member shall be granted an allowance as provided in sections 169.010 to 169.141 on the basis of the member's age, years of service, and the provisions of the law in effect at the time the member requests the member's retirement to become effective.

8. The retirement allowance of a member retired because of disability shall be nine-tenths of the allowance to which the member's creditable service would entitle the member if the member's age were sixty, or fifty percent of one-twelfth of the annual salary rate used in determining the member's contributions during the last school year for which the member received a year of creditable service immediately prior to the member's disability, whichever is greater, except that no such allowance shall exceed the retirement allowance to which the member would have been entitled upon retirement at age sixty if the member had continued to teach from the date of disability until age sixty at the same salary rate.

9. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, from October 13, 1961, the contribution rate pursuant to sections 169.010 to 169.141 shall be multiplied by the factor of two-thirds for any member of the system for whom federal Old Age and Survivors Insurance tax is paid from state or local tax funds on account of the member's employment entitling the person to membership in the system. The monetary benefits for a member who elected not to exercise an option to pay into the system a retroactive contribution of four percent on that part of the member's annual salary rate which was in excess of four thousand eight hundred dollars but not in excess of eight thousand four hundred dollars for each year of employment in a position covered by this system between July 1, 1957, and July 1, 1961, as provided in subsection 10 of this section as it appears in RSMo, 1969, shall be the sum of:

(1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for years of

membership service;

(2) For years of membership service after July 1, 1946, in which the full contribution rate was paid, full benefits under the formula in effect at the time of the member's retirement;

(3) For years of membership service after July 1, 1957, and prior to July 1, 1961, the benefits provided in this section as it appears in RSMo, 1959; except that if the member has at least thirty years of creditable service at retirement the member shall receive the benefit payable pursuant to that section as though the member's age were sixty-five at retirement;

(4) For years of membership service after July 1, 1961, in which the two-thirds contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of the member's retirement.

10. The monetary benefits for each other member for whom federal Old Age and Survivors Insurance tax is or was paid at any time from state or local funds on account of the member's employment entitling the member to membership in the system shall be the sum of:

(1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for years of membership service;

(2) For years of membership service after July 1, 1946, in which the full contribution rate was paid, full benefits under the formula in effect at the time of the member's retirement;

(3) For years of membership service after July 1, 1957, in which the two-thirds contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of the member's retirement.

11. Any retired member of the system who was retired prior to September 1, 1972, or beneficiary receiving payments under option 1 or option 2 of subsection 3 of this section, as such option existed prior to September 1, 1972, will be eligible to receive an increase in the retirement allowance of the member of two percent for each year, or major fraction of more than one-half of a year, which the retired member has been retired prior to July 1, 1975. This increased amount shall be payable commencing with January, 1976, and shall thereafter be referred to as the member's retirement allowance. The increase provided for in this subsection shall not affect the retired member's eligibility for compensation provided for in section 169.580 or 169.585, nor shall the amount being paid pursuant to these sections be reduced because of any increases provided for in this section.

12. If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases two percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by two percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board with the provision that the increases provided for in this subsection shall not become effective until the fourth January first following the member's retirement or January 1, 1977, whichever later occurs, or in the case of any member retiring on or after July 1, 2000, the increase provided for in this subsection shall not become effective until the third January first following the member's retirement, or in the case of any member retiring on or after July 1, 2001, the increase provided for in this subsection shall not become effective until the second January first following the member's retirement. Commencing with January 1, 1992, if the board of trustees determines that the cost of living has increased five percent or more in the preceding fiscal year, the board shall increase the retirement allowances by five percent. The total of the increases granted to a retired member or the beneficiary after December 31, 1976, may not exceed eighty percent of the retirement allowance established at retirement or as previously adjusted by other subsections. If the cost of living increases less than five percent, the

board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

13. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 12 of this section if the cost of living, as determined by the board and as measured by generally accepted standards, is less than the cost of living was at the time of the first increase granted to the member; except that, the reductions shall not exceed the amount of increases which have been made to the member's allowance after December 31, 1976.

14. Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

15. Notwithstanding any other provision of law, any person retired prior to September 28, 1983, who is receiving a reduced retirement allowance under option 1 or option 2 of subsection 3 of this section, as such option existed prior to September 28, 1983, and whose beneficiary nominated to receive continued retirement allowance payments under the elected option dies or has died, shall upon application to the board of trustees have his or her retirement allowance increased to the amount he or she would have been receiving had the option not been elected, actuarially adjusted to recognize any excessive benefits which would have been paid to him or her up to the time of application.

16. Benefits paid pursuant to the provisions of the public school retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code except as provided pursuant to this subsection. Notwithstanding any other law to the contrary, the board of trustees may establish a benefit plan pursuant to Section 415(m) of Title 26 of the United States Code. Such plan shall be created solely for the purpose described in Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.

17. Notwithstanding any other provision of law to the contrary, any person retired before, on, or after May 26, 1994, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties the person shall receive an amount based on the person's years of service so that the total amount received pursuant to sections 169.010 to 169.141 shall be at least the minimum amounts specified in subdivisions (1) to (4) of this subsection. In determining the minimum amount to be received, the amounts in subdivisions (3) and (4) of this subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was applied to the person's retirement allowance. In determining the minimum amount to be received, beginning September 1, 1996, the amounts in subdivisions (1) and (2) of this subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was applied to the person's retirement allowance due to election of an optional form of retirement having a continued monthly payment after the person's death. Notwithstanding any other provision of law to the contrary, no person retired before, on, or after May 26, 1994, and no beneficiary of such a person, shall receive a retirement benefit pursuant to sections 169.010 to 169.141 based on the person's years of service less than the following amounts:

(1) Thirty or more years of service, one thousand two hundred dollars;

(2) At least twenty-five years but less than thirty years, one thousand dollars;

(3) At least twenty years but less than twenty-five years, eight hundred dollars;

(4) At least fifteen years but less than twenty years, six hundred dollars.

18. Notwithstanding any other provisions of law to the contrary, any person retired prior to May 26, 1994, and any designated beneficiary of such a retired member who was deceased prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement or aging and upon request shall give written or oral opinions to the board in response to such requests. Beginning September 1, 1996, as compensation for such service, the member shall have added, pursuant to this subsection, to the member's monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars or the product of two dollars multiplied by the member's number of years of creditable service. Beginning September 1, 1999, the designated beneficiary of the deceased member shall as compensation for such service have added, pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars or the product of two dollars multiplied by the member's number of years of creditable service. The total compensation provided by this section including the compensation provided by this subsection shall be used in calculating any future cost-of-living adjustments provided by subsection 12 of this section.

19. Any member who has retired prior to July 1, 1998, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties the person shall receive a payment equivalent to eight and seven-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

20. Any member who has retired shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such request. As compensation for such duties, the beneficiary of the retired member, or, if there is no beneficiary, the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the retired member, in that order of precedence, shall receive as a part of compensation for these duties a death benefit of five thousand dollars.

21. Any member who has retired prior to July 1, 1999, and the designated beneficiary of a retired member who was deceased prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall have added, pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount equal to five dollars times the member's number of years of creditable service.

22. Any member who has retired prior to July 1, 2000, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall receive a payment equivalent to three and five-tenths percent of the previous

month's benefit, which shall be added to the member or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

23. Any member who has retired prior to July 1, 2001, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall receive a dollar amount equal to three dollars times the member's number of years of creditable service, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

169.466. 1. Any retired member with fifteen or more years of creditable service at retirement receiving **[**a pension**] retirement benefits** on August 28, 1997, shall receive on January first of each year, commencing on January 1, 1998, an increase in the amount of **[**pension**] benefits** received by the retired member pursuant to sections 169.410 to 169.540 during the preceding year of one hundred percent of the increase in the consumer price index calculated in the manner provided in this section; except that, no such increase in **[**pension**] retirement** benefits shall be paid for any year if such increase in the consumer price index is less than one percent. Such annual **[**pension**] retirement benefit** increase, however, shall not exceed three percent **[**and the total increases in the amount of pension benefits received by any retired member shall not, in the aggregate, exceed ten percent of the pension benefits such retired member received during the year preceding January first of the first year the retired member is entitled to receive an increase pursuant to this section**]**. A retired member qualified to receive an annual **[**pension**] retirement benefit** increase pursuant to this section shall not be eligible to receive an additional benefit until the January first after the first anniversary of the date on which he or she commenced receiving **[**a pension**] retirement benefits** pursuant to sections 169.410 to 169.540. Benefits shall not be decreased in the case of a decrease in the consumer price index for any year.

2. For the purpose of this section, any increase in the consumer price index shall be determined by the board of trustees in November of each year based on the consumer price index for the twelve-month period ended on September thirtieth of such year over the consumer price index for the twelve-month period ended on September thirtieth of the year immediately prior thereto. Any increase so determined shall be applied by the board of trustees in calculating increases in **[**pension**] retirement** benefits that become payable pursuant to this section for the twelve-month period beginning on the January first immediately following such determination.

3. An annual increase in **[**pension**] retirement** benefits, if any, shall be payable monthly with monthly installments of other **[**pension**] retirement** benefits pursuant to sections 169.410 to 169.540.

169.471. **1.** The board of education is authorized from time to time, in its discretion, to increase the **[**pension**] retirement** benefits now or hereafter provided pursuant to sections 169.410 to 169.540 and to adopt and implement additional **[**pension**] retirement** benefits and plans, including without limitation, early retirement plans, deferred retirement option plans and cost-of-living adjustments, but excluding compensation to retired members pursuant to section 169.475, and for such purpose the contribution rate of members of the retirement system may be increased to provide part of the cost thereof, subject to the following conditions:

(1) Any such increase in **[**pension**]** **retirement** benefits and additional **[**pension**]** **retirement** benefits and plans shall be approved by the board of trustees;

(2) The board of trustees shall have presented to the board of education the projected increases in rates of contribution which will be required to be made by members and the board of education to the retirement system to pay the cost of such increases in **[**pension**]** **retirement** benefits and additional **[**pension**]** **retirement** benefits and plans; and

(3) Any increase in the contribution rate of members of the retirement system shall be approved by the board of trustees and shall be deducted from the compensation of each member by the employing board and transferred and credited to the individual account of each member from whose compensation the deduction was made, and shall be administered in accordance with sections 169.410 to 169.540; provided that, any such increase in the members' contribution rate shall not exceed one-half of one percent of compensation in any year for such increases to **[**pension**]** **retirement** benefits and additional **[**pension**]** **retirement** benefits and plans adopted during such year by the board of education pursuant to this section, and all such increases in the members' contribution rate shall, in the aggregate, not exceed two percent of compensation.

2. The board of trustees is authorized from time to time, in its discretion, to increase the retirement benefits, now or hereinafter provided under sections 169.410 to 169.540, and to adopt and implement additional retirement benefits for persons who have retired, including cost-of-living adjustments, provided that the board of trustees finds the additional benefit will not require an increase in the contribution rate required by the members, will not increase the contribution required from the board of education, and is actuarially sound. In the event the board of trustees authorizes an increase under this section, it shall certify in writing to the board of education the findings, including but not limited to all actuarial assumptions, upon which the board of trustees determined that the increase in benefits would result in no increase in contributions by members or the board of education.

169.670. 1. The retirement allowance of a member whose age at retirement is sixty years or more and whose creditable service is five years or more, or whose sum of age and creditable service equals eighty years or more, or whose creditable service is thirty years or more regardless of age, shall be the sum of the following items:

(1) For each year of membership service, one and sixty-one hundredths percent of the member's final average salary;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service;

(3) Eighty-five one-hundredths of one percent of any amount by which the member's average compensation for services rendered prior to July 1, 1973, exceeds the average monthly compensation on which federal Social Security taxes were paid during the period over which such average compensation was computed, for each year of membership service credit for services rendered prior to July 1, 1973, plus six-tenths of the amount payable for a year of membership service for each year of prior service credit;

(4) In lieu of the retirement allowance otherwise provided by subdivisions (1) to (3) of this subsection, between July 1, 2001, and July 1, **[**2008**]** **2013**, a member may elect to receive a retirement allowance of:

(a) One and fifty-nine hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-nine years or more but less than thirty years and the member has not attained the

age of fifty-five;

(b) One and fifty-seven hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-eight years or more but less than twenty-nine years, and the member has not attained the age of fifty-five;

(c) One and fifty-five hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-seven years or more but less than twenty-eight years and the member has not attained the age of fifty-five;

(d) One and fifty-three hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-six years or more but less than twenty-seven years and the member has not attained the age of fifty-five;

(e) One and fifty-one hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-five years or more but less than twenty-six years and the member has not attained the age of fifty-five; and

(5) In addition to the retirement allowance provided in subdivisions (1) to (3) of this subsection, a member retiring on or after July 1, 2001, whose creditable service is thirty years or more or whose sum of age and creditable service is eighty years or more, shall receive a temporary retirement allowance equivalent to eight-tenths of one percent of the member's final average salary multiplied by the member's years of service until such time as the member reaches the minimum age for Social Security retirement benefits.

2. If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases five percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by five percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board; provided that, the increase provided in this subsection shall not become effective until the fourth January first following a member's retirement or January 1, 1982, whichever occurs later, and the total of the increases granted to a retired member or the beneficiary after December 31, 1981, may not exceed eighty percent of the retirement allowance established at retirement or as previously adjusted by other provisions of law. If the cost of living increases less than five percent, the board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

3. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 2 of this section if the cost of living, as determined by the board and as measured by generally accepted standards, is less than the cost of living was at the time of the first increase granted to the member; provided that, the reductions shall not exceed the amount of increases which have been made to the member's allowance after December 31, 1981.

4. (1) In lieu of the retirement allowance provided in subsection 1 of this section, called "option 1", a member whose creditable service is twenty-five years or more or who has attained age fifty-five with five or more years of creditable service may elect, in the application for retirement, to receive the actuarial equivalent of the member's retirement allowance in reduced monthly payments for life during retirement with the provision that:

Option 2. Upon the member's death, the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member as the member shall have nominated in the

member's election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 3. Upon the death of the member three-fourths of the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 4. Upon the death of the member one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance shall be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the reserve for the remainder of such one hundred twenty monthly payments shall be paid to the estate of the last person to receive a monthly allowance. If the total of the one hundred twenty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum;

OR

Option 6. Upon the death of the member prior to the member having received sixty monthly payments of the member's reduced allowance, the remainder of the sixty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the sixty monthly payments, the reserve for the remainder of such sixty monthly payments shall be paid to the estate of the last person to receive a monthly allowance. If the total of the sixty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum;

OR

Option 7. A plan of variable monthly benefit payments which provides, in conjunction with the member's retirement benefits under the federal Social Security laws, level or near-level retirement benefit payments to the member for life during retirement, and if authorized, to an appropriate beneficiary designated by the member. Such a plan shall be actuarially equivalent to the retirement allowance under option 1 and shall be available for election only if established by the board of trustees under duly adopted rules.

(2) The election of an option may be made only in the application for retirement and such

application must be filed prior to the date on which the retirement of the member is to be effective. If either the member or the person nominated dies before the effective date of retirement, the option shall not be effective, provided that:

(a) If the member or a person retired on disability retirement dies after attaining age fifty-five and acquiring five or more years of creditable service or after acquiring twenty-five or more years of creditable service and before retirement, except retirement with disability benefits, and the person named by the member as the member's beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either survivorship payments under option 2 or a payment of the member's accumulated contributions. If survivorship benefits under option 2 are elected and the member at the time of death would have been eligible to receive an actuarial equivalent of the member's retirement allowance, the designated beneficiary may further elect to defer the option 2 payments until the date the member would have been eligible to receive the retirement allowance provided in subsection 1 of this section.

(b) If the member or a person retired on disability retirement dies before attaining age fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the person named as the beneficiary has an insurable interest in the life of the deceased member or disability retiree, the designated beneficiary may elect to receive either a payment of the person's accumulated contributions, or survivorship benefits under option 2 to begin on the date the member would first have been eligible to receive an actuarial equivalent of the person's retirement allowance, or to begin on the date the member would first have been eligible to receive the retirement allowance provided in subsection 1 of this section.

5. If the total of the retirement or disability allowances paid to an individual before the person's death is less than the person's accumulated contributions at the time of the person's retirement, the difference shall be paid to the person's beneficiary or, if there is no beneficiary, to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) person's estate in that order of precedence; provided, however, that if an optional benefit, as provided in option 2, 3 or 4 in subsection 4, had been elected and the beneficiary dies after receiving the optional benefit, then, if the total retirement allowances paid to the retired individual and the individual's beneficiary are less than the total of the contributions, the difference shall be paid to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the beneficiary, in that order of precedence, unless the retired individual designates a different recipient with the board at or after retirement.

6. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the member's death shall be paid to the member's beneficiary or, if there is no beneficiary, to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) to the member's estate; provided, however, that no such payment shall be made if the beneficiary elects option 2 in subsection 4 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the beneficiary, in that order of precedence.

7. If a member ceases to be an employee as defined in section 169.600 and certifies to the board of trustees that such cessation is permanent or if the person's membership is otherwise terminated, the person shall be paid the person's

accumulated contributions with interest.

8. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, if a member ceases to be an employee as defined in section 169.600 after acquiring five or more years of creditable service, the member may, at the option of the member, leave the member's contributions with the retirement system and claim a retirement allowance any time after the member reaches the minimum age for voluntary retirement. When the member's claim is presented to the board, the member shall be granted an allowance as provided in sections 169.600 to 169.715 on the basis of the member's age and years of service.

9. The retirement allowance of a member retired because of disability shall be nine-tenths of the allowance to which the member's creditable service would entitle the member if the member's age were sixty.

10. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, any member who is a member prior to October 13, 1969, may elect to have the member's retirement allowance computed in accordance with sections 169.600 to 169.715 as they existed prior to October 13, 1969.

11. Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

12. Notwithstanding any other provision of law, any person retired prior to August 14, 1984, who is receiving a reduced retirement allowance under option 1 or 2 of subsection 4 of this section, as the option existed prior to August 14, 1984, and whose beneficiary nominated to receive continued retirement allowance payments under the elected option dies or has died, shall upon application to the board of trustees have the person's retirement allowance increased to the amount the person would have been receiving had the person not elected the option, actuarially adjusted to recognize any excessive benefits which would have been paid to the person up to the time of the application.

13. Benefits paid pursuant to the provisions of the public education employee retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code, except as provided under this subsection. Notwithstanding any other law, the board of trustees may establish a benefit plan under Section 415(m) of Title 26 of the United States Code. Such plan shall be credited solely for the purpose described in Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.

14. Any member who has retired prior to July 1, 1999, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to seven and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

15. Any member who has retired prior to July 1, 2000, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to three and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of

subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

16. Any member who has retired prior to July 1, 2001, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to seven and one-tenth percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

190.092. 1. A person or entity who acquires an automated external defibrillator shall ensure that:

(1) Expected defibrillator users receive training by the American Red Cross or American Heart Association in cardiopulmonary resuscitation and the use of automated external defibrillators, or an equivalent nationally recognized course in defibrillator use and cardiopulmonary resuscitation;

(2) The defibrillator is maintained and tested according to the manufacturer's operational guidelines;

(3) Any person who renders emergency care or treatment on a person in cardiac arrest by using an automated external defibrillator activates the emergency medical services system as soon as possible; and

(4) Any person or entity that owns an automated external defibrillator that is for use outside of a health care facility shall have a physician review and approve the clinical protocol for the use of the defibrillator, review and advise regarding the training and skill maintenance of the intended users of the defibrillator and assure proper review of all situations when the defibrillator is used to render emergency care.

2. Any person or entity who acquires an automated external defibrillator shall notify the emergency communications district or the ambulance dispatch center of the primary provider of emergency medical services where the automated external defibrillator is to be located.

3. Any person **[**who has had appropriate training, including a course in cardiopulmonary resuscitation, has demonstrated a proficiency in the use of an automated external defibrillator, and**]** who gratuitously and in good faith renders emergency care when medically appropriate by use of or provision of an automated external defibrillator**[**, without objection of the injured victim or victims thereof,**]** shall **[**not be held liable for any civil damages**] be held harmless and immune from civil liability** as a result of such care or treatment, where the person acts as an ordinarily reasonable, prudent person would have acted under the same or similar circumstances. The person or entity who provides appropriate training to the person using an automated external defibrillator, the person or entity responsible for the site where the automated external defibrillator is located, and the licensed physician who reviews and approves the clinical protocol shall likewise not be held liable for civil damages resulting from the use of an automated external defibrillator**[**, provided that all other requirements of this section have been met. Nothing in this section shall affect any claims brought pursuant to chapter 537 or 538, RSMo**]**.

4. The provisions of this section shall apply in all counties within the state and any city not within a county.

210.102. 1. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities

of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri**;**

(6) On or before July 1, 2008, develop recommendations for best practices in sharing relevant agency information relating to school-aged children receiving state services in order to permit the best degree of coordination in the delivery of such services while protecting the privacy of the involved student and family.

2. There is hereby established within the children's services commission the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders.

The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

3. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system;

(2) Confer with public and private entities for the purpose of promoting and improving the

development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4) Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 2 and 3 of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements from the coordinating board for early childhood fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board;

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section.

4. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 2 and 3 of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 2 and 3 of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source.

Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the

credit of the general revenue fund.

475.060. Any person may file a petition for the appointment of himself or some other qualified person as guardian of a minor or guardian of an incapacitated person. Such petition shall state:

(1) The name, age, domicile, actual place of residence and post office address of the minor or incapacitated person if known and if any of these facts is unknown, the efforts made to ascertain that fact;

(2) The estimated value of his real and personal property;

(3) If the minor or incapacitated person has no domicile or place of residence in this state, the county in which the property or major part thereof of the minor or incapacitated person is located;

(4) The name and address of the parents of the minor or incapacitated person and whether they are living or dead;

(5) The name and address of the spouse, and the names, ages and addresses of all living children of the minor or incapacitated person;

(6) The name and address of the person having custody of the person of the minor or incapacitated person;

(7) The name and address of any guardian of the person or conservator of the estate of the minor or incapacitated person appointed in this or any other state;

(8) If appointment is sought for a natural person, other than the public administrator, the names and addresses of wards and disabled persons for whom such person is already guardian or conservator;

(9) In the case of an incapacitated person, the fact that the person for whom guardianship is sought is unable by reason of some specified physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that the person lacks capacity to meet essential requirements for food, clothing, shelter, safety or other care such that serious physical injury, illness or disease is likely to occur;

(10) The reasons why the appointment of a guardian is sought;

(11) A petition for the appointment of a guardian of a minor may be filed for the sole and specific purpose of school registration or medical insurance coverage. Such a petition shall clearly set out this limited request and shall not be combined with a petition for conservatorship. **This appointment shall not be used to circumvent current law requiring the student to be a resident of the school district.**"; and

Further amend the title and enacting clause accordingly.

Senator Crowell moved that the above amendment be adopted.

Senator Mayer assumed the Chair.

Senator Smith offered **SA 1** to **SA 19**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 19

Amend Senate Amendment No. 19 to House Bill No. 265, Page 39, Section 167.029, Lines 21-24, by striking all of said lines from the amendment; and further amend line 25 of said page by striking "section.".

Senator Smith moved that the above amendment be adopted, which motion prevailed.

Senator Engler assumed the Chair.

Senator Days offered **SA 2** to **SA 19**, which was read:

SENATE AMENDMENT NO. 2 TO
SENATE AMENDMENT NO. 19

Amend Senate Amendment No. 19 to House Bill No. 265, Pages 22-23, Section 161.660, by striking said section from the amendment.

Senator Days moved that the above

amendment be adopted.

Senator Days offered **SSA 1** for **SA 2** to **SA 19**, which was read:

SENATE SUBSTITUTE AMENDMENT NO. 1
FOR SENATE AMENDMENT NO. 2 TO
SENATE AMENDMENT NO. 19

Amend Senate Amendment No. 19 to House Bill No. 265, Pages 22-23, Section 161.660, by striking all of said section from the amendment; and

Further amend said amendment, pages 31-32, section 162.1162 by striking all of said section from the amendment.

Senator Days moved that the above substitute amendment be adopted, which motion failed.

SA 2 to **SA 19** was again taken up.

Senator Days moved that the above amendment be adopted, which motion failed.

Senator Bray offered **SA 3** to **SA 19**:

SENATE AMENDMENT NO. 3 TO
SENATE AMENDMENT NO. 19

Amend Senate Amendment No. 19 to House Bill No. 265, Page 11, Section 160.261, Lines 20-21, by striking said lines and inserting in lieu thereof, the following:

"10. Spanking, when administered by certificated personnel of a";

and further amend said section, page 12, line 13, by striking said line and inserting in lieu thereof: "spanking by" and further amend line 14 by striking the opening bracket "**[**" before the word "certificated" and the closing bracket "**]**" after the word "certificated" and further amend lines 24-25, by striking said lines and inserting in lieu thereof "arose out of or is related to a spanking administered by certificated".

Senator Bray moved that the above amendment be adopted and requested a roll call vote be taken. She was joined in her request by Senators Days, Crowell, McKenna and Kennedy.

SA 3 to **SA 19** failed of adoption by the following vote:

YEAS—Senators

Bray	Coleman	Days	Graham
Justus	Smith	Wilson—7	

NAYS—Senators

Barnitz	Bartle	Callahan	Clemens
Crowell	Engler	Gibbons	Goodman
Green	Griesheimer	Gross	Kennedy
Koster	Lager	Loudon	Mayer
McKenna	Nodler	Purgason	Ridgeway
Rupp	Scott	Shields	Shoemyer
Stouffer—25			

Absent—Senators

Champion	Vogel—2

Absent with leave—Senators—None

Vacancies—None

Senator Loudon offered **SA 4** to **SA 19**, which was read:

SENATE AMENDMENT NO. 4 TO
SENATE AMENDMENT NO. 19

Amend Senate Amendment No. 19 to House Bill No. 265, Page 16, Section 160.400, Line 15, by striking line 15 and inserting in lieu thereof the following:

"(4) In a metropolitan school district the mayor of a city not within a county; or

(5) **The school board of another school district authorized by the state board of education under this subdivision. The board of a school district in which charter schools are not permitted to operate may petition the state board of education for authority to sponsor a charter school in a district where charter schools are permitted. Within ninety days of the petition, the state board of education shall make a determination of the suitability of the**

petitioning school district to be a charter school sponsor and notify the district of its determination. The determination shall consider the school district's fiscal responsibility, educational performance, technical and logistical capacity, and other criteria that the board deems necessary for a charter school sponsor."

Senator Loudon moved that the above amendment be adopted.

Senator Shields offered **SSA 1** for **SA 4** to **SA 19**, which was read:

SENATE SUBSTITUTE AMENDMENT NO. 1
FOR SENATE AMENDMENT NO. 4 TO
SENATE AMENDMENT NO. 19

Amend Senate Amendment No. 19 to House Bill No. 265, Page 16, Section 160.400, Line 15, by striking line 15 and inserting in lieu thereof the following:

"(4) In a metropolitan school district the mayor of a city not within a county; or"

Senator Shields moved that the above substitute amendment be adopted.

At the request of Senator Shields, the above substitute amendment was withdrawn.

Senator Coleman offered **SSA 2** for **SA 4** to **SA 19**:

SENATE SUBSTITUTE AMENDMENT NO. 2
FOR SENATE AMENDMENT NO. 4 TO
SENATE AMENDMENT NO. 19

Amend Senate Amendment No. 19 to House Bill No. 265, Page 16, Section 160.400, Line 15, by striking said line from the amendment.

Senator Coleman moved that the above substitute amendment be adopted and requested a roll call vote be taken. She was joined in her request by Senators Bray, Callahan, Days and Wilson.

SSA 2 for **SA 4** to **SA 19** failed of adoption by the following vote:

YEAS—Senators

Bray	Callahan	Coleman	Days
Green	Justus	Shoemyer	Wilson—8

NAYS—Senators

Barnitz	Bartle	Champion	Crowell
Engler	Gibbons	Goodman	Graham
Griesheimer	Gross	Kennedy	Koster
Lager	Loudon	Mayer	McKenna
Nodler	Purgason	Ridgeway	Rupp
Scott	Shields	Smith	Stouffer—24

Absent—Senators

Clemens	Vogel—2

Absent with leave—Senators—None

Vacancies—None

SA 4 to **SA 19** was again taken up.

Senator Loudon moved that the above amendment be adopted, which motion failed.

At the request of Senator Rupp, **HB 265**, with **SA 19**, as amended, was placed on the Informal Calendar.

REFERRALS

President Pro Tem Gibbons referred **HCS** for **HB 827**, with **SCS**; **HCS** for **HB 948**; **HCS** for **HB 98**; and **HCS** for **HB 159**, with **SCS**, to the Committee on Governmental Accountability and Fiscal Oversight.

RESOLUTIONS

Senator McKenna offered Senate Resolution No. 1234, regarding Matthew Joseph Mayer, Sr., Arnold, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Crowell introduced to the Senate, Miss Missouri Amber Marie Seyer, her mother, Sherry Seyer and her cousin, Tori St. Cin, Oran.

Senator Shields introduced to the Senate,

Representative Jason Brown, Platte City.

Senator Engler introduced to the Senate, his son, Joseph, Farmington.

On motion of Senator Shields, the Senate adjourned under the rules.

SENATE CALENDAR

———

SIXTY-SEVENTH DAY–TUESDAY, MAY 8, 2007

———

FORMAL CALENDAR

SENATE BILLS FOR PERFECTION

1. SB 571-Mayer, with SCS
2. SB 652-Coleman and Gibbons, with SCS
3. SB 699-Lager, with SCS
4. SB 11-Coleman, with SCS
5. SB 536-Lager, with SCS
6. SB 552-Bartle
7. SB 484-Stouffer, with SCS
8. SBs 348, 626 & 461-Koster, et al, with SCS
9. SJR 15-Green
10. SB 629-Smith, with SCS
11. SB 122-Bray and Days, with SCS
12. SB 491-Ridgeway

HOUSE BILLS ON THIRD READING

1. HCS for HB 74 (Scott)
   (In Fiscal Oversight)
2. HCS for HB 845 (Crowell)
3. HCS for HB 818, with SCS (Loudon)
4. HCS for HB 245 (Stouffer)
5. HCS for HB 820 (Engler)
6. HB 527-Cooper (120) (Scott)
7. HCS for HB 329, with SCS (Scott)
8. HCS for HB 827, with SCS (Justus)
   (In Fiscal Oversight)
9. HCS for HB 948 (Shields)
   (In Fiscal Oversight)
10. HCS for HB 98 (Scott)
    (In Fiscal Oversight)
11. HB 482-Walton, et al (Goodman)
12. HCS for HB 583, with SCS
13. HCS for HB 431, with SCS (Goodman)
14. HB 42-Portwood, with SCS (Koster)
15. HCS for HB 159, with SCS
    (In Fiscal Oversight)
16. HB 801-Kraus, et al, with SCS (Engler)

INFORMAL CALENDAR

THIRD READING OF SENATE BILLS

SS for SB 303-Loudon
SS#4 for SCS for SB 430-Shields
SS for SB 570-Clemens

SENATE BILLS FOR PERFECTION

SB 2-Gibbons, with SCS
SB 17-Shields, with SCS
SB 20-Griesheimer, with SCS
SB 27-Bartle and Koster
SB 53-Koster and Engler, with SCS
SB 101-Mayer
SB 131-Rupp
SB 153-Engler, et al, with SCS
SB 155-Engler, with SCS & SS for SCS (pending)
SB 160-Rupp, with SCS
SB 168-Mayer and Crowell, with SCS, SS for SCS & SA 1 (pending)
SB 169-Rupp, with SCS, SS for SCS & SA 3 (pending)
SB 205-Stouffer and Gibbons, with SCS
SB 212-Goodman
SB 213-McKenna
SB 242-Nodler, with SCS
SB 250-Ridgeway and Vogel
SB 252-Ridgeway and McKenna
SB 254-Nodler, et al, with SCS
SBs 260 & 71-Koster, et al, with SCS
SB 274-Shields
SB 282-Griesheimer, with SCS & SS for SCS (pending)
SB 287-Crowell and Vogel, with SS (pending)
SB 292-Mayer
SB 297-Loudon, with SCS
SB 300-Bartle
SB 341-Goodman, with SCS
SB 363-Bartle
SB 364-Koster, with SCS, SS for SCS, SA 1 & SSA 1 for SA 1 (pending)
SBs 370, 375 & 432-Scott and Koster, with SCS & SA 5 (pending)
SBs 372 & 366-Justus and Koster, with SCS
SB 385-Gibbons, with SCS
SB 388-Mayer, with SCS
SB 400-Crowell, et al
SB 444-Goodman
SB 453-Scott, with SCS
SB 458-Gibbons
SB 476-Crowell
SB 480-Ridgeway, et al, with SCS
SB 492-Crowell
SB 499-Engler and Clemens, with SCS
SB 511-Scott, with SCS
SB 521-Lager, et al, with SCS
SB 523-Scott, with SCS
SB 531-Gibbons, with SCS
SB 534-Nodler
SB 537-Lager
SB 542-Scott, with SCS
SBs 555 & 38-Gibbons, with SCS
SB 563-Lager, with SCS & SS for SCS (pending)
SB 572-Vogel
SB 586-Crowell, with SCS
SB 592-Scott, with SCS
SB 599-Engler, with SCS
SB 627-Ridgeway
SB 635-Loudon, with SCS
SB 644-Griesheimer
SBs 660, 553, 557, 167, 258, 114 & 378-Mayer, with SCS
SB 698-Ridgeway, et al, with SCS

HOUSE BILLS ON THIRD READING

HCS#2 for HB 28 (Mayer)
HCS for HB 39, with SCS (Koster)
HB 46-Viebrock and Stevenson (Stouffer)
HB 69-Day, with SCS (Barnitz)
HB 125-Franz, with SCS (Shoemyer)
HB 134-Guest, et al (Nodler)
HCS for HB 135, with SCS (Koster)
HB 155-Dusenberg, et al (Ridgeway)

HCS for HB 165, with SCS
HCS for HB 181 (Rupp)
HCS for HB 182 (Stouffer)
HCS for HB 184 (Rupp)
HB 220-Stevenson (Nodler)
HCS for HB 221 (Loudon)
HB 265-Cunningham (86), with SA 19 (pending) (Rupp)
HB 267-Jones (117) and Cunningham (86), with SA 5 (pending) (Rupp)
HB 269-Nolte, et al (Ridgeway)
HCS for HB 272 (Goodman)
HCS for HB 298, with SCS (Engler)
HCS for HB 346 (Clemens)
SS#2 for SCS for HCS for HBs 444, 217, 225, 239, 243, 297, 402 & 172 (Crowell) (In Fiscal Oversight)
HB 454-Jetton, et al (Mayer)
HB 462-Munzlinger, et al (Purgason)
HCS for HB 469, with SCS (Crowell)
HB 489-Baker (123), et al, with SCS (Shields)
HB 526-Pratt (Loudon)
HCS for HB 551, with SCS (Koster)
HB 579-Dempsey, et al (Shields)
HB 596-St. Onge, with SCS (Stouffer)
HCS for HB 620, with SCS (Ridgeway)
HCS for HBs 654 & 938 (Crowell)
HB 686-Smith (150) and Tilley (Stouffer)
HCS for HB 741 (Koster)
HCS for HB 774 (Crowell)
HCS for HB 780, with SCS (Scott)
HB 875-Franz, with SCS (Purgason)
HCS for HB 894, with SCS (Days)
HB 1014-Wright, et al, with SCS (Mayer)
HCS for HB 1055, with SCA 1 (Scott)
HCS for HJR 1, with SCS (Rupp)
HJR 7-Nieves, et al, with SCS (pending) (Engler)
HJR 19-Bearden, et al (Ridgeway)

CONSENT CALENDAR

Senate Bills

Reported 2/8

SB 211-Goodman

Reported 2/15

SB 8-Kennedy

Reported 3/8

SB 185-Green

SENATE BILLS WITH HOUSE AMENDMENTS

SCS for SBs 62 & 41-Goodman and Koster, with HCS, as amended
SRB 613-Goodman, with HCS

BILLS IN CONFERENCE AND BILLS CARRYING REQUEST MESSAGES

In Conference

SB 25-Champion, with HCS, as amended
SB 30-Nodler and Ridgeway, with HCS, as amended
SCS for SB 64-Goodman and Koster, with HCS, as amended
SB 81-Griesheimer, with HCS, as amended
SCS for SB 198-Mayer, with HCS
SB 233-Crowell, with HAs 1, 2, 3, 4 & 5
SCS for SB 308-Crowell, et al, with HCS, as amended
SB 406-Crowell, with HCS#2, as amended
HB 1 (Icet), with SCS (Gross)
HCS for HB 2, with SCS (Gross)
HCS for HB 3, with SCS (Gross)
HCS for HB 4, with SCS (Gross)
HCS for HB 5, with SCS (Gross)
HCS for HB 6, with SCS (Gross)
HCS for HB 7, with SCS (Gross)
HCS for HB 8, with SCS (Gross)
HCS for HB 9, with SCS (Gross)
HCS for HB 10, with SCS (Gross)
HCS for HB 11, with SCS, as amended (Gross)
HCS for HB 12, with SCS (Gross)
HCS for HB 13, with SCS (Gross)
HCS for HB 327, with SS for SCS, as amended (Griesheimer) (House requests Senate adopt CCR and pass CCS)
HB 574-St. Onge, with SA 1 & SA 3 (Stouffer)
HB 665-Ervin, et al, with SS, as amended (Ridgeway)

Requests to Recede or Grant Conference

SCS for SB 82-Griesheimer, with HCS, as amended (Senate requests House recede or grant conference)
SB 84-Champion, with HCS, as amended (Senate requests House recede or grant conference)
SB 166-Griesheimer, with HCS (Senate requests House recede and take up and pass the bill)
SB 416-Goodman, with HCS (Senate requests House recede or grant conference)

RESOLUTIONS

Reported from Committee

HCR 15-Threlkeld, et al, with SCS (Shields)
SCR 10-Koster and Shields
HCR 25-Yates, et al (Bartle)
HCR 30-Pratt, et al (Koster)
HCR 11-Ervin and Flook (Ridgeway)
HCR 8-Loehner, et al (Barnitz)
SCR 9-Crowell
SCR 20-Crowell