

FIRST REGULAR SESSION

SENATE BILL NO. 453

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAYER.

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

TERRY L. SPIELER, Secretary.

1962S.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 education funding.

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Section A. Sections 160.534, 163.011, 313.775, 313.778, and 313.822, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 160.534, 163.011, and 313.822, to read as follows: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

(1) "Adjusted operating levy", the sum of tax rates for the current year for

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

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) **"Gifted education pupil count", the number of pupils who**
93 **qualify as "gifted" under the definition of "gifted children" in section**
94 **162.675, RSMo, and who are enrolled in a gifted education program**
95 **provided by the district on the last Wednesday in January for the**
96 **immediately preceding academic year but not to exceed five percent of**
97 **the district's immediately preceding academic year enrollment;**
98 **provided that this subdivision shall not be construed to limit any**
99 **district from identifying or in any manner providing gifted education**
100 **services to more than five percent of the district's enrolled pupils;**

101 (9) "Limited English proficiency pupil count", the number in the preceding
102 school year of pupils aged three through twenty-one enrolled or preparing to
103 enroll in an elementary school or secondary school who were not born in the
104 United States or whose native language is a language other than English or are
105 Native American or Alaskan native, or a native resident of the outlying areas,
106 and come from an environment where a language other than English has had a
107 significant impact on such individuals' level of English language proficiency, or
108 are migratory, whose native language is a language other than English, and who
109 come from an environment where a language other than English is dominant; and
110 have difficulties in speaking, reading, writing, or understanding the English

111 language sufficient to deny such individuals the ability to meet the state's
112 proficient level of achievement on state assessments described in Public Law
113 107-10, the ability to achieve successfully in classrooms where the language of
114 instruction is English, or the opportunity to participate fully in society;

115 ~~[(9)]~~ **(10)** "Limited English proficiency threshold" shall be calculated by
116 dividing the total limited English proficiency pupil count of every performance
117 district that falls entirely above the bottom five percent and entirely below the
118 top five percent of average daily attendance, when such districts are rank-ordered
119 based on their current operating expenditures per average daily attendance, by
120 the total average daily attendance of all included performance districts;

121 ~~[(10)]~~ **(11)** "Local effort":

122 (a) For the fiscal year 2007 calculation, "local effort" shall be computed as
123 the equalized assessed valuation of the property of a school district in calendar
124 year 2004 divided by one hundred and multiplied by the performance levy less the
125 percentage retained by the county assessor and collector plus one hundred
126 percent of the amount received in fiscal year 2005 for school purposes from
127 intangible taxes, fines, escheats, payments in lieu of taxes and receipts from
128 state-assessed railroad and utility tax, one hundred percent of the amount
129 received for school purposes pursuant to the merchants' and manufacturers' taxes
130 under sections 150.010 to 150.370, RSMo, one hundred percent of the amounts
131 received for school purposes from federal properties under sections 12.070 and
132 12.080, RSMo, except when such amounts are used in the calculation of federal
133 impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues
134 received for school purposes from the school district trust fund under section
135 163.087, and one hundred percent of any local earnings or income taxes received
136 by the district for school purposes. Under this paragraph, for a special district
137 established under sections 162.815 to 162.940, RSMo, in a county with a charter
138 form of government and with more than one million inhabitants, a tax levy of zero
139 shall be utilized in lieu of the performance levy for the special school district;

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

147 [(11)] (12) "Membership" shall be the average of:

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

152 (b) The number of resident full-time students and the full-time equivalent
153 number of part-time students who were enrolled in the public schools of the
154 district on the last Wednesday in January of the previous year and who were in
155 attendance one day or more during the preceding ten school days, plus the
156 full-time equivalent number of summer school pupils. "Full-time equivalent
157 number of part-time students" is determined by dividing the total number of
158 hours for which all part-time students are enrolled by the number of hours in the
159 school term. "Full-time equivalent number of summer school pupils" is
160 determined by dividing the total number of hours for which all summer school
161 pupils were enrolled by the number of hours required pursuant to section
162 160.011, RSMo, in the school term. Only students eligible to be counted for
163 average daily attendance shall be counted for membership;

164 [(12)] (13) "Operating levy for school purposes", the sum of tax rates
165 levied for teachers' and incidental funds plus the operating levy or sales tax
166 equivalent pursuant to section 162.1100, RSMo, of any transitional school district
167 containing the school district, in the payment year, not including any equalized
168 operating levy for school purposes levied by a special school district in which the
169 district is located;

170 [(13)] (14) "Performance district", any district that has met all
171 performance standards and indicators as established by the department of
172 elementary and secondary education for purposes of accreditation under section
173 161.092, RSMo, and as reported on the final annual performance report for that
174 district each year;

175 [(14)] (15) "Performance levy", three dollars and forty-three cents;

176 [(15)] (16) "School purposes" pertains to teachers' and incidental funds;

177 [(16)] (17) "Special education pupil count", the number of public school
178 students with a current individualized education program and receiving services
179 from the resident district as of December first of the preceding school year, except
180 for special education services provided through a school district established under
181 sections 162.815 to 162.940, RSMo, in a county with a charter form of government
182 and with more than one million inhabitants, in which case the sum of the

183 students in each district within the county exceeding the special education
184 threshold of each respective district within the county shall be counted within the
185 special district and not in the district of residence for purposes of distributing the
186 state aid derived from the special education pupil count;

187 [(17)] **(18)** "Special education threshold" shall be calculated by dividing
188 the total special education pupil count of every performance district that falls
189 entirely above the bottom five percent and entirely below the top five percent of
190 average daily attendance, when such districts are rank-ordered based on their
191 current operating expenditures per average daily attendance, by the total average
192 daily attendance of all included performance districts;

193 [(18)] **(19)** "State adequacy target", the sum of the current operating
194 expenditures of every performance district that falls entirely above the bottom
195 five percent and entirely below the top five percent of average daily attendance,
196 when such districts are rank-ordered based on their current operating
197 expenditures per average daily attendance, divided by the total average daily
198 attendance of all included performance districts [plus the total amount of funds
199 placed in the schools first elementary and secondary education improvement fund
200 in the preceding fiscal year divided by the total average daily attendance of all
201 school districts for the preceding fiscal year]. The department of elementary and
202 secondary education shall first calculate the state adequacy target for fiscal year
203 2007 and recalculate the state adequacy target every two years using the most
204 current available data[; provided that the state adequacy target shall be
205 recalculated every year to reflect the per-pupil amount of funds placed in the
206 schools first elementary and secondary education improvement fund in the
207 preceding fiscal year]. The recalculation shall never result in a decrease from the
208 previous state adequacy target amount. Should a recalculation result in an
209 increase in the state adequacy target amount, fifty percent of that increase shall
210 be included in the state adequacy target amount in the year of recalculation, and
211 fifty percent of that increase shall be included in the state adequacy target
212 amount in the subsequent year. The state adequacy target may be adjusted to
213 accommodate available appropriations;

214 [(19)] **(20)** "Teacher", any teacher, teacher-secretary, substitute teacher,
215 supervisor, principal, supervising principal, superintendent or assistant
216 superintendent, school nurse, social worker, counselor or librarian who shall,
217 regularly, teach or be employed for no higher than grade twelve more than
218 one-half time in the public schools and who is certified under the laws governing

219 the certification of teachers in Missouri;

220 [(20)] (21) "Weighted average daily attendance", the average daily
221 attendance plus the product of twenty-five hundredths multiplied by the free and
222 reduced lunch pupil count that exceeds the free and reduced lunch threshold,
223 **plus the product of twenty-five hundredths multiplied by the number**
224 **of the district's gifted education pupil count**, plus the product of
225 seventy-five hundredths multiplied by the number of special education pupil
226 count that exceeds the special education threshold, and plus the product of
227 six-tenths multiplied by the number of limited English proficiency pupil count
228 that exceeds the limited English proficiency threshold. For special districts
229 established under sections 162.815 to 162.940, RSMo, in a county with a charter
230 form of government and with more than one million inhabitants, weighted
231 average daily attendance shall be the average daily attendance plus the product
232 of twenty-five hundredths multiplied by the free and reduced lunch pupil count
233 that exceeds the free and reduced lunch threshold, plus the product of
234 seventy-five hundredths multiplied by the sum of the special education pupil
235 count that exceeds the threshold for each county district, plus the product of
236 six-tenths multiplied by the limited English proficiency pupil count that exceeds
237 the limited English proficiency threshold. None of the districts comprising a
238 special district established under sections 162.815 to 162.940, RSMo, in a county
239 with a charter form of government and with more than one million inhabitants,
240 shall use any special education pupil count in calculating their weighted average
241 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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