

SECOND REGULAR SESSION

HOUSE BILL NO. 1740

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DIECKHAUS.

5879L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 162.081, 163.011, and 163.031, RSMo, and to enact in lieu thereof ten new sections relating to school operations, with an emergency clause for certain sections.

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

Section A. Sections 162.081, 163.011, and 163.031, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 135.712, 135.713, 135.714, 135.715, 135.716, 135.717, 135.719, 162.081, 163.011, and 163.031, 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, with the exception of marketing and administrative expenses in paragraph (c) of subdivision (4) of subsection 1 of section 135.714 and as otherwise directed in sections 135.712 to 135.719, derived from contributions for which a credit is claimed under this section for educational assistance;

(4) "Eligible student", a student who resides in any unaccredited district. Any student who receives an educational scholarship under this program shall remain eligible

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 until the student graduates from high school or reaches twenty-one years of age, whichever
18 occurs earlier;

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

21 (6) "Passport scholarships", grants to eligible students to cover all or part of the
22 applicable tuition and fees at a qualified school, or other approved educational expenses,
23 including but not limited to transportation;

24 (7) "Program", the passport scholarship program established under sections
25 135.712 to 135.719;

26 (8) "Qualified school", a nonpublic elementary or secondary school in the state that
27 complies with all requirements of the program;

28 (9) "Qualifying contribution", a donation of cash, stock, bonds, or other
29 marketable securities for purposes of claiming a tax credit under sections 135.712 to
30 135.719;

31 (10) "Taxpayer", an individual subject to the state income tax imposed in chapter
32 143, an individual, a firm, a partner in a firm, corporation, or a shareholder in an S
33 corporation doing business in this state and subject to the state income tax imposed by
34 chapter 143, a corporation subject to the annual corporation franchise tax imposed by
35 chapter 147, or an express company which pays an annual tax on its gross receipts in this
36 state under chapter 153, which files a Missouri income tax return and is not a dependent
37 of any other taxpayer.

135.713. 1. For all tax years beginning on or after January 1, 2012, any taxpayer
2 who makes a qualifying contribution to an educational assistance organization may claim
3 a credit against the tax otherwise due under chapter 143, other than taxes withheld under
4 sections 143.191 to 143.265, and chapters 147 and 153, in an amount equal to sixty percent
5 of the amount the taxpayer contributed during the tax year for which the credit is claimed.
6 No taxpayer shall claim a credit under sections 135.712 to 135.719 for any contribution
7 made by the taxpayer, or an agent of the taxpayer, on behalf of the taxpayer's dependent,
8 or in the case of a business taxpayer, on behalf of the business's agent's dependent.

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

16 subsequent taxable years. All tax credits authorized under the program may be
17 transferred, sold, or assigned.

18 **3. The cumulative amount of tax credits which may be allocated to all taxpayers**
19 **contributing to educational assistance organizations in any one fiscal year shall not exceed**
20 **forty million dollars, which amount shall annually be adjusted by the department for**
21 **inflation based on the consumer price index for the Midwest, as defined and officially**
22 **recorded by the United States Department of Labor, or its successor. The director shall**
23 **establish a procedure by which the cumulative amount of tax credits are equally**
24 **apportioned among all facilities classified as educational assistance organizations. If an**
25 **educational assistance organization fails to use all, or some percentage to be determined**
26 **by the director, of its apportioned tax credits during this predetermined period of time, the**
27 **director may reapportion these unused tax credits to those educational assistance**
28 **organizations that have used all, or some percentage to be determined by the director, of**
29 **their apportioned tax credits during this predetermined period of time. The director may**
30 **establish more than one period of time and reapportion more than once during each fiscal**
31 **year. To the maximum extent possible, the director shall establish the procedure described**
32 **in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits**
33 **possible up to the cumulative amount of tax credits available for the fiscal year.**

135.714. 1. Each educational assistance organization shall:

2 **(1) Notify the department of its intent to provide educational scholarships to**
3 **eligible students attending qualified schools;**

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

6 **(3) Provide a department-approved receipt to taxpayers for contributions made to**
7 **the organization;**

8 **(4) Ensure that:**

9 **(a) One hundred percent of its revenues from interest or investments is spent on**
10 **educational scholarships;**

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

13 **(c) Marketing and administrative expenses shall not exceed the following limits of**
14 **its remaining revenue from contributions: ten percent for the first one hundred thousand**
15 **dollars; eight percent for the next four hundred thousand dollars; six percent for the next**
16 **five hundred thousand dollars; and three percent thereafter;**

17 **(5) Distribute educational scholarship payments four times per year in the form of**
18 **checks made out to an eligible student's parent and mailed to the qualified school where**
19 **the student is enrolled. The parent shall endorse the check before it can be deposited;**

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

23 **(7) Ensure that passport scholarships are portable during the school year and can**
24 **be used at any qualified school that accepts the eligible student according to a parent's**
25 **wishes. If an eligible student moves to a new qualified school during a school year, the**
26 **passport scholarship amount may be prorated;**

27 **(8) Demonstrate its financial accountability by:**

28 **(a) Submitting a financial information report for the organization that complies**
29 **with uniform financial accounting standards established by the department and is**
30 **conducted by a certified public accountant; and**

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

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

36 **2. Each educational assistance organization shall ensure that qualified schools that**
37 **accept eligible students receiving passport scholarships from the organization will:**

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

39 **(2) Hold a valid occupancy permit if required by their municipality;**

40 **(3) Certify that the qualified schools will not discriminate in admissions of eligible**
41 **students on the basis of race, color, national origin, or disability;**

42 **(4) Provide academic accountability to parents of the eligible students in the**
43 **program by regularly reporting to the parent on the student's progress.**

44 **3. Educational assistance organizations shall not provide passport scholarships for**
45 **eligible students to attend any school with paid staff or board members, or relatives**
46 **thereof, in common with the educational assistance organization. Educational assistance**
47 **organizations shall not provide scholarships to students of only one school.**

48 **4. An educational assistance organization shall publicly report to the department**
49 **by June first of each year the following information prepared by a certified public**
50 **accountant regarding its grants in the previous calendar year:**

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

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

54 **(3) The total number and total dollar amount of contributions received during the**
55 **previous calendar year;**

56 **(4) The total number and total dollar amount of passport scholarships awarded**
57 **during the previous calendar year; and**

58 **(5) The total number and total dollar amount of passport scholarships awarded**
59 **during the previous year to eligible students qualifying for the federal free and reduced**
60 **price school lunch program.**

61 **5. Before educational assistance organizations may raise contributions under the**
62 **program, they shall have received or demonstrated ability to receive applications from**
63 **eligible students, and shall have identified potential vacancies in qualified schools as**
64 **determined by the director.**

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

4 **2. All qualified schools may administer to their scholarship students the statewide**
5 **assessments under section 160.518, a nationally recognized norm-referenced assessment,**
6 **or an assessment of educational functioning level for adult basic education that meets the**
7 **guidelines for the national reporting system for adult education and literacy, except for**
8 **those students with individualized education programs that specify that such assessment**
9 **would not be appropriate. Such assessments or tests shall not be required to be given more**
10 **frequently in a grade than the statewide assessments are given. Results shall be provided**
11 **to parents of each passport scholarship recipient. The results of the scholarship recipients**
12 **shall not be considered for purposes of school accreditation or for purposes of the federal**
13 **No Child Left Behind Act.**

14 **3. All qualified schools shall:**

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

16 **(2) Hold a valid occupancy permit if required by their municipality; and**

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

19 **(4) File a statement of intent to participate that includes the information listed in**
20 **this subdivision;**

21 **(5) For initial applicants, file a list of the information required under this**
22 **subsection, and for requalifying schools, annual reporting of the information required**

23 under this subsection. No public reporting of information required under this subsection
24 shall be personally identifiable to an individual student;

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

27 (7) Be accredited by a regional or national accrediting agency or for a school that
28 is not currently accredited, provisional approval pending the achievement of accreditation
29 no later than the fourth school year of participation;

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

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

33 4. Qualified schools shall have on record a form signed by the parent of the
34 scholarship recipient agreeing to the release of the following information to the director:

35 (1) The student's participation as a scholarship recipient under sections 135.712 to
36 135.719; and

37 (2) Testing results for statewide assessment.

38 5. As a condition of participation, the parents and scholarship recipients under
39 sections 135.712 to 135.719 shall agree to abide by the school's code of conduct and any
40 parental involvement requirements unless the qualifying school agrees to a waiver of any
41 requirements.

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

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

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

10 4. The department may bar an educational assistance organization from
11 participating in the program if the department establishes that the educational assistance
12 organization has intentionally and substantially failed to comply with the requirements in
13 section 135.714. If the department bars an educational assistance organization from the
14 program under this subsection, it shall notify affected eligible students and their parents
15 of the decision as soon as possible after the determination is made.

16 5. The department of economic development shall receive no more than two percent
17 of the qualifying contributions for marketing and administrative expenses or the costs

18 incurred in administering the program, whichever is less. The director shall establish
19 procedures to ensure the percentage of funds for administration of the program is directed
20 to the department of economic development in a timely manner with the necessary
21 information to verify the correct amount has been transmitted. The remaining funds shall
22 be distributed to the educational assistance organizations.

135.717. 1. Subject to appropriations or the availability of private donations, the
2 joint committee on legislative research shall contract with one or more qualified
3 researchers who have previous experience evaluating school choice programs to conduct
4 a study of the program with funds donated to the educational assistance organizations used
5 for tuition scholarships.

6 2. The study shall assess:

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

8 (2) The level of participating students' satisfaction with the program;

9 (3) The overall impact of the program on public school students and on the resident
10 school districts and schools from which the participating students transferred;

11 (4) The impact of the program on public and private school capacity, availability,
12 and quality of service; and

13 (5) Each participating student's performance on annual assessment instruments
14 before and after entering the program, provided that the study's assessment shall be
15 conducted so that no participating student shall be individually identifiable.

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

19 4. The public and nonpublic participating schools to and from which students
20 transfer shall cooperate with the research effort by providing student assessment
21 instrument scores and any other data necessary to complete this study. Scores and data
22 shall be provided in such a manner that no participating student, or participating student's
23 scores, shall be individually identifiable.

24 5. The joint committee on legislative research shall apply for grants to assist in
25 funding the study and shall use any such funds received to conduct this study.

26 6. The study shall begin within one year of commencement of the program and
27 shall cover a period of six years. The general assembly may require periodic reports from
28 the researchers. The researchers shall make their data and methodology available for
29 public review while complying with the requirements of 20 U.S.C. Section 1232g, as
30 amended. In the event that the program is reauthorized, the researchers shall continue the
31 study and shall continue to report as required in this section.

135.719. 1. The department and the department of revenue may promulgate rules to implement the provisions of sections 135.712 to 135.719. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2012, shall be invalid and void.

2. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under sections 135.712 to 135.719 shall automatically sunset six years after the effective date of sections 135.712 to 135.719 unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under sections 135.712 to 135.719 shall automatically sunset six years after the effective date of the reauthorization of sections 135.712 to 135.719; and

(3) Sections 135.712 to 135.719 shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under sections 135.712 to 135.719 is sunset.

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

(1) Review the governance of the district to establish the conditions under which the existing school board shall continue to govern; or

(2) Determine the date the district shall lapse and determine an alternative governing structure for the district.

17 2. [Prior to or] **If** at the time any school district in this state shall [lapse, but after the
18 school district has been] **be** classified as unaccredited, the department of elementary and
19 secondary education shall conduct a public hearing at a location in the unaccredited school
20 district **regarding the accreditation status of the school district. The hearing shall provide**
21 **an opportunity to convene community resources that may be useful or necessary in**
22 **supporting the school district as it attempts to return to accredited status, continues under**
23 **revised governance, or plans for continuity of educational services and resources upon its**
24 **attachment to a neighboring district. The department may request the attendance of**
25 **stakeholders and district officials to review the district's plan to return to accredited status,**
26 **if any; offer technical assistance; and facilitate and coordinate community resources.** [The
27 purpose of the hearing shall be to:

28 (1) Review any plan by the district to return to accredited status; or

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

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

41 4.] **3. Upon [lapse of the district] classification of a district as unaccredited,** the state
42 board of education may:

43 (1) **Allow continued governance by the existing school district board of education**
44 **under terms and conditions established by the state board of education;**

45 (2) Appoint a special administrative board, [if such a board has not already been
46 appointed, and authorize the special administrative board to retain the authority granted to a
47 board of education] **determining the number of members and specifying the board's duties**
48 **for the operation of all or part of the district;**

49 [(2)] **(3) Determine an alternative governing structure for the district including, at**
50 **a minimum:**

51 **(a) A rationale for the decision to use an alternative form of governance and in the**
52 **absence of the district's achievement of full accreditation, the state board of education shall**
53 **review and recertify the alternative form of governance every three years;**

54 **(b) A method for the residents of the district to provide public comment after a**
55 **stated period of time or upon achievement of specified academic objectives;**

56 **(c) Expectations for progress on academic achievement, which shall include an**
57 **anticipated timeline for the district to reach full accreditation; and**

58 **(d) Annual reports to the general assembly and the governor on the progress**
59 **towards accreditation of any district that has been declared unaccredited and is placed**
60 **under an alternative form of governance, including a review of the effectiveness of the**
61 **alternative governance;**

62 **(4) Attach the territory of the lapsed district to another district or districts for school**
63 **purposes; or**

64 **[(3)] (5) Establish one or more school districts within the territory of the lapsed district,**
65 **with a governance structure [consistent with the laws applicable to districts of a similar size]**
66 **specified by the state board of education, with the option of permitting a district to remain**
67 **intact for the purposes of assessing, collecting, and distributing property taxes, to be distributed**
68 **equitably on a weighted average daily attendance basis, but to be divided for operational**
69 **purposes, which shall take effect sixty days after the adjournment of the regular session of the**
70 **general assembly next following the state board's decision unless a statute or concurrent**
71 **resolution is enacted to nullify the state board's decision prior to such effective date. [The special**
72 **administrative board may retain the authority granted to a board of education for the operation**
73 **of the lapsed school district under the laws of the state in effect at the time of the lapse.]**

74 **[5.] 4. A special administrative board appointed under this section shall retain the**
75 **authority granted to a board of education for the operation of the lapsed school district**
76 **under the laws of the state in effect at the time of the lapse.** The authority of the special
77 administrative board shall expire at the end of the third full school year following its
78 appointment, unless extended by the state board of education. If the lapsed district is reassigned,
79 the special administrative board shall provide an accounting of all funds, assets and liabilities
80 of the lapsed district and transfer such funds, assets, and liabilities of the lapsed district as
81 determined by the state board of education.

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

86 7.] **5.** Neither the special administrative board nor any district or other entity assigned
87 territory, assets or funds from a lapsed district shall be considered a successor entity for the
88 purpose of employment contracts, unemployment compensation payment pursuant to section
89 288.110, or any other purpose.

90 [8.] **6.** If additional teachers are needed by a district as a result of increased enrollment
91 due to the annexation of territory of a lapsed or dissolved district, such district shall grant an
92 employment interview to any permanent teacher of the lapsed or dissolved district upon the
93 request of such permanent teacher.

94 [9. (1) The governing body of a school district, upon an initial declaration by the state
95 board of education that such district is provisionally accredited, may, and, upon an initial
96 declaration by the state board of education that such district is unaccredited, shall develop a plan
97 to be submitted to the voters of the school district to divide the school district if the district
98 cannot attain accreditation within three years of the initial declaration that such district is
99 unaccredited. In the case of such a district being declared unaccredited, such plan shall be
100 presented to the voters of the district before the district lapses. In the case of such a district being
101 declared provisionally accredited, such plan may be presented before the close of the current
102 accreditation cycle.

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

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

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

113 10.] **7.** In the event that a school district with an enrollment in excess of five thousand
114 pupils lapses, no school district shall have all or any part of such lapsed school district attached
115 without the approval of the board of the receiving school district.

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

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

5 (2) **"Aggregate proration factor", the total formula appropriation under**
6 **subsections 1, 2, and 8 of section 163.031 for any given fiscal year divided by the amount**

7 **that would be necessary to fund the entire entitlement calculation determined by**
8 **subsections 1 and 2 of section 163.031 for the same fiscal year;**

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

28 [(3)] (4) "Current operating expenditures":

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

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

43 adequacy target. Beginning on July 1, 2010, current operating expenditures shall be the amount
44 in paragraph (a) of this subdivision plus any increases in state funding pursuant to sections
45 163.031 and 163.043 subsequent to fiscal year 2005 received by a district in the 2004-05 school
46 year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair
47 share, and free textbook payments for any district from the first preceding calculation of the state
48 adequacy target. **Beginning on July 1, 2012, current operating expenditures shall be the**
49 **amount in paragraph (a) of this subdivision plus any increases in state funding under**
50 **sections 163.031 and 163.043 subsequent to fiscal year 2005, not to exceed five percent, per**
51 **recalculation, of the state revenue received by a district in the 2004-05 school year from the**
52 **foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and**
53 **free textbook payments for any district from the first preceding calculation of the state**
54 **adequacy target. The five percent increase limit over the previous calculation shall be**
55 **applied to the recalculation of the state adequacy target for fiscal years 2013 and 2014, and**
56 **subsequently;**

57 [(4)] (5) "District's tax rate ceiling", the highest tax rate ceiling in effect subsequent to
58 the 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for
59 debt service;

60 [(5)] (6) "Dollar-value modifier", an index of the relative purchasing power of a dollar,
61 calculated as one plus fifteen percent of the difference of the regional wage ratio minus one,
62 provided that the dollar value modifier shall not be applied at a rate less than 1.0 **provided**
63 **further that the dollar-value modifier shall be recalculated every fiscal year, beginning in**
64 **fiscal year 2013, using a three-year simple moving average of the wage data from the**
65 **fourth, fifth, and sixth years preceding the payment year from the Bureau of Economic**
66 **Analysis of the United States Department of Commerce, as provided in this subdivision:**

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

71 (b) "Regional wage per job":

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

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

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

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

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

92 [(6)] (7) "Free and reduced lunch pupil count", the number of pupils eligible for free and
93 reduced lunch on the last Wednesday in January for the preceding school year who were enrolled
94 as students of the district, as approved by the department in accordance with applicable federal
95 regulations;

96 [(7)] (8) "Free and reduced lunch threshold" shall be calculated by dividing the total free
97 and reduced lunch pupil count of every performance district that falls entirely above the bottom
98 five percent and entirely below the top five percent of average daily attendance, when such
99 districts are rank-ordered based on their current operating expenditures per average daily
100 attendance, by the total average daily attendance of all included performance districts;

101 [(8)] (9) "Limited English proficiency pupil count", the number in the preceding school
102 year of pupils aged three through twenty-one enrolled or preparing to enroll in an elementary
103 school or secondary school who were not born in the United States or whose native language is
104 a language other than English or are Native American or Alaskan native, or a native resident of
105 the outlying areas, and come from an environment where a language other than English has had
106 a significant impact on such individuals' level of English language proficiency, or are migratory,
107 whose native language is a language other than English, and who come from an environment
108 where a language other than English is dominant; and have difficulties in speaking, reading,
109 writing, or understanding the English language sufficient to deny such individuals the ability to
110 meet the state's proficient level of achievement on state assessments described in Public Law
111 107-10, the ability to achieve successfully in classrooms where the language of instruction is
112 English, or the opportunity to participate fully in society;

113 [(9)] (10) "Limited English proficiency threshold" shall be calculated by dividing the
114 total limited English proficiency pupil count of every performance district that falls entirely

115 above the bottom five percent and entirely below the top five percent of average daily attendance,
116 when such districts are rank-ordered based on their current operating expenditures per average
117 daily attendance, by the total average daily attendance of all included performance districts;

118 ~~[(10)]~~ **(11)** "Local effort":

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

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

141 ~~[(11)]~~ **(12)** "Membership" shall be the average of:

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

146 (b) The number of resident full-time students and the full-time equivalent number of
147 part-time students who were enrolled in the public schools of the district on the last Wednesday
148 in January of the previous year and who were in attendance one day or more during the preceding
149 ten school days, plus the full-time equivalent number of summer school pupils. "Full-time
150 equivalent number of part-time students" is determined by dividing the total number of hours for

151 which all part-time students are enrolled by the number of hours in the school term. "Full-time
152 equivalent number of summer school pupils" is determined by dividing the total number of hours
153 for which all summer school pupils were enrolled by the number of hours required pursuant to
154 section 160.011 in the school term. Only students eligible to be counted for average daily
155 attendance shall be counted for membership;

156 **(13) "Modified formula payment", the product of the proration factor and the**
157 **calculation determined by subsection 1 of section 163.031;**

158 **(14) "Modified hold harmless payment", the product of the calculation determined**
159 **by subsection 2 of section 163.031 and the sum of one-third the proration factor plus two-**
160 **thirds;**

161 ~~[(12)]~~ **(15)** "Operating levy for school purposes", the sum of tax rates levied for teachers'
162 and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100
163 of any transitional school district containing the school district, in the payment year, not
164 including any equalized operating levy for school purposes levied by a special school district in
165 which the district is located;

166 ~~[(13)]~~ **(16)** "Performance district", any district that has met all performance standards and
167 indicators as established by the department of elementary and secondary education for purposes
168 of accreditation under section 161.092 and as reported on the final annual performance report
169 for that district each year;

170 ~~[(14)]~~ **(17)** "Performance levy", three dollars and forty-three cents;

171 **(18) "Proration factor", a percentage applied to the calculations determined by**
172 **subsections 1 and 2 of section 163.031, prior to subtracting payments from the classroom**
173 **trust fund, such that the sum total of every payment made to school districts eligible for a**
174 **modified formula payment combined with the sum total of every payment made to school**
175 **districts eligible for a modified hold harmless payment shall equal the total formula**
176 **appropriation for a given fiscal year. The proration factor shall be calculated by the**
177 **department of elementary and secondary education using the most current available data;**

178 ~~[(15)]~~ **(19)** "School purposes" pertains to teachers' and incidental funds;

179 ~~[(16)]~~ **(20)** "Special education pupil count", the number of public school students with
180 a current individualized education program or services plan and receiving services from the
181 resident district as of December first of the preceding school year, except for special education
182 services provided through a school district established under sections 162.815 to 162.940 in a
183 county with a charter form of government and with more than one million inhabitants, in which
184 case the sum of the students in each district within the county exceeding the special education
185 threshold of each respective district within the county shall be counted within the special district

186 and not in the district of residence for purposes of distributing the state aid derived from the
187 special education pupil count;

188 [(17)] (21) "Special education threshold" shall be calculated by dividing the total special
189 education pupil count of every performance district that falls entirely above the bottom five
190 percent and entirely below the top five percent of average daily attendance, when such districts
191 are rank-ordered based on their current operating expenditures per average daily attendance, by
192 the total average daily attendance of all included performance districts;

193 [(18)] (22) "State adequacy target", the sum of the current operating expenditures of
194 every performance district that falls entirely above the bottom five percent and entirely below
195 the top five percent of average daily attendance, when such districts are rank-ordered based on
196 their current operating expenditures per average daily attendance, divided by the total average
197 daily attendance of all included performance districts. The department of elementary and
198 secondary education shall first calculate the state adequacy target for fiscal year 2007 and
199 recalculate the state adequacy target every two years using the most current available data. The
200 recalculation shall never result in a decrease from the previous state adequacy target amount.
201 Should a recalculation result in an increase in the state adequacy target amount, fifty percent of
202 that increase shall be included in the state adequacy target amount in the year of recalculation,
203 and fifty percent of that increase shall be included in the state adequacy target amount in the
204 subsequent year]. The state adequacy target may be adjusted to accommodate available
205 appropriations];

206 [(19)] (23) "Teacher", any teacher, teacher-secretary, substitute teacher, supervisor,
207 principal, supervising principal, superintendent or assistant superintendent, school nurse, social
208 worker, counselor or librarian who shall, regularly, teach or be employed for no higher than
209 grade twelve more than one-half time in the public schools and who is certified under the laws
210 governing the certification of teachers in Missouri;

211 [(20)] (24) "Weighted average daily attendance", the average daily attendance plus the
212 product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that
213 exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths
214 multiplied by the number of special education pupil count that exceeds the special education
215 threshold, plus the product of six-tenths multiplied by the number of limited English proficiency
216 pupil count that exceeds the limited English proficiency threshold. For special districts
217 established under sections 162.815 to 162.940 in a county with a charter form of government and
218 with more than one million inhabitants, weighted average daily attendance shall be the average
219 daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced
220 lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of
221 seventy-five hundredths multiplied by the sum of the special education pupil count that exceeds

222 the threshold for each county district, plus the product of six-tenths multiplied by the limited
223 English proficiency pupil count that exceeds the limited English proficiency threshold. None of
224 the districts comprising a special district established under sections 162.815 to 162.940 in a
225 county with a charter form of government and with more than one million inhabitants, shall use
226 any special education pupil count in calculating their weighted average daily attendance.

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

7 2. [Other provisions of law to the contrary] Notwithstanding **subsection 1 of this**
8 **section**:

9 (1) For districts with an average daily attendance of more than three hundred fifty in the
10 school year preceding the payment year:

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

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

27 (c) For the 2008-09 school year, the state revenue per weighted average daily attendance
28 received by a district from the state aid calculation under subsections 1 and 4 of this section, as
29 applicable, and the classroom trust fund under section 163.043 shall not be less than the state
30 revenue received by a district in the 2005-06 school year from the foundation formula, line 14,
31 gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts

32 multiplied by the dollar value modifier, and dividing this product by the weighted average daily
33 attendance computed for the 2005-06 school year;

34 (d) For each year subsequent to the 2008-09 school year, the amount shall be no less than
35 that computed in paragraph (c) of this subdivision, multiplied by the weighted average daily
36 attendance pursuant to section 163.036, less any increase in revenue received from the classroom
37 trust fund under section 163.043;

38 (2) For districts with an average daily attendance of three hundred fifty or less in the
39 school year preceding the payment year:

40 (a) For the 2006-07 school year, the state revenue received by a district from the state
41 aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust
42 fund under section 163.043 shall not be less than the greater of state revenue received by a
43 district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted,
44 remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts
45 multiplied by the sum of one plus the product of one-third multiplied by the remainder of the
46 dollar value modifier minus one;

47 (b) For the 2007-08 school year, the state revenue received by a district from the state
48 aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust
49 fund under section 163.043 shall not be less than the greater of state revenue received by a
50 district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted,
51 remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts
52 multiplied by the sum of one plus the product of two-thirds multiplied by the remainder of the
53 dollar value modifier minus one;

54 (c) For the 2008-09 school year, the state revenue received by a district from the state
55 aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust
56 fund under section 163.043 shall not be less than the greater of state revenue received by a
57 district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted,
58 remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts
59 multiplied by the dollar value modifier;

60 (d) For each year subsequent to the 2008-09 school year, the amount shall be no less than
61 that computed in paragraph (c) of this subdivision;

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

65 3. School districts that meet the requirements of section 163.021 shall receive categorical
66 add-on revenue as provided in this subsection. The categorical add-on for the district shall be
67 the sum of: seventy-five percent of the district allowable transportation costs under section

68 163.161; the career ladder entitlement for the district, as provided for in sections 168.500 to
69 168.515; the vocational education entitlement for the district, as provided for in section 167.332;
70 and the district educational and screening program entitlements as provided for in sections
71 178.691 to 178.699. The categorical add-on revenue amounts may be adjusted to accommodate
72 available appropriations.

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

76 (1) For the 2006-07 school year, the amount shall be fifteen percent of the amount of
77 state aid calculated for the district for the 2006-07 school year under the provisions of subsection
78 1 of this section, plus eighty-five percent of the total amount of state revenue received by the
79 district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial
80 reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received
81 under section 163.043.

82 (2) For the 2007-08 school year, the amount shall be thirty percent of the amount of state
83 aid calculated for the district for the 2007-08 school year under the provisions of subsection 1
84 of this section, plus seventy percent of the total amount of state revenue received by the district
85 for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading,
86 exceptional pupil aid, fair share, and free textbook payments less any amounts received under
87 section 163.043.

88 (3) For the 2008-09 school year, the amount of state aid shall be forty-four percent of the
89 amount of state aid calculated for the district for the 2008-09 school year under the provisions
90 of subsection 1 of this section plus fifty-six percent of the total amount of state revenue received
91 by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial
92 reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received
93 under section 163.043.

94 (4) For the 2009-10 school year, the amount of state aid shall be fifty-eight percent of
95 the amount of state aid calculated for the district for the 2009-10 school year under the provisions
96 of subsection 1 of this section plus forty-two percent of the total amount of state revenue
97 received by the district for the 2005-06 school year from the foundation formula, line 14, gifted,
98 remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts
99 received under section 163.043.

100 (5) For the 2010-11 school year, the amount of state aid shall be seventy-two percent of
101 the amount of state aid calculated for the district for the 2010-11 school year under the provisions
102 of subsection 1 of this section plus twenty-eight percent of the total amount of state revenue
103 received by the district for the 2005-06 school year from the foundation formula, line 14, gifted,

104 remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts
105 received under section 163.043.

106 (6) For the 2011-12 school year, the amount of state aid shall be eighty-six percent of
107 the amount of state aid calculated for the district for the 2011-12 school year under the provisions
108 of subsection 1 of this section plus fourteen percent of the total amount of state revenue received
109 by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial
110 reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received
111 under section 163.043.

112 (7) (a) Notwithstanding subdivision (18) of section 163.011, the state adequacy target
113 may not be adjusted downward to accommodate available appropriations in any year governed
114 by this subsection.

115 (b) a. For the 2006-07 school year, if a school district experiences a decrease in summer
116 school average daily attendance of more than twenty percent from the district's 2005-06 summer
117 school average daily attendance, an amount equal to the product of the percent reduction that is
118 in excess of twenty percent of the district's summer school average daily attendance multiplied
119 by the funds generated by the district's summer school program in the 2005-06 school year shall
120 be subtracted from the district's current year payment amount.

121 b. For the 2007-08 school year, if a school district experiences a decrease in summer
122 school average daily attendance of more than thirty percent from the district's 2005-06 summer
123 school average daily attendance, an amount equal to the product of the percent reduction that is
124 in excess of thirty percent of the district's summer school average daily attendance multiplied by
125 the funds generated by the district's summer school program in the 2005-06 school year shall be
126 subtracted from the district's payment amount.

127 c. For the 2008-09 school year, if a school district experiences a decrease in summer
128 school average daily attendance of more than thirty-five percent from the district's 2005-06
129 summer school average daily attendance, an amount equal to the product of the percent reduction
130 that is in excess of thirty-five percent of the district's summer school average daily attendance
131 multiplied by the funds generated by the district's summer school program in the 2005-06 school
132 year shall be subtracted from the district's payment amount.

133 d. Notwithstanding the provisions of this paragraph, no such reduction shall be made in
134 the case of a district that is receiving a payment under section 163.044 or any district whose
135 regular school term average daily attendance for the preceding year was three hundred fifty or
136 less.

137 e. This paragraph shall not be construed to permit any reduction applied under this
138 paragraph to result in any district receiving a current-year payment that is less than the amount
139 calculated for such district under subsection 2 of this section.

140 (c)] (1) (a) For fiscal year 2014, the general assembly shall appropriate an amount
141 under subsections 1, 2, and 8 of this section that equals or exceeds the formula
142 appropriation under subsections 1, 2, and 4 of this section as it existed in fiscal year 2011;

143 (b) For fiscal year 2015, the general assembly shall appropriate an amount under
144 subsections 1, 2, and 8 of this section that is sufficient to produce an aggregate proration
145 factor of at least .93;

146 (c) For fiscal year 2016, the general assembly shall appropriate an amount under
147 subsections 1, 2, and 8 of this section that is sufficient to produce an aggregate proration
148 factor of at least .96;

149 (d) For fiscal year 2017, the general assembly shall appropriate an amount under
150 subsections 1, 2, and 8 of this section that is sufficient to produce an aggregate proration
151 factor of at least 1.0;

152 (2) If a school district experiences a decrease in its gifted program enrollment of more
153 than twenty percent from its 2005-06 gifted program enrollment in any year governed by this
154 subsection, an amount equal to the product of the percent reduction in the district's gifted
155 program enrollment multiplied by the funds generated by the district's gifted program in the
156 2005-06 school year shall be subtracted from the district's current year payment amount.

157 5. For any school district meeting the eligibility criteria for state aid as established in
158 section 163.021, but which is considered an option district under section 163.042 and therefore
159 receives no state aid, the commissioner of education shall present a plan to the superintendent
160 of the school district for the waiver of rules and the duration of said waivers, in order to promote
161 flexibility in the operations of the district and to enhance and encourage efficiency in the delivery
162 of instructional services as provided in section 163.042.

163 6. (1) No less than seventy-five percent of the state revenue received under the
164 provisions of subsections 1, 2, and 4 of this section shall be placed in the teachers' fund, and the
165 remaining percent of such moneys shall be placed in the incidental fund. No less than
166 seventy-five percent of one-half of the funds received from the school district trust fund
167 distributed under section 163.087 shall be placed in the teachers' fund. One hundred percent of
168 revenue received under the provisions of section 163.161 shall be placed in the incidental fund.
169 One hundred percent of revenue received under the provisions of sections 168.500 to 168.515
170 shall be placed in the teachers' fund.

171 (2) A school district shall spend for certificated compensation and tuition expenditures
172 each year:

173 (a) An amount equal to at least seventy-five percent of the state revenue received under
174 the provisions of subsections 1, 2, and 4 of this section;

175 (b) An amount equal to at least seventy-five percent of one-half of the funds received
176 from the school district trust fund distributed under section 163.087 during the preceding school
177 year; and

178 (c) Beginning in fiscal year 2008, as much as was spent per the second preceding year's
179 weighted average daily attendance for certificated compensation and tuition expenditures the
180 previous year from revenue produced by local and county tax sources in the teachers' fund, plus
181 the amount of the incidental fund to teachers' fund transfer calculated to be local and county tax
182 sources by dividing local and county tax sources in the incidental fund by total revenue in the
183 incidental fund. In the event a district fails to comply with this provision, the amount by which
184 the district fails to spend funds as provided herein shall be deducted from the district's state
185 revenue received under the provisions of subsections 1, 2, and 4 of this section for the following
186 year, provided that the state board of education may exempt a school district from this provision
187 if the state board of education determines that circumstances warrant such exemption.

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

197 **8. Notwithstanding the provisions of subsections 1 and 2 of this section, in any year**
198 **in which the formula appropriation does not equal the amount necessary to fund the entire**
199 **entitlement calculation determined by subsections 1 and 2 of this section, each district shall**
200 **receive the greater of the district's modified formula payment or the district's modified**
201 **hold harmless payment.**

Section B. Because of the need to provide immediate guidance on the allocation of
2 appropriated funds and on the operations of unaccredited districts, the repeal and reenactment
3 of sections 162.081, 163.011, and 163.031, of this act are deemed necessary for the immediate
4 preservation of the public health, welfare, peace and safety, and is hereby declared to be an
5 emergency act within the meaning of the constitution, and the repeal and reenactment of sections
6 162.081, 163.011, and 163.031, of this act shall be in full force and effect upon its passage and
7 approval.

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