

FIRST REGULAR SESSION

SENATE BILL NO. 446

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Read 1st time February 24, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

2100S.011

AN ACT

To repeal sections 160.534, 163.011, 313.775, 313.778, and 313.822, RSMo, and to enact in lieu thereof three new sections relating to state funding for elementary and secondary education.

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

Section A. Sections 160.534, 163.011, 313.775, 313.778, and 313.822, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 160.534, 163.011, and 313.822, to read as follows:

160.534. [1.] For fiscal year 1996 and each subsequent fiscal year, any amount of the excursion gambling boat proceeds deposited in the gaming proceeds for education fund in excess of the amount transferred to the school district bond fund as provided in section 164.303, RSMo, shall be transferred to the classroom trust fund. Such moneys shall be distributed in the manner provided in section 163.043, RSMo.

[2. Starting in fiscal year 2009, and for each subsequent fiscal year, all excursion gambling boat proceeds deposited in the gaming proceeds for education fund in excess of the amount transferred to the classroom trust fund for fiscal year 2008 plus the amount appropriated to the school district bond fund in accordance with section 164.303, RSMo, shall be deposited into the schools first elementary and secondary education improvement fund.

3. The amounts deposited in the schools first elementary and secondary education improvement fund pursuant to this section shall constitute new and additional funding for elementary and secondary education and shall not be used to replace existing funding provided for elementary and secondary education.]

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

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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

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

27 (3) "Current operating expenditures":

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

37 (b) In every fiscal year subsequent to fiscal year 2007, current operating

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

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

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

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

56 (b) "Regional wage per job":

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

66 b. The total Missouri wage and salary disbursements of the micropolitan
67 area as defined by the Office of Management and Budget divided by the total
68 Missouri micropolitan wage and salary employment for the micropolitan area for
69 the county signified in the school district number, as reported by the Bureau of
70 Economic Analysis of the United States Department of Commerce for the fourth
71 year preceding the payment year, if a micropolitan area for such county has been
72 established and recalculated upon every decennial census to incorporate counties
73 that are newly added to the description of micropolitan areas; or

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

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

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

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

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

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

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

110 current operating expenditures per average daily attendance, by the total average
111 daily attendance of all included performance districts;

112 (10) "Local effort":

113 (a) For the fiscal year 2007 calculation, "local effort" shall be computed as
114 the equalized assessed valuation of the property of a school district in calendar
115 year 2004 divided by one hundred and multiplied by the performance levy less the
116 percentage retained by the county assessor and collector plus one hundred
117 percent of the amount received in fiscal year 2005 for school purposes from
118 intangible taxes, fines, escheats, payments in lieu of taxes and receipts from
119 state-assessed railroad and utility tax, one hundred percent of the amount
120 received for school purposes pursuant to the merchants' and manufacturers' taxes
121 under sections 150.010 to 150.370, RSMo, one hundred percent of the amounts
122 received for school purposes from federal properties under sections 12.070 and
123 12.080, RSMo, except when such amounts are used in the calculation of federal
124 impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues
125 received for school purposes from the school district trust fund under section
126 163.087, and one hundred percent of any local earnings or income taxes received
127 by the district for school purposes. Under this paragraph, for a special district
128 established under sections 162.815 to 162.940, RSMo, in a county with a charter
129 form of government and with more than one million inhabitants, a tax levy of zero
130 shall be utilized in lieu of the performance levy for the special school district;

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

138 (11) "Membership" shall be the average of:

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

143 (b) The number of resident full-time students and the full-time equivalent
144 number of part-time students who were enrolled in the public schools of the
145 district on the last Wednesday in January of the previous year and who were in

146 attendance one day or more during the preceding ten school days, plus the
147 full-time equivalent number of summer school pupils. "Full-time equivalent
148 number of part-time students" is determined by dividing the total number of
149 hours for which all part-time students are enrolled by the number of hours in the
150 school term. "Full-time equivalent number of summer school pupils" is
151 determined by dividing the total number of hours for which all summer school
152 pupils were enrolled by the number of hours required pursuant to section
153 160.011, RSMo, in the school term. Only students eligible to be counted for
154 average daily attendance shall be counted for membership;

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

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

165 (14) "Performance levy", three dollars and forty-three cents;

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

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

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

182 attendance of all included performance districts;

183 (18) "State adequacy target", the sum of the current operating
184 expenditures of every performance district that falls entirely above the bottom
185 five percent and entirely below the top five percent of average daily attendance,
186 when such districts are rank-ordered based on their current operating
187 expenditures per average daily attendance, divided by the total average daily
188 attendance of all included performance districts [plus the total amount of funds
189 placed in the schools first elementary and secondary education improvement fund
190 in the preceding fiscal year divided by the total average daily attendance of all
191 school districts for the preceding fiscal year]. The department of elementary and
192 secondary education shall first calculate the state adequacy target for fiscal year
193 2007 and recalculate the state adequacy target every two years using the most
194 current available data[; provided that the state adequacy target shall be
195 recalculated every year to reflect the per-pupil amount of funds placed in the
196 schools first elementary and secondary education improvement fund in the
197 preceding fiscal year]. The recalculation shall never result in a decrease from the
198 previous state adequacy target amount. Should a recalculation result in an
199 increase in the state adequacy target amount, fifty percent of that increase shall
200 be included in the state adequacy target amount in the year of recalculation, and
201 fifty percent of that increase shall be included in the state adequacy target
202 amount in the subsequent year. The state adequacy target may be adjusted to
203 accommodate available appropriations;

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

210 (20) "Weighted average daily attendance", the average daily attendance
211 plus the product of twenty-five hundredths multiplied by the free and reduced
212 lunch pupil count that exceeds the free and reduced lunch threshold, plus the
213 product of seventy-five hundredths multiplied by the number of special education
214 pupil count that exceeds the special education threshold, and plus the product of
215 six-tenths multiplied by the number of limited English proficiency pupil count
216 that exceeds the limited English proficiency threshold. For special districts
217 established under sections 162.815 to 162.940, RSMo, in a county with a charter

218 form of government and with more than one million inhabitants, weighted
219 average daily attendance shall be the average daily attendance plus the product
220 of twenty-five hundredths multiplied by the free and reduced lunch pupil count
221 that exceeds the free and reduced lunch threshold, plus the product of
222 seventy-five hundredths multiplied by the sum of the special education pupil
223 count that exceeds the threshold for each county district, plus the product of
224 six-tenths multiplied by the limited English proficiency pupil count that exceeds
225 the limited English proficiency threshold. None of the districts comprising a
226 special district established under sections 162.815 to 162.940, RSMo, in a county
227 with a charter form of government and with more than one million inhabitants,
228 shall use any special education pupil count in calculating their weighted average
229 daily attendance.

313.822. A tax is imposed on the adjusted gross receipts received from
2 gambling games authorized pursuant to sections 313.800 to 313.850 at the rate
3 of twenty-one percent. The taxes imposed by this section shall be returned to the
4 commission in accordance with the commission's rules and regulations who shall
5 transfer such taxes to the director of revenue. All checks and drafts remitted for
6 payment of these taxes and fees shall be made payable to the director of revenue.
7 If the commission is not satisfied with the return or payment made by any
8 licensee, it is hereby authorized and empowered to make an assessment of the
9 amount due based upon any information within its possession or that shall come
10 into its possession. Any licensee against whom an assessment is made by the
11 commission may petition for a reassessment. The request for reassessment shall
12 be made within twenty days from the date the assessment was mailed or
13 delivered to the licensee, whichever is earlier. Whereupon the commission shall
14 give notice of a hearing for reassessment and fix the date upon which the hearing
15 shall be held. The assessment shall become final if a request for reassessment
16 is not received by the commission within the twenty days. Except as provided in
17 this section, on and after April 29, 1993, all functions incident to the
18 administration, collection, enforcement, and operation of the tax imposed by
19 sections 144.010 to 144.525, RSMo, shall be applicable to the taxes and fees
20 imposed by this section.

21 (1) Each excursion gambling boat shall designate a city or county as its
22 home dock. The home dock city or county may enter into agreements with other
23 cities or counties authorized pursuant to subsection 10 of section 313.812 to share
24 revenue obtained pursuant to this section. The home dock city or county shall

25 receive ten percent of the adjusted gross receipts tax collections, as levied
26 pursuant to this section, for use in providing services necessary for the safety of
27 the public visiting an excursion gambling boat. Such home dock city or county
28 shall annually submit to the commission a shared revenue agreement with any
29 other city or county. All moneys owed the home dock city or county shall be
30 deposited and distributed to such city or county in accordance with rules and
31 regulations of the commission. All revenues provided for in this section to be
32 transferred to the governing body of any city not within a county and any city
33 with a population of over three hundred fifty thousand inhabitants shall not be
34 considered state funds and shall be deposited in such city's general revenue fund
35 to be expended as provided for in this section.

36 (2) The remaining amount of the adjusted gross receipts tax shall be
37 deposited in the state treasury to the credit of the "Gaming Proceeds for
38 Education Fund" which is hereby created in the state treasury. Moneys deposited
39 in this fund shall be kept separate from the general revenue fund as well as any
40 other funds or accounts in the state treasury, shall be used solely for education
41 pursuant to the Missouri Constitution and shall be considered the proceeds of
42 excursion boat gambling and state funds pursuant to article IV, section 15 of the
43 Missouri Constitution. All interest received on the gaming proceeds for education
44 fund shall be credited to the gaming proceeds for education fund. Appropriation
45 of the moneys deposited into the gaming proceeds for education fund shall be
46 pursuant to state law.

47 (3) The state auditor shall perform an annual audit of the gaming
48 proceeds for education fund [and the schools first elementary and secondary
49 education improvement fund], which shall include the evaluation of whether
50 appropriations for elementary and secondary education have increased and are
51 being used as intended [by this act]. The state auditor shall make copies of each
52 audit available to the public and to the general assembly.

[313.775. This act shall be known and may be cited as "The
2 Schools First Elementary and Secondary Education Funding
3 Initiative".]

[313.778. There is hereby created in the state treasury the
2 "Schools First Elementary and Secondary Education Improvement
3 Fund", which shall consist of taxes on excursion gambling boat
4 proceeds as provided in subsection 2 of section 160.534, RSMo, to
5 be used solely for the purpose of increasing funding for elementary

6 and secondary education. The schools first elementary and
7 secondary education improvement fund shall be state revenues
8 collected from gaming activities for purposes of article III, section
9 39(d) of the constitution. Moneys in the schools first elementary
10 and secondary education improvement fund shall be kept separate
11 from the general revenue fund as well as any other funds or
12 accounts in the state treasury. The state treasurer shall be
13 custodian of the fund and may approve disbursements from the
14 fund in accordance with sections 30.170 and 30.180,
15 RSMo. Notwithstanding the provisions of section 33.080, RSMo, to
16 the contrary, any moneys remaining in the fund at the end of the
17 biennium shall not revert to the credit of the general revenue
18 fund. The state treasurer shall invest moneys in the fund in the
19 same manner as other funds are invested. Any interest and
20 moneys earned on such investments shall be credited to the fund.]

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