

SECOND REGULAR SESSION

SENATE BILL NO. 706

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Read 1st time January 26, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

4989S.06I

AN ACT

To repeal sections 162.081, 163.021, 163.036, 167.131, 168.104, 168.106, 168.116, 168.124, 168.128, and 168.221, RSMo, and to enact in lieu thereof twenty-five new sections relating to school operations, with an emergency clause for certain sections and an effective date for certain sections.

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

Section A. Sections 162.081, 163.021, 163.036, 167.131, 168.104, 168.106, 168.116, 168.124, 168.128, and 168.221, RSMo, are repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 135.712, 135.713, 135.714, 135.715, 135.716, 135.717, 135.719, 160.402, 162.081, 162.086, 163.021, 163.036, 167.131, 167.133, 167.403, 167.406, 167.409, 167.418, 168.075, 168.104, 168.106, 168.116, 168.124, 168.128, and 1, to read as follows:

135.712. 1. Sections 135.712 to 135.719 shall be known and may be cited as the "Passport Scholarship Program". This program shall grant scholarships to students from unaccredited districts for certain educational costs as defined in sections 135.712 to 135.719.

2. As used in sections 135.712 to 135.719, the following terms mean:

(1) "Department", the department of economic development;

(2) "Director", the director of the department of economic development;

(3) "Educational assistance organization", a charitable organization registered in this state that is exempt from federal taxation under the Internal Revenue Code of 1986, as amended, is certified by the director, and that allocates all of its annual revenue

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

14 derived from contributions for which a credit is claimed under this
15 section for educational assistance with the exception of marketing and
16 administrative expenses in paragraph (c) of subdivision (4) of
17 subsection 1 of section 135.714;

18 (4) "Eligible student", a student who resides in any unaccredited
19 district. Any student who receives an educational scholarship under
20 this program shall remain eligible until the student graduates from
21 high school or reaches twenty-one years of age, whichever occurs
22 earlier even if his or her school district of residence experiences a
23 change in boundary lines or change in composition or accreditation
24 classification because of an annexation, consolidation, reorganization,
25 or dissolution;

26 (5) "Parent", a parent, guardian, custodian, or other person with
27 authority to act on behalf of the eligible student;

28 (6) "Passport scholarships", grants to eligible students to cover
29 all or part of the applicable expenditure per student and fees at a
30 qualified school, or other approved educational expenses, including
31 computers for participation in a virtual school and transportation to a
32 nonpublic school;

33 (7) "Program", the passport scholarship program established
34 under sections 135.712 to 135.719;

35 (8) "Qualified school", a nonpublic preschool, elementary or
36 secondary school in the state that complies with all requirements of the
37 program;

38 (9) "Qualifying contribution", a donation of cash, stock, bonds, or
39 other marketable securities for purposes of claiming a tax credit under
40 this section;

41 (10) "Taxpayer", an individual subject to the state income tax
42 imposed in chapter 143, an individual, a firm, a partner in a firm,
43 corporation, or a shareholder in an S corporation doing business in this
44 state and subject to the state income tax imposed by chapter 143, a
45 corporation subject to the annual corporation franchise tax imposed by
46 chapter 147, or an express company which pays an annual tax on its
47 gross receipts in this state under chapter 153, which files a Missouri
48 income tax return and is not a dependent of any other taxpayer.

135.713. 1. For all tax years beginning on or after January 1,
2 2012, any taxpayer who makes a qualifying contribution to an approved

3 or qualified educational assistance organization may claim a credit
4 against the tax otherwise due under chapter 143, other than taxes
5 withheld under sections 143.191 to 143.265, and chapters 147 and 153,
6 in an amount equal to sixty percent of the amount the taxpayer
7 contributed to such educational assistance organization during the tax
8 year for which the credit is claimed.

9 2. The amount of the tax credit claimed shall not exceed the
10 amount of the taxpayer's state tax liability for the tax year for which
11 the credit is claimed. The department shall certify the tax credit
12 amount to the taxpayer and to the department of revenue. Any amount
13 of credit that a taxpayer whose filing status is single, head of
14 household, or qualifying widow or widower, or whose filing status is
15 married filing combined, or whose filing status is corporate, business
16 or franchise is prohibited by the program from claiming in a tax year
17 may be carried forward to any of such taxpayer's four subsequent
18 taxable years. All tax credits authorized under the program may be
19 transferred, sold, or assigned.

20 3. The cumulative amount of tax credits which may be allocated
21 to all taxpayers contributing to educational assistance organizations in
22 any one fiscal year shall not exceed forty million dollars, which amount
23 shall annually be adjusted by the department for inflation based on the
24 consumer price index for the Midwest, as defined and officially
25 recorded by the United States department of labor, or its
26 successor. The director shall establish a procedure to distribute the tax
27 credits among taxpayers claiming a tax credit under the program in the
28 order in which the claim for the tax credit was received by the
29 department. The director shall certify to the educational assistance
30 organizations the amount of eligible tax credits that can be taken by
31 the organizations. The director may add to the annual cumulative
32 amount of tax credits in the second and subsequent years of the
33 program a total equal to the cumulative amount by which the current
34 expenditure per average daily attendance for each student in the
35 unaccredited district receiving a scholarship exceeds the cumulative
36 amount of scholarship checks written the previous year.

135.714. 1. Each educational assistance organization that desires
2 to participate or provide scholarships through the passport scholarship
3 program shall:

4 (1) Notify the department of its intent to provide educational
5 scholarships to eligible students attending qualified schools;

6 (2) Demonstrate to the department that it is exempt from federal
7 income tax under section 501(c) (3) of the Internal Revenue Code of
8 1986, as amended;

9 (3) Provide a department-approved receipt to taxpayers for
10 contributions made to the organization;

11 (4) Ensure that:

12 (a) One hundred percent of its revenues from interest or
13 investments is spent on educational scholarships;

14 (b) At least ninety percent of its revenues from qualifying
15 contributions is spent on educational scholarships; and

16 (c) Of its remaining revenue from contributions, its marketing
17 and administrative expenses shall not exceed the following limits: ten
18 percent for the first one hundred thousand dollars; eight percent for
19 the next four hundred thousand dollars; six percent for the next five
20 hundred thousand dollars; and three percent thereafter;

21 (5) Distribute educational scholarship payments no more than
22 four times per year in the form of checks made out to an eligible
23 student's parent and mailed to the qualified school where the student
24 is enrolled. The first payment shall be distributed prior to the start of
25 the school year. The parent shall endorse the check before it can be
26 deposited. If a student withdraws from a qualified school prior to the
27 end of the school year, the qualified school shall prorate the
28 scholarship funds and return the prorated amount to the educational
29 assistance organization. If the educational scholarship payments are
30 insufficient to cover the cost of tuition, the school may charge the
31 parent or guardian the difference between the cost of tuition and the
32 amount of educational scholarship payments;

33 (6) Provide the department, upon request, with criminal
34 background checks on all of its employees and board members, and
35 exclude from employment or governance any individual that might
36 reasonably pose a risk to the appropriate use of contributed funds;

37 (7) Demonstrate its financial accountability by:

38 (a) Submitting to the department a financial information report
39 for the organization that complies with uniform financial accounting
40 standards established by the department and is conducted by a

41 **certified public accountant; and**

42 **(b) Having an auditor certify that the report is free of material**
43 **misstatements; and**

44 **(8) Demonstrate its financial viability, if it is to receive**
45 **donations of fifty thousand dollars or more during the school year, by**
46 **filing with the department before the start of the school year a surety**
47 **bond payable to the state in an amount equal to the aggregate amount**
48 **of contributions expected to be received during the school year.**

49 **2. Each educational assistance organization shall ensure that**
50 **qualified schools that accept eligible students receiving passport**
51 **scholarships from the organization shall:**

52 **(1) Comply with all health and safety laws or codes that apply to**
53 **nonpublic schools;**

54 **(2) Hold a valid occupancy permit if required by the**
55 **municipality where such schools are located;**

56 **(3) Certify that the qualified schools shall not discriminate in**
57 **admissions of eligible students on the basis of race, color, national**
58 **origin, or disability;**

59 **(4) Provide academic accountability to parents or guardians of**
60 **the eligible students in the program by regularly reporting to them on**
61 **the student's progress.**

62 **3. An educational assistance organization shall publicly report**
63 **to the department by June first of each year the following information**
64 **prepared by a certified public accountant regarding its grants in the**
65 **previous calendar year:**

66 **(1) The name and address of the educational assistance**
67 **organization;**

68 **(2) The name and address of each eligible student who received**
69 **a passport scholarship from the organization;**

70 **(3) The total number and total dollar amount of contributions**
71 **received by the organization during the previous calendar year;**

72 **(4) The total number and total dollar amount of passport**
73 **scholarships awarded by the organization during the previous calendar**
74 **year.**

75 **4. Before educational assistance organizations may raise**
76 **contributions under the program, they shall have received or**
77 **demonstrated ability to receive applications from eligible students.**

78 5. An educational assistance organization shall require each
79 qualified school to report the attendance rates, graduation rates, and
80 rate of entry into institutions of higher education for each student who
81 receives scholarship funds. An educational assistance organization
82 shall annually report this information to the department.

 135.715. 1. All qualified schools shall comply with all state laws
2 that apply to public schools regarding criminal background checks for
3 employees and shall exclude from employment any person prohibited
4 by state law from working in a public school.

5 2. All qualified schools may administer to their scholarship
6 students the statewide assessments under section 160.518, a nationally
7 recognized norm-referenced assessment, or an assessment of
8 educational functioning level for adult basic education that meets the
9 guidelines for the national reporting system for adult education and
10 literacy, except for those students with individualized education
11 programs that specify that such assessment would not be
12 appropriate. Such assessments or tests shall not be required to be
13 given more frequently in a grade than the statewide assessments are
14 given. If a qualified school does not administer the statewide
15 assessments, the assessments shall be administered by the district of
16 residence and the qualified school shall use scholarship funds to
17 reimburse the district for the cost of administering the
18 assessment. Results of the assessments shall be provided to parents of
19 each passport scholarship recipient. The assessment results of the
20 scholarship recipients shall not be considered for purposes of school
21 accreditation under the Missouri school improvement program or for
22 purposes of the federal No Child Left Behind Act.

23 3. All qualified schools shall:

24 (1) Comply with all health and safety laws or codes that apply to
25 nonpublic schools;

26 (2) Hold a valid occupancy permit if required by their
27 municipality;

28 (3) Certify that they will not discriminate in admissions on the
29 basis of race, color, national origin, or disability;

30 (4) File a statement of intent to participate that includes the
31 information listed in this subdivision;

32 (5) For initial applicants, file a list of the information required

33 under this subsection, and for requalifying schools, annual reporting
34 of the information required under this subsection. No public reporting
35 of information required under this subsection shall be personally
36 identifiable to an individual student;

37 (6) Be fiscally sound as evidenced by three years in existence, a
38 surety bond, or letter of credit covering the amount of funds received
39 on behalf of scholarship recipients;

40 (7) Be accredited by a regional or national accrediting agency or
41 for a school that is not currently accredited, provisional approval
42 pending the achievement of accreditation no later than the fourth
43 school year of participation. No qualified school shall have been
44 declared unaccredited by its accrediting agency;

45 (8) Annually administer a parental satisfaction survey; and

46 (9) Demonstrate evidence of the annual transmittal of the
47 information required by this section to parents and evidence of its
48 availability to applicants.

49 4. Qualified schools shall have on record a form signed by the
50 parent or guardian of each scholarship recipient agreeing to the
51 release of the following information to the director of the department
52 of economic development:

53 (1) The student's participation as a scholarship recipient under
54 sections 135.712 to 135.719; and

55 (2) Testing results for statewide assessment under section
56 160.518 or other assessment administered by the school.

57 5. As a condition of participation, the parents, guardians, and
58 scholarship recipients under sections 135.712 to 135.719 shall agree to
59 abide by the code of conduct and any parental involvement
60 requirements of the qualified school unless the qualified school agrees
61 to a waiver of any requirements.

62 6. A qualified school shall not accept a scholarship check that
63 exceeds its standard expenditure per pupil, including fees and
64 transportation if provided by the receiving school.

135.716. 1. The department shall provide a standardized format
2 for a receipt to be issued by an educational assistance organization to
3 a taxpayer to indicate the value of a contribution received from the
4 taxpayer. The department shall require the taxpayer to provide a copy
5 of this receipt when claiming the tax credit authorized by the program.

6 2. The department shall provide a standardized format for
7 educational assistance organizations to report the information required
8 in subsection 1 of this section.

9 3. The department may conduct either a financial review or an
10 audit of an educational assistance organization if the department
11 possesses evidence of fraud committed by the organization.

12 4. The director of the department may bar an educational
13 assistance organization from participating in the program if the
14 department establishes that the educational assistance organization has
15 intentionally and substantially failed to comply with the requirements
16 of section 135.714. If the director of the department bars an
17 educational assistance organization from the program under this
18 subsection, he or she shall notify any affected school and affected
19 eligible students and their parents of the decision as soon as possible
20 after the determination is made.

21 5. The department of economic development shall be entitled to
22 charge and receive no more than two percent of the qualifying
23 contributions received by any educational assistance organization for
24 the department's marketing and administrative expenses or the costs
25 incurred in administering the program, whichever is less. The director
26 shall establish procedures to ensure the percentage of funds for
27 administration of the program is directed to the department of
28 economic development in a timely manner with the necessary
29 information to verify the correct amount has been transmitted. Any
30 remaining funds shall be distributed to the educational assistance
31 organizations.

135.717. 1. Subject to appropriations, the committee on
2 legislative research, in collaboration with the joint committee on
3 education, shall contract with one or more qualified researchers who
4 have previous experience evaluating school choice programs to conduct
5 a study of the program with funds donated to the educational
6 assistance organizations used for tuition scholarships. The committee
7 on legislative research shall also apply for grants to assist in funding
8 the study and shall use any grant funds it receives to conduct the
9 study. The committee may accept private donations to assist in funding
10 the study, and if it receives any private donations, it shall use them to
11 conduct the study.

12 **2. The study shall assess:**

13 **(1) The level of parental satisfaction with the program;**

14 **(2) The level of participating students' satisfaction with the**
15 **program;**

16 **(3) The overall impact of the program on public school students**
17 **and on the resident school districts and schools from which the**
18 **participating students transferred;**

19 **(4) The impact of the program on public and private school**
20 **capacity, availability, and quality of service; and**

21 **(5) Each participating student's performance on annual**
22 **assessment instruments before and after entering the program,**
23 **provided that the study's assessment shall be conducted so that no**
24 **participating student shall be individually identifiable.**

25 **3. The researchers who conduct the study shall apply**
26 **appropriate analytical and behavioral science methodologies to ensure**
27 **public confidence in the study, and shall provide the general assembly**
28 **with a final report of the evaluation of the program.**

29 **4. The public and nonpublic participating schools to and from**
30 **which students transfer as part of the program shall cooperate with the**
31 **research effort by providing student assessment instrument scores and**
32 **any other data necessary to complete this study. Scores and data shall**
33 **be provided in such a manner that no participating student, or**
34 **participating student's scores, shall be individually identifiable.**

35 **5. The study shall begin within five years of commencement of**
36 **the program and shall cover a period of five years. The general**
37 **assembly may require periodic reports from the researchers. The**
38 **researchers shall make their data and methodology available for public**
39 **review while complying with the requirements of 20 U.S.C. 1232g, as**
40 **amended.**

135.719. 1. The department and the department of revenue may
2 **promulgate rules to implement the provisions of sections 135.712 to**
3 **135.719. Any rule or portion of a rule, as that term is defined in section**
4 **536.010, that is created under the authority delegated in this section**
5 **shall become effective only if it complies with and is subject to all of**
6 **the provisions of chapter 536, and, if applicable, section 536.028. This**
7 **section and chapter 536, are nonseverable and if any of the powers**
8 **vested with the general assembly pursuant to chapter 536, to review,**

9 to delay the effective date, or to disapprove and annul a rule are
10 subsequently held unconstitutional, then the grant of rulemaking
11 authority and any rule proposed or adopted after August 28, 2012, shall
12 be invalid and void.

13 2. The provisions of section 23.253, of the Missouri Sunset Act
14 shall not apply to sections 135.712 to 135.719.

160.402. 1. Notwithstanding sections 160.400 and 160.405, an
2 accredited school district or cooperative association of accredited
3 school districts may sponsor or operate a charter school in or for a
4 school district that has been classified as unaccredited by the state
5 board of education under section 161.092. Such a charter school may
6 continue to operate if the unaccredited district becomes classified as
7 accredited or provisionally accredited. The school district or
8 cooperative association shall comply with all provisions of sections
9 160.400 to 160.420. Notwithstanding section 160.410, all charter schools
10 may enroll resident students of any school district classified as
11 unaccredited and shall be an enrollment option for students residing
12 in an unaccredited district under section 167.133. A charter school that
13 enrolls resident students from another unaccredited district may
14 charge a fee for service for such students to their district of residence
15 not to exceed the current expenditure per average daily attendance. If
16 there is disagreement, the matter shall be submitted to the state board
17 of education, and its decision shall be final.

18 2. If the school district regains accreditation without provisions
19 and remains classified as such for five consecutive years and the school
20 district has met all academic standards of the Missouri school
21 improvement program for five consecutive years, and the district or
22 cooperative that is sponsoring the school wishes to discontinue the
23 school, the district or cooperative shall solicit proposals for the
24 continuation of the school, which shall be presented for a vote of the
25 parents or guardians of the students attending the school in the school
26 year during which the district undergoes its next accreditation review.

27 3. Notwithstanding the provisions of section 160.400 to the
28 contrary:

29 (1) The school board of any school district classified as
30 unaccredited or provisionally accredited by the state board of
31 education may sponsor charter schools;

32 **(2) The school board of any school district classified as**
33 **unaccredited or provisionally accredited by the state board of**
34 **education may close any district school and may lease the school**
35 **building to the governing board of any charter school that it sponsors;**

36 **(3) The school board of an accredited district may close any**
37 **district school it deems to need improvement and may lease the school**
38 **building to the governing board of any charter school that it sponsors.**
39 **If a school district sponsors a charter school under subdivisions (2) or**
40 **(3) of this subsection, the school board serving as sponsor of the**
41 **charter school shall be treated in the same manner as a special**
42 **administrative board under subsection 7 of section 162.081.**

43 **4. When a charter school sponsored by the local board of**
44 **education or a cooperative association of accredited school districts**
45 **begins operating pursuant to this section, the state board of education**
46 **shall have all the powers and duties granted to a sponsor under**
47 **subsection 7 of section 160.405.**

162.081. 1. Whenever any school district in this state fails or refuses in
2 any school year to provide for the minimum school term required by section
3 163.021 or is classified unaccredited [for two successive school years] by the state
4 board of education, its corporate organization shall lapse. [The corporate
5 organization of any school district that is classified as unaccredited shall lapse
6 on June thirtieth of the second full school year of such unaccredited classification
7 after the school year during which the unaccredited classification is initially
8 assigned.] The territory theretofore embraced within any district that lapses
9 pursuant to this section or any portion thereof may be attached to any district for
10 school purposes by the state board of education; but no school district, except a
11 district classified as unaccredited pursuant to section 163.023 and section 160.538
12 shall lapse where provision is lawfully made for the attendance of the pupils of
13 the district at another school district that is classified as provisionally accredited
14 or accredited by the state board of education.

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

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

21 3. Except as otherwise provided in section 162.1100, in a metropolitan
22 school district or an urban school district containing most or all of a city with a
23 population greater than three hundred fifty thousand inhabitants and in any
24 other school district if the local board of education does not anticipate a return
25 to accredited status, the state board of education may appoint a special
26 administrative board to supervise the financial operations, maintain and preserve
27 the financial assets or, if warranted, continue operation of the educational
28 programs within the district or what provisions might otherwise be made in the
29 best interest of the education of the children of the district. The special
30 administrative board shall consist of two persons who are residents of the school
31 district, who shall serve without compensation, and a professional administrator,
32 who shall chair the board and shall be compensated, as determined by the state
33 board of education, in whole or in part with funds from the district.

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

35 (1) Appoint a special administrative board, if such a board has not already
36 been appointed, and authorize the special administrative board to retain the
37 authority granted to a board of education for the operation of all or part of the
38 district;

39 (2) Attach the territory of the lapsed district to another district or
40 districts for school purposes; or

41 (3) Establish one or more school districts within the territory of the lapsed
42 district, with a governance structure consistent with the laws applicable to
43 districts of a similar size, with the option of permitting a district to remain intact
44 for the purposes of assessing, collecting, and distributing property taxes, to be
45 distributed equitably on a weighted average daily attendance basis, but to be
46 divided for operational purposes, which shall take effect sixty days after the
47 adjournment of the regular session of the general assembly next following the
48 state board's decision unless a statute or concurrent resolution is enacted to
49 nullify the state board's decision prior to such effective date. The special
50 administrative board may retain the authority granted to a board of education for
51 the operation of the lapsed school district under the laws of the state in effect at
52 the time of the lapse.

53 5. The authority of the special administrative board shall expire at the
54 end of the third full school year following its appointment, unless extended by the
55 state board of education. If the lapsed district is reassigned, the special
56 administrative board shall provide an accounting of all funds, assets and

57 liabilities of the lapsed district and transfer such funds, assets, and liabilities of
58 the lapsed district as determined by the state board of education.

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

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

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

71 9. [(1) The governing body of a school district, upon an initial declaration
72 by the state board of education that such district is provisionally accredited, may,
73 and, upon an initial declaration by the state board of education that such district
74 is unaccredited, shall develop a plan to be submitted to the voters of the school
75 district to divide the school district if the district cannot attain accreditation
76 within three years of the initial declaration that such district is unaccredited. In
77 the case of such a district being declared unaccredited, such plan shall be
78 presented to the voters of the district before the district lapses. In the case of
79 such a district being declared provisionally accredited, such plan may be
80 presented before the close of the current accreditation cycle.

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

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

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

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

**162.086. No school district shall become a member of or retain
2 membership in a statewide activities association that prohibits or
3 delays athletic or activity eligibility for a student who transfers from
4 a school district classified as unaccredited by the state board of
5 education to an accredited school district, virtual school, charter
6 school, or nonpublic school pursuant to the provisions of sections
7 135.712 to 135.719, section 160.402, section 167.131, 167.133, or 167.406.**

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

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

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

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

24 (4) Computes average daily attendance as defined in subdivision (2) of
25 section 163.011 as modified by section 171.031. Whenever there has existed

26 within the district an infectious disease, contagion, epidemic, plague or similar
27 condition whereby the school attendance is substantially reduced for an extended
28 period in any school year, the apportionment of school funds and all other
29 distribution of school moneys shall be made on the basis of the school year next
30 preceding the year in which such condition existed;

31 **(5) Transfers at any time that it is classified as unaccredited by**
32 **the state board of education, any local effort moneys received from the**
33 **county assessor and collector to the custody of the state treasurer. The**
34 **state treasurer may establish funds for each unaccredited school**
35 **district within the state treasury to hold local effort moneys received**
36 **from any school district classified as unaccredited by the state board**
37 **of education pursuant to this subdivision. While the state treasurer has**
38 **such local effort moneys in his or her custody, he or she shall, with the**
39 **collaboration and cooperation of the state board of education and a**
40 **clearinghouse, if one exists, identify the amount of local effort moneys**
41 **necessary to pay the tuition and transportation for student transfers**
42 **from unaccredited districts to accredited districts. The state board**
43 **shall determine the extent to which the state treasurer may disburse**
44 **the moneys, including to cover obligations of the unaccredited districts.**

45 2. For the 2006-07 school year and thereafter, no school district shall
46 receive more state aid, as calculated under subsections 1 and 2 of section 163.031,
47 for its education program, exclusive of categorical add-ons, than it received per
48 weighted average daily attendance for the school year 2005-06 from the
49 foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair
50 share, and free textbook payment amounts, unless it has an operating levy for
51 school purposes, as determined pursuant to section 163.011, of not less than two
52 dollars and seventy-five cents after all adjustments and reductions. Any district
53 which is required, pursuant to article X, section 22 of the Missouri Constitution,
54 to reduce its operating levy below the minimum tax rate otherwise required under
55 this subsection shall not be construed to be in violation of this subsection for
56 making such tax rate reduction. Pursuant to section 10(c) of article X of the state
57 constitution, a school district may levy the operating levy for school purposes
58 required by this subsection less all adjustments required pursuant to article X,
59 section 22 of the Missouri Constitution if such rate does not exceed the highest
60 tax rate in effect subsequent to the 1980 tax year. Nothing in this section shall
61 be construed to mean that a school district is guaranteed to receive an amount

62 not less than the amount the school district received per eligible pupil for the
63 school year 1990-91. The provisions of this subsection shall not apply to any
64 school district located in a county of the second classification which has a nuclear
65 power plant located in such district or to any school district located in a county
66 of the third classification which has an electric power generation unit with a
67 rated generating capacity of more than one hundred fifty megawatts which is
68 owned or operated or both by a rural electric cooperative except that such school
69 districts may levy for current school purposes and capital projects an operating
70 levy not to exceed two dollars and seventy-five cents less all adjustments required
71 pursuant to article X, section 22 of the Missouri Constitution.

72 3. No school district shall receive more state aid, as calculated in section
73 163.031, for its education program, exclusive of categorical add-ons, than it
74 received per eligible pupil for the school year 1993-1994, if the state board of
75 education determines that the district was not in compliance in the preceding
76 school year with the requirements of section 163.172, until such time as the board
77 determines that the district is again in compliance with the requirements of
78 section 163.172.

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

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

90 6. Any school district that levies an operating levy for school purposes
91 that is less than the performance levy, as such term is defined in section 163.011,
92 shall provide written notice to the department of elementary and secondary
93 education asserting that the district is providing an adequate education to the
94 students of such district. If a school district asserts that it is not providing an
95 adequate education to its students, such inadequacy shall be deemed to be a
96 result of insufficient local effort. The provisions of this subsection shall not apply
97 to any special district established under sections 162.815 to 162.940.

98 **7. A school district shall not receive state aid for its education**
99 **program if it neglects or refuses to perform any duty imposed by**
100 **chapters 160 to 168, 170, 171, 177, or 178 or violates any provision of**
101 **these chapters. The department of elementary and secondary**
102 **education shall transfer any state aid that would otherwise be due to**
103 **a school district that has violated this subsection to the credit of the**
104 **general revenue fund. This subsection shall not apply to a failure to**
105 **comply with any deadlines for the filing of reports with the department**
106 **of elementary and secondary education.**

163.036. 1. In computing the amount of state aid a school district is
2 entitled to receive for the minimum school term only under section 163.031, a
3 school district may use an estimate of the weighted average daily attendance for
4 the current year, or the weighted average daily attendance for the immediately
5 preceding year or the weighted average daily attendance for the second preceding
6 school year, whichever is greater. **If a school district uses the weighted**
7 **average daily attendance for the immediately preceding year or the**
8 **weighted average daily attendance for the second preceding school**
9 **year, the department of elementary and secondary education shall**
10 **adjust the district's weighted average daily attendance so that it**
11 **receives no state school aid for pupils who are receiving a passport**
12 **scholarship.** Beginning with the 2006-07 school year, the summer school
13 attendance included in the average daily attendance as defined in subdivision (2)
14 of section 163.011 shall include only the attendance hours of pupils that attend
15 summer school in the current year. Beginning with the 2004-05 school year,
16 when a district's official calendar for the current year contributes to a more than
17 ten percent reduction in the average daily attendance for kindergarten compared
18 to the immediately preceding year, the payment attributable to kindergarten
19 shall include only the current year kindergarten average daily attendance. Any
20 error made in the apportionment of state aid because of a difference between the
21 actual weighted average daily attendance and the estimated weighted average
22 daily attendance shall be corrected as provided in section 163.091, except that if
23 the amount paid to a district estimating weighted average daily attendance
24 exceeds the amount to which the district was actually entitled by more than five
25 percent, interest at the rate of six percent shall be charged on the excess and
26 shall be added to the amount to be deducted from the district's apportionment the
27 next succeeding year.

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

34 3. Any error made in the apportionment of state aid because of a
35 difference between the actual equalized assessed valuation for the current year
36 and the estimated equalized assessed valuation for the current year shall be
37 corrected as provided in section 163.091, except that if the amount paid to a
38 district estimating current equalized assessed valuation exceeds the amount to
39 which the district was actually entitled, interest at the rate of six percent shall
40 be charged on the excess and shall be added to the amount to be deducted from
41 the district's apportionment the next succeeding year.

42 4. For the purposes of distribution of state school aid pursuant to section
43 163.031, a school district with ten percent or more of its assessed valuation that
44 is owned by one person or corporation as commercial or personal property who is
45 delinquent in a property tax payment may elect, after receiving notice from the
46 county clerk on or before March fifteenth that more than ten percent of its
47 current taxes due the preceding December thirty-first by a single property owner
48 are delinquent, to use in the local effort calculation of the state aid formula the
49 district's equalized assessed valuation for the preceding year or the actual
50 assessed valuation of the year for which the taxes are delinquent less the
51 assessed valuation of property for which the current year's property tax is
52 delinquent. To qualify for use of the actual assessed valuation of the year for
53 which the taxes are delinquent less the assessed valuation of property for which
54 the current year's property tax is delinquent, a district must notify the
55 department of elementary and secondary education on or before April first, except
56 in the year enacted, of the current year amount of delinquent taxes, the assessed
57 valuation of such property for which delinquent taxes are owed and the total
58 assessed valuation of the district for the year in which the taxes were due but not
59 paid. Any district giving such notice to the department of elementary and
60 secondary education shall present verification of the accuracy of such notice
61 obtained from the clerk of the county levying delinquent taxes. When any of the
62 delinquent taxes identified by such notice are paid during a four-year period
63 following the due date, the county clerk shall give notice to the district and the

64 department of elementary and secondary education, and state aid paid to the
65 district shall be reduced by an amount equal to the delinquent taxes received plus
66 interest. The reduction in state aid shall occur over a period not to exceed five
67 years and the interest rate on excess state aid not refunded shall be six percent
68 annually.

69 5. If a district receives state aid based on equalized assessed valuation as
70 determined by subsection 4 of this section and if prior to such notice the district
71 was paid state aid pursuant to section 163.031, the amount of state aid paid
72 during the year of such notice and the first year following shall equal the sum of
73 state aid paid pursuant to section 163.031 plus the difference between the state
74 aid amount being paid after such notice minus the amount of state aid the district
75 would have received pursuant to section 163.031 before such notice. To be
76 eligible to receive state aid based on this provision the district must levy during
77 the first year following such notice at least the maximum levy permitted school
78 districts by article X, section 11(b) of the Missouri Constitution and have a
79 voluntary rollback of its tax rate which is no greater than one cent per one
80 hundred dollars assessed valuation.

167.131. 1. The board of education of each district in this state that does
2 not maintain an accredited school **for specific grade levels** pursuant to the
3 authority of the state board of education to classify schools as established in
4 section 161.092 shall pay [the] tuition [of] **as calculated by the receiving**
5 **district under subsection 2 of this section** and provide transportation
6 consistent with the provisions of section 167.241 for each pupil resident therein
7 who attends an accredited **public** school in another district of the same or an
8 adjoining county.

9 2. The rate of tuition to be charged by the district attended and paid by
10 the sending district is the per pupil cost of maintaining the district's grade level
11 grouping which includes the school attended. The cost of maintaining a grade
12 level grouping shall be determined by the board of education of the district but
13 in no case shall it exceed all amounts spent for teachers' wages, incidental
14 purposes, debt service, maintenance and replacements. The term "debt service",
15 as used in this section, means expenditures for the retirement of bonded
16 indebtedness and expenditures for interest on bonded indebtedness. Per pupil
17 cost of the grade level grouping shall be determined by dividing the cost of
18 maintaining the grade level grouping by the average daily pupil attendance. If
19 there is disagreement as to the amount of tuition to be paid, the facts shall be

20 submitted to the state board of education, and its decision in the matter shall be
21 final. Subject to the limitations of this section, each pupil shall be free to attend
22 the public school of his or her choice.

167.133. 1. The board of education of each district in this state
2 that has been declared unaccredited pursuant to the authority of the
3 state board of education as established in section 161.092 shall pay
4 tuition and provide transportation consistent with the provisions of
5 section 167.241 for each pupil resident therein who meets the criteria
6 of this section. The rate of tuition to be charged by the district
7 attended is the per pupil cost of maintaining the district's grade level
8 grouping which includes the school attended. The cost of maintaining
9 a grade level grouping shall be determined by the board of education
10 of the district but in no case shall it exceed all amounts spent for
11 teachers' wages, incidental purposes, debt service, maintenance and
12 replacements. The term "debt service", as used in this section, means
13 expenditures for the retirement of bonded indebtedness and
14 expenditures for interest on bonded indebtedness. Per pupil cost of the
15 grade level grouping shall be determined by dividing the cost of
16 maintaining the grade level grouping by the average daily pupil
17 attendance. If there is disagreement as to the amount of tuition to be
18 paid, the matter shall be submitted to the state board of education, and
19 its decision shall be final.

20 2. A pupil from an unaccredited district may attend a school in
21 another district of the same or an adjoining county if the receiving
22 district or school is accredited without provision. A pupil who resides
23 in an unaccredited district may attend a school in another district of
24 the same or an adjoining county if the receiving district is classified as
25 provisionally accredited by the state board of education and if the
26 receiving district has informed the parent or guardian of the district's
27 accreditation classification. No district that receives transfer students
28 under this section shall be required to include those student's scores
29 on the statewide assessment in that district's scores for up to five
30 years. If the district chooses to include all scores within at least one
31 or more grade levels prior to that time, it may do so. The rate of
32 tuition to be charged by the district attended shall be the lesser of the
33 nonresident tuition established by each district under subsection 1 of
34 this section or, in the absence of an established nonresident tuition, the

35 lesser of the two districts' average expenditure per pupil for the most
36 recently completed year for which data are available. The residence
37 district shall pay the cost of education in the receiving district, under
38 section 162.705, for any resident student with an individualized
39 education program who is accepted in the receiving district. To
40 facilitate the payment of tuition between districts, the state board of
41 education shall pay the receiving district the tuition and transportation
42 charges, if the receiving district provides transportation, for each
43 transferring student, by withholding from the unaccredited district's
44 state school aid an amount equal to the tuition and transportation
45 charges. The department of elementary and secondary education also
46 may seek and obtain the necessary moneys from any local effort moneys
47 in the custody of the state treasurer pursuant to subdivision 5 of
48 subsection 1 of section 163.021. The department of elementary and
49 secondary education shall also transfer any federal moneys associated
50 with a student who transfers from an unaccredited district to an
51 accredited district to the extent allowable under federal law.

52 3. By June 30, 2012, each school district shall establish specific
53 criteria through board policy for the admission of nonresident pupils
54 from districts that have been classified as unaccredited by the state
55 board of education who seek admission into a school district under this
56 section. The primary criteria shall be the availability of highly
57 qualified teachers in existing classroom space. Each district shall
58 establish criteria for calculating available seats that take into account
59 the district's resident student population growth or decrease, based on
60 demographic projections provided by the office of socioeconomic data
61 analysis, such that the receiving district shall not be required to
62 employ additional teachers or construct new classrooms to
63 accommodate such transfer pupils. No resident pupil shall be displaced
64 from a school to which he or she would otherwise be assigned to
65 accommodate the admission of a nonresident pupil but shall not be
66 prohibited from doing so. The assignment of a student to a particular
67 building shall be the decision of the receiving district but if the school
68 is primarily a virtual school, the permission of the student's parent or
69 guardian shall be required for the student to be assigned to such a
70 building.

71 4. Once a student from an unaccredited district has been

72 accepted under this section, the student may, at the discretion of the
73 student's parent or guardian, complete the educational program to
74 graduation even if the student's residence district has regained its
75 accreditation.

76 5. The department of elementary and secondary education shall
77 develop a uniform document that school districts shall use to identify
78 the number of students from unaccredited districts who seek admission
79 into the district. At a minimum, the document shall require the
80 accredited school district to include the following information: name
81 of the student, name of the student's parent or guardian, contact
82 information for the student and parent, date of application for
83 admission into the district, the student's school district of residence,
84 and the district's employee responsible for student admissions and
85 transfers and that employee's contact information. The document shall
86 also contain a statement informing parents and guardians that they
87 may apply for admission to more than one school at the same time. The
88 school district shall keep track of all such information as well as the
89 number of the students who have sought admission and the number of
90 students it has admitted. If a parent or guardian visits an accredited
91 school district in person to inquire about admission for his or her child,
92 the school's employees shall assist the parent in completing the
93 document and shall provide the parent with a copy of the completed
94 document at that time. The school's employees shall inform the parent
95 or guardian that he or she may apply for admission to more than one
96 school at the same time. If a parent contacts an accredited school
97 district by telephone or other means, the district shall provide the
98 parent with the document by means of delivery suitable to the parent.
99 If the department of elementary and secondary education has
100 appointed a clearinghouse to coordinate student transfers between
101 unaccredited and accredited districts, each school district shall report
102 such information to the administrator on a monthly basis. Until such
103 time as the department of elementary and secondary education
104 appoints a clearinghouse, each school district shall report such
105 information directly to the department on a monthly basis. All such
106 information shall be publicly available but shall not individually
107 identify any particular student.

108 6. The students of a school district that has been declared

109 unaccredited under section 161.092 may be enrolled in the virtual
110 school of an accredited district or cooperative association that is
111 available in the same or an adjoining county as an alternative to or in
112 addition to such enrollment under this section. The school board of a
113 receiving district or cooperative association may offer a virtual
114 education program in an unaccredited district in which resident and
115 nonresident students may enroll. Prior to enrolling a student in a
116 virtual education program, the student's parent or guardian shall grant
117 permission.

118 7. Subject to the limitations of this section, each pupil shall be
119 free to attend the public school of his or her choice.

167.403. 1. This section shall be known and may be cited as the
2 "Hinson Plan". When the state board of education classifies a school
3 district as unaccredited, except for a metropolitan school district or
4 any school district located in a county with a charter form of
5 government and with more than nine hundred thousand inhabitants,
6 the school boards of any accredited districts that adjoin the
7 unaccredited district shall collectively divide up the territory of the
8 unaccredited district, annex those portions of the district and create
9 new attendance boundaries. The annexations shall occur within six
10 months of the declaration of unaccreditation or by the following July
11 first, whichever occurs later. If the school boards cannot agree on how
12 to divide up and annex the unaccredited district, or fail to do so within
13 six months of the declaration of the district as unaccredited, the state
14 board of education shall develop and implement a plan to divide up the
15 territory of the unaccredited district and attach the territory to the
16 adjoining accredited districts.

17 2. When an accredited district annexes a portion of an
18 unaccredited district pursuant to this section, the school board of the
19 accredited district:

20 (1) Shall be treated in the same manner as a special
21 administrative board in subsection 7 of section 162.081;

22 (2) May deviate from the district's adopted salary schedule and
23 offer a performance pay program for teachers in the district;

24 (3) May void all contracts with teacher unions;

25 (4) Shall not be required to include the statewide assessment
26 scores of any students it receives from an unaccredited district in the

27 district's annual performance report for up to five years, and for up to
28 five years, shall separately report the statewide assessment scores for
29 its resident students and any nonresident students it receives from an
30 unaccredited district. If a district that receives students from an
31 unaccredited district would like to include these students' scores in the
32 district's scores within the first five years for any grade level, it may
33 do so but once it begins including scores, it shall not be able to report
34 scores separately at a later time;

35 (5) May contract with other public and nonpublic education
36 providers for education services.

37 3. Upon the effective date of the annexation, all indebtedness,
38 property and money belonging to the unaccredited district shall
39 immediately pass to the accredited district. If the unaccredited district
40 is divided up and annexed to more than one district, the provisions of
41 sections 162.031 and 162.041 shall apply.

42 4. If the employees of the unaccredited district are members of
43 a retirement system other than the public school retirement system of
44 Missouri or the public education employee retirement system of
45 Missouri, they shall remain members of that system. Any new hires
46 shall be members of the retirement system in which the receiving
47 district participates.

167.406. 1. When the state board of education classifies a
2 metropolitan school district as unaccredited or any school district
3 located in a county with a charter form of government and with more
4 than nine hundred thousand inhabitants as unaccredited, the
5 department of elementary and secondary education shall establish a
6 clearinghouse, as provided in this section, to assist students to transfer
7 from an unaccredited district to a quality school.

8 2. For purposes of this section, "clearinghouse" shall mean a
9 neutral third party appointed by the department of elementary and
10 secondary education to coordinate student transfers from unaccredited
11 school districts to accredited districts, charter schools, virtual schools,
12 or nonpublic schools with a passport scholarship.

13 3. The parent or guardian of a pupil residing in an unaccredited
14 district may enroll the pupil in an accredited school district, in the
15 same or an adjoining county, in a nonpublic school using a passport
16 scholarship, or in a virtual school, and notwithstanding the provisions

17 of section 160.410 to the contrary, in a charter school.

18 4. The parent or guardian of a pupil residing in an unaccredited
19 district who intends to enroll the parent's or guardian's child in an
20 accredited district, charter school, nonpublic school using a passport
21 scholarship, or virtual school under the provisions of this section shall
22 send initial notification to the pupil's school district of residence and
23 the clearinghouse. Initial notification shall be made by January
24 fifteenth for enrollment in the subsequent school year. As an
25 alternative, the parent or guardian may enroll his or her child directly
26 in a school without using the clearinghouse. If the parent or guardian
27 chooses to enroll his or her child without using the clearinghouse, the
28 school of enrollment shall notify the clearinghouse of such enrollment.

29 5. (1) If a parent or guardian fails to file the initial notification
30 forms by the deadline specified in subsection 4 of this section, and
31 satisfies the definition of good cause as defined in subdivision (3) of
32 this subsection, or if the request is to enroll a child in a school in an
33 accredited district, a nonpublic school using a passport scholarship or
34 virtual program under this section for kindergarten or first grade or
35 in any grade if a child is moving into Missouri or moving into the
36 public school district for the first time, the parent or guardian shall be
37 permitted, if accepted, to enroll the child in the other district in the
38 same manner as if the deadline had been met. Nothing in this
39 subsection shall preclude or prohibit a school from admitting a student
40 who has failed to file the notification forms with the clearinghouse in
41 a timely manner.

42 (2) Until the third Friday in July of that calendar year, the
43 parent or guardian requesting transfer shall send notification to the
44 district of residence and the clearinghouse, on forms prescribed by the
45 department of elementary and secondary education, that good cause,
46 as defined in subdivision (3) of this subsection, exists for failure to
47 meet the deadline. The clearinghouse shall take action to approve the
48 request if good cause exists. The parent or guardian may appeal a
49 denial of a request by the clearinghouse to the state board of education.

50 (3) For purposes of this section, "good cause" means a change in
51 a child's residence due to a change in family residence, a change in a
52 child's parents' marital status, a guardianship or custody change,
53 placement in foster care, adoption, participation in a substance abuse

54 or mental health treatment program, or student health or safety
55 concerns; or a change in the status of a child's district of residence,
56 such as removal of accreditation by the state board of education,
57 permanent closure of a public or nonpublic school that the child
58 attends, or revocation of a charter school's charter as provided in
59 section 160.405. If the good cause relates to a change in status of a
60 child's school district of residence, however, action by a parent or
61 guardian must be taken to file the notification within forty-five days of
62 the last official action relating to such status. Student health or safety
63 concerns shall include, but not be limited to, ongoing bullying,
64 supported by official school reports, sexual misconduct complaints,
65 reports, or investigations, and drug or alcohol concerns with peers. If
66 the district does not agree with the parent's or child's concerns, a
67 written notice of need for relocation from a medical or mental health
68 professional shall suffice to satisfy "good cause" under this subsection.

69 6. (1) The clearinghouse shall provide counselors to assist and
70 advise parents and guardians who intend to transfer their child from
71 an unaccredited district to an accredited district, nonpublic school
72 using a passport scholarship, or virtual school located in the
73 unaccredited district or an accredited district under this
74 section. Counselors may be employees or volunteers. The
75 clearinghouse's counselors shall advise parents and guardians on
76 education options available to the pupil and assist them in preparing
77 any necessary applications or additional paperwork.

78 (2) Each parent or guardian of a pupil who provides notice of
79 intent to transfer from an unaccredited school district to another
80 school under this section shall do so on forms prescribed by the
81 department of elementary and secondary education.

82 (3) The clearinghouse may contract with a school district, any
83 voluntary interdistrict council, or any private entity for transportation
84 services;

85 7. The expenses associated with the administration of pupil
86 transfers under this section shall be defrayed by the department of
87 elementary and secondary education retaining funds to cover the cost
88 of administration from the state school aid withheld from a transfer
89 student's district of residence, but not to exceed five hundred dollars
90 per pupil, adjusted for inflation annually.

91 8. The clearinghouse shall develop a mechanism to identify the
92 number of students who seek admission to another school, through the
93 clearinghouse. If, through the clearinghouse, a student seeks admission
94 into more than one school or district, the clearinghouse shall count
95 each school or district to which the student seeks admission
96 separately. All such information shall be publicly available but shall
97 not individually identify a particular student.

 167.409. Student transfers from an unaccredited district under
2 section 167.406 shall continue until the district has been classified as
3 accredited, without provision, by the state board of education for five
4 consecutive years and the district has met all academic standards of
5 the Missouri school improvement program for five consecutive
6 years. Any resident pupil of an unaccredited district who has enrolled
7 in another school district, charter school, or virtual school, under
8 section 167.406 may continue to attend and complete all grade levels
9 offered in the school or district despite subsequent changes in the
10 residence district's accreditation status and if the school or district
11 does not offer all grade levels necessary for graduation from high
12 school, the pupil may transfer to another school or district for such
13 completion.

 167.418. A student may enroll in the virtual courses or programs
2 offered by any virtual education provider or school district in Missouri
3 that meets the standards of the department of elementary and
4 secondary education and is accredited. The department may offer its
5 own virtual courses or programs. Any student who enrolls in a virtual
6 course or program under this section shall be considered a public
7 school student and shall take the components of the statewide
8 assessments under section 160.518 that relate to the virtual course or
9 program in which they are enrolled. The virtual nonresident student's
10 district of residence shall pay the school district or charter school
11 providing such virtual education an amount equal to seventy-two and
12 one half percent of the previous year's statewide average current
13 expenditure per average daily attendance. The department of
14 elementary and secondary education shall withhold from the school
15 district of residence's state school aid the tuition to attend the virtual
16 courses or program and transfer such funds to the virtual education
17 provider. The department of elementary and secondary education also

18 may seek and obtain the necessary moneys from any local effort moneys
19 in the custody of the state treasurer pursuant to subdivision 5 of
20 subsection 1 of section 163.021.

168.075. 1. School principals shall have the right to select
2 teachers for their schools who have demonstrated their effectiveness
3 and qualifications.

4 2. School districts that administer multiple schools shall include
5 in their teacher contracts provisions for placement of teachers who are
6 rated highly effective or effective in schools based on the mutual
7 consent of the teacher and principal of the school.

8 3. Subject to subsection 4 of this section, school districts may
9 adopt options for teachers rated effective or higher who are displaced
10 and not selected for a regular position through mutual consent, such as
11 defined grace periods during which such teachers shall serve in
12 temporary positions on full or partial pay and benefits, priority for
13 interviews for vacancies, severance pay, or other arrangements.

14 4. If a teacher is unable to obtain a mutual consent assignment
15 at a school within the school district after twelve months or two hiring
16 cycles, whichever is longer, the school district shall place the teacher
17 on unpaid leave until such time as the teacher is able to secure an
18 assignment. If the teacher secures an assignment at a school of the
19 school district while placed on unpaid leave, the school district shall
20 reinstate the teacher's salary at the level no less than what it was at
21 the time the unpaid leave began.

22 5. Nothing in this section shall limit the ability of a school
23 district to place a teacher in a limited-term assignment for up to twelve
24 months, including a teacher assignment, substitute assignment, or
25 instructional support role during the period in which the teacher is
26 attempting to secure a mutual consent placement in a school. Such a
27 limited term assignment shall not constitute a mutual consent
28 placement and shall not be deemed to interrupt the period in which the
29 teacher is required to secure a mutual consent placement before the
30 local educational agency shall place the teacher on unpaid leave.

168.104. The following words and phrases when used in sections 168.102
2 to 168.130, except in those instances where the context indicates otherwise, mean:

3 (1) "Board of education", the school board or board of directors of a school
4 district[, except a metropolitan school district,] having general control of the

5 affairs of the district;

6 (2) "Demotion", any reduction in salary or transfer to a position carrying
7 a lower salary, except on request of a teacher, other than any change in salary
8 applicable to all teachers or all teachers in a classification;

9 (3) "Indefinite contract", every contract heretofore or hereafter entered
10 into between a school district and a permanent teacher;

11 (4) "Permanent teacher", any teacher who has been employed or who is
12 hereafter employed as a teacher in the same school district for five successive
13 years and who has continued or who thereafter continues to be employed as a
14 teacher by the school district or any supervisor of teachers who was employed as
15 a teacher in the same school district for at least five successive years prior to
16 becoming a supervisor of teachers and who continues thereafter to be employed
17 as a certificated employee by the school district; except that, when a permanent
18 teacher resigns or is permanently separated from employment by a school district,
19 and is afterwards reemployed by the same school district, reemployment for the
20 first school year does not constitute an indefinite contract but if he is employed
21 for the succeeding year, the employment constitutes an indefinite contract; and
22 except that any teacher employed under a part-time contract by a school district
23 shall accrue credit toward permanent status on a prorated basis. Any permanent
24 teacher who is promoted with his consent to a supervisory position including
25 principal or assistant principal, or is first employed by a district in a supervisory
26 position including principal or assistant principal, shall not have permanent
27 status in such position but shall retain tenure in the position previously held
28 within the district, or, after serving two years as principal or assistant principal,
29 shall have tenure as a permanent teacher of that system;

30 (5) "Probationary teacher", any teacher as herein defined who has been
31 employed in the same school district for five successive years or less. In the case
32 of any probationary teacher who has been employed in any other school system
33 as a teacher for two or more years, the board of education shall waive one year
34 of his probationary period;

35 (6) "School district", every school district in this state[, except
36 metropolitan school district as defined in section 162.571];

37 (7) "Teacher", any employee of a school district[, except a metropolitan
38 school district,] regularly required to be certified under laws relating to the
39 certification of teachers, except superintendents and assistant superintendents
40 but including certified teachers who teach at the prekindergarten level in a

41 nonmetropolitan public school within a prekindergarten program in which no fees
42 are charged to parents or guardians.

168.106. The contract between a school district and a permanent teacher
2 shall be known as an indefinite contract and shall continue in effect for an
3 indefinite period, subject only to:

4 (1) Compulsory or optional retirement when the teacher reaches the age
5 of retirement provided by law, or regulation established by the local board of
6 education;

7 (2) Modification by a succeeding indefinite contract or contracts in the
8 manner hereinafter provided;

9 (3) The death of the teacher;

10 (4) Resignation of the teacher with the written consent of the school
11 board;

12 (5) Termination by the board of education after a hearing as hereinafter
13 provided; [and]

14 (6) The revocation of the teacher's certificate; **and**

15 **(7) For teachers employed in a metropolitan school district, a**
16 **decision by a teacher to follow the teacher choice compensation**
17 **package under sections 168.745 to 168.750 in a metropolitan school**
18 **district and give up the right to an indefinite contract.**

168.116. 1. The indefinite contract of a permanent teacher may not be
2 terminated by the board of education until after service upon the teacher of
3 written charges specifying with particularity the grounds alleged to exist for
4 termination of such contract, notice of a hearing on charges and a hearing by the
5 board of education on charges if requested by the teacher.

6 2. At least thirty days before service of notice of charges of incompetency,
7 inefficiency, or insubordination in line of duty, the teacher shall be given by the
8 school board or the superintendent of schools warning in writing, stating
9 specifically the causes which, if not removed, may result in charges. Thereafter,
10 both the superintendent, or his designated representative, and the teacher shall
11 meet and confer in an effort to resolve the matter.

12 3. Notice of a hearing upon charges, together with a copy of charges, shall
13 be served on the permanent teacher at least twenty days prior to the date of the
14 hearing. The notice and copy of the charges may be served upon the teacher by
15 certified mail with personal delivery addressed to him at his last known address.
16 If the teacher or his agent does not within ten days after receipt of the notice

17 request a hearing on the charges, the board of education may, by a majority vote,
18 order the contract of the teacher terminated. If a hearing is requested by either
19 the teacher or the board of education, it shall take place not less than twenty nor
20 more than thirty days after notice of a hearing has been furnished the permanent
21 teacher.

22 4. On the filing of charges in accordance with this section, the board of
23 education may suspend the teacher from active performance of duty until a
24 decision is rendered by the board of education but the teacher's salary shall be
25 continued during such suspension. If a decision to terminate a teacher's
26 employment by the board of education is appealed, and the decision is reversed,
27 the teacher shall be paid his salary lost during the pending of the appeal.

28 **5. During any time in which powers granted to a district's board**
29 **of education are vested in a special administrative board or in other**
30 **districts upon the affirmative vote of a constitutional majority of the**
31 **district board, the special administrative board or district board may**
32 **appoint a hearing officer to conduct the hearing. The hearing officer**
33 **shall conduct the hearing as a contested case under chapter 536 and**
34 **shall issue a written recommendation to the board rendering the**
35 **charges against the teacher. The board shall render a decision on the**
36 **charges upon the review of the hearing officer's recommendations and**
37 **the record from the hearing. The action and decision of the board upon**
38 **the charges shall be final.**

168.124. 1. The board of education of a school district may place on leave
2 of absence as many teachers as may be necessary because of a decrease in pupil
3 enrollment, school district reorganization or the financial condition of the school
4 district. [In placing teachers on leave, the board of education shall be governed
5 by the following provisions:

6 (1) No permanent teacher shall be placed on leave of absence while
7 probationary teachers are retained in positions for which a permanent teacher is
8 qualified;

9 (2) Permanent teachers shall be retained on the basis of
10 performance-based evaluations and seniority (however, seniority shall not be
11 controlling) within the field of specialization;

12 (3) Permanent teachers shall be reinstated to the positions from which
13 they have been given leaves of absence, or if not available, to positions requiring
14 like training and experience, or to other positions in the school system for which

15 they are qualified by training and experience;

16 (4) No appointment of new teachers shall be made while there are
17 available teachers on unrequested leave of absence who are properly qualified to
18 fill such vacancies;

19 (5) **Seniority or years of service shall not be used as criteria for**
20 **reduction in force; effective teacher performance based on documented**
21 **student learning and growth shall be the deciding criterion.**

22 2. A teacher placed on leave of absence may engage in teaching or another
23 occupation during the period of such leave;

24 [(6)] 3. The leave of absence shall not impair the tenure of a teacher;

25 [(7)] 4. The leave of absence shall continue for a period of not more than
26 three years unless extended by the board.

27 [2.] 5. Should a board of education choose to utilize the mechanism for
28 reducing teacher forces as provided in subsection 1 of this section in an attempt
29 to manage adverse financial conditions caused at least partially by a withholding
30 of, or a decrease or less than expected increase in, education appropriations, then
31 the district additionally shall follow the provisions of subsection 3 of this section.

32 [3.] 6. If a school district has an unrestricted combined ending fund
33 balance of more than ten percent of current expenditures in its teachers' and
34 incidental funds, and in the subsequent fiscal year such district, because of state
35 appropriations, places a contracted teacher on leave of absence after forty days
36 subsequent to the governor signing the elementary and secondary education
37 appropriation bill, the district shall pay the affected teacher the greater of his or
38 her salary for any days worked under the contract, or a sum equal to three
39 thousand dollars.

168.128. The board of education of each school district shall maintain
2 records showing periods of service, dates of appointment, and other necessary
3 information for the enforcement of sections 168.102 to 168.130. In addition, the
4 board of education of each school district shall cause a comprehensive,
5 performance-based evaluation for each teacher employed by the district. Such
6 evaluations shall be ongoing and of sufficient specificity and frequency to provide
7 for demonstrated standards of competency and academic ability. **Student**
8 **performance shall be a factor in the measurement of educator**
9 **evaluations.** All evaluations shall be maintained in the teacher's personnel file
10 at the office of the board of education. A copy of each evaluation shall be
11 provided to the teacher and appropriate administrator. The state department of

12 elementary and secondary education shall provide suggested procedures for such
13 an evaluation.

**Section 1. Notwithstanding the provisions of section 1.140, to the
2 contrary, the provisions of this act shall be nonseverable, and if any
3 provision is for any reason held to be invalid, such decision shall
4 invalidate all of the remaining provisions of this act.**

[168.221. 1. The first five years of employment of all
2 teachers entering the employment of the metropolitan school
3 district shall be deemed a period of probation during which period
4 all appointments of teachers shall expire at the end of each school
5 year. During the probationary period any probationary teacher
6 whose work is unsatisfactory shall be furnished by the
7 superintendent of schools with a written statement setting forth
8 the nature of his incompetency. If improvement satisfactory to the
9 superintendent is not made within one semester after the receipt
10 of the statement, the probationary teacher shall be dismissed. The
11 semester granted the probationary teacher in which to improve
12 shall not in any case be a means of prolonging the probationary
13 period beyond five years and six months from the date on which the
14 teacher entered the employ of the board of education. The
15 superintendent of schools on or before the fifteenth day of April in
16 each year shall notify probationary teachers who will not be
17 retained by the school district of the termination of their
18 services. Any probationary teacher who is not so notified shall be
19 deemed to have been appointed for the next school year. Any
20 principal who prior to becoming a principal had attained
21 permanent employee status as a teacher shall upon ceasing to be
22 a principal have a right to resume his or her permanent teacher
23 position with the time served as a principal being treated as if such
24 time had been served as a teacher for the purpose of calculating
25 seniority and pay scale. The rights and duties and remuneration
26 of a teacher who was formerly a principal shall be the same as any
27 other teacher with the same level of qualifications and time of
28 service.

29 2. After completion of satisfactory probationary services,
30 appointments of teachers shall become permanent, subject to

31 removal for any one or more causes herein described and to the
32 right of the board to terminate the services of all who attain the
33 age of compulsory retirement fixed by the retirement system. In
34 determining the duration of the probationary period of employment
35 in this section specified, the time of service rendered as a
36 substitute teacher shall not be included.

37 3. No teacher whose appointment has become permanent
38 may be removed except for one or more of the following causes:
39 immorality, inefficiency in line of duty, violation of the published
40 regulations of the school district, violation of the laws of Missouri
41 governing the public schools of the state, or physical or mental
42 condition which incapacitates him for instructing or associating
43 with children, and then only by a vote of not less than a majority
44 of all the members of the board, upon written charges presented by
45 the superintendent of schools, to be heard by the board after thirty
46 days' notice, with copy of the charges served upon the person
47 against whom they are preferred, who shall have the privilege of
48 being present at the hearing, together with counsel, offering
49 evidence and making defense thereto. Notifications received by an
50 employee during a vacation period shall be considered as received
51 on the first day of the school term following. At the request of any
52 person so charged the hearing shall be public. During any time in
53 which powers granted to the district's board of education are vested
54 in a special administrative board, the special administrative board
55 may appoint a hearing officer to conduct the hearing. The hearing
56 officer shall conduct the hearing as a contested case under chapter
57 536 and shall issue a written recommendation to the board
58 rendering the charges against the teacher. The board shall render
59 a decision on the charges upon the review of the hearing officer's
60 recommendations and the record from the hearing. The action and
61 decision of the board upon the charges shall be final. Pending the
62 hearing of the charges, the person charged may be suspended if the
63 rules of the board so prescribe, but in the event the board does not
64 by a majority vote of all the members remove the teacher upon
65 charges presented by the superintendent, the person shall not
66 suffer any loss of salary by reason of the suspension. Inefficiency

67 in line of duty is cause for dismissal only after the teacher has been
68 notified in writing at least one semester prior to the presentment
69 of charges against him by the superintendent. The notification
70 shall specify the nature of the inefficiency with such particularity
71 as to enable the teacher to be informed of the nature of his
72 inefficiency.

73 4. No teacher whose appointment has become permanent
74 shall be demoted nor shall his salary be reduced unless the same
75 procedure is followed as herein stated for the removal of the
76 teacher because of inefficiency in line of duty, and any teacher
77 whose salary is reduced or who is demoted may waive the
78 presentment of charges against him by the superintendent and a
79 hearing thereon by the board. The foregoing provision shall apply
80 only to permanent teachers prior to the compulsory retirement age
81 under the retirement system. Nothing herein contained shall in
82 any way restrict or limit the power of the board of education to
83 make reductions in the number of teachers or principals, or both,
84 because of insufficient funds, decrease in pupil enrollment, or
85 abolition of particular subjects or courses of instruction, except that
86 the abolition of particular subjects or courses of instruction shall
87 not cause those teachers who have been teaching the subjects or
88 giving the courses of instruction to be placed on leave of absence as
89 herein provided who are qualified to teach other subjects or courses
90 of instruction, if positions are available for the teachers in the
91 other subjects or courses of instruction.

92 5. Whenever it is necessary to decrease the number of
93 teachers because of insufficient funds or a substantial decrease of
94 pupil population within the school district, the board of education
95 upon recommendation of the superintendent of schools may cause
96 the necessary number of teachers beginning with those serving
97 probationary periods to be placed on leave of absence without pay,
98 but only in the inverse order of their appointment. Nothing herein
99 stated shall prevent a readjustment by the board of education of
100 existing salary schedules. No teacher placed on a leave of absence
101 shall be precluded from securing other employment during the
102 period of the leave of absence. Each teacher placed on leave of

103 absence shall be reinstated in inverse order of his placement on
104 leave of absence. Such reemployment shall not result in a loss of
105 status or credit for previous years of service. No new appointments
106 shall be made while there are available teachers on leave of
107 absence who are seventy years of age or less and who are
108 adequately qualified to fill the vacancy unless the teachers fail to
109 advise the superintendent of schools within thirty days from the
110 date of notification by the superintendent of schools that positions
111 are available to them that they will return to employment and will
112 assume the duties of the position to which appointed not later than
113 the beginning of the school year next following the date of the
114 notice by the superintendent of schools.

115 6. If any regulation which deals with the promotion of
116 teachers is amended by increasing the qualifications necessary to
117 be met before a teacher is eligible for promotion, the amendment
118 shall fix an effective date which shall allow a reasonable length of
119 time within which teachers may become qualified for promotion
120 under the regulations.

121 7. A teacher whose appointment has become permanent
122 may give up the right to a permanent appointment to participate
123 in the teacher choice compensation package under sections 168.745
124 to 168.750.]

Section B. Because of the importance of providing an adequate education
2 for students enrolled in an unaccredited school district, the enactment of sections
3 135.712, 135.713, 135.714, 135.715, 135.716, 135.717, 135.719, 160.402, 162.086,
4 167.133, 167.403, 167.406, 167.409, 167.418, 168.075, and 1, and the repeal and
5 reenactment of sections 162.081, 163.021, 163.036, and 167.131 of section A of
6 this act is deemed necessary for the immediate preservation of the public health,
7 welfare, peace and safety, and is hereby declared to be an emergency act within
8 the meaning of the constitution, and the enactment of sections 135.712, 135.713,
9 135.714, 135.715, 135.716, 135.717, 135.719, 160.402, 162.086, 167.133, 167.403,
10 167.406, 167.409, 167.418, 168.075, and 1, and the repeal and reenactment of
11 sections 162.081, 163.021, 163.036, and 167.131 of section A of this act shall be
12 in full force and effect upon its passage and approval.

Section C. Because of the importance of providing an adequate education
2 for students in Missouri schools, the repeal and reenactment of sections 168.104,

3 168.106, 168.116, 168.124, and 168.128, and the repeal of section 168.221 of
4 section A of this act is deemed necessary for the immediate preservation of the
5 public health, welfare, peace and safety, and is hereby declared to be an
6 emergency act within the meaning of the constitution, and the repeal and
7 reenactment of sections 168.104, 168.106, 168.116, 168.124, and 168.128, and the
8 repeal of section 168.221 of section A of this act shall become effective July 1,
9 2012, or upon approval, whichever occurs first.

✓
Unofficial

Bill

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