

SECOND REGULAR SESSION

# HOUSE BILL NO. 2373

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CHRISTOFANELLI.

6270H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 163.011, 163.031, and 163.044, RSMo, and to enact in lieu thereof two new sections relating to elementary and secondary education.

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

Section A. Sections 163.011, 163.031, and 163.044, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 163.011 and 163.031, to read as follows:

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

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

(2) "Average daily attendance", the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by resident pupils between the ages of five and twenty-one by the actual number of hours school was in session in that term. To the average daily attendance of the following school term shall be added the full-time equivalent average daily attendance of summer school students. "Full-time equivalent average daily attendance of summer school students" shall be computed by dividing the total number of hours, except for physical education hours that do not count as credit toward graduation for students in grades nine, ten, eleven, and twelve, attended by all summer school pupils by the number of hours required in section 160.011 in the school term. For purposes of determining average daily attendance under this subdivision, the term "resident pupil" shall include all children between the ages of five and twenty-one who are residents of the school district and who are attending kindergarten through grade twelve in such district. If a child is attending school in a district other than the district of residence and the child's parent is teaching in the school district or is a

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.

18 regular employee of the school district which the child is attending, then such child shall be  
19 considered a resident pupil of the school district which the child is attending for such period of  
20 time when the district of residence is not otherwise liable for tuition. Average daily attendance  
21 for students below the age of five years for which a school district may receive state aid based  
22 on such attendance shall be computed as regular school term attendance unless otherwise  
23 provided by law;

24 (3) "Current operating expenditures":

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

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

40 (4) "District's tax rate ceiling", the highest tax rate ceiling in effect subsequent to the  
41 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for  
42 debt service;

43 (5) "Dollar-value modifier", an index of the relative purchasing power of a dollar,  
44 calculated as one plus ~~fifteen~~ ten percent of the difference of the regional wage ratio minus one,  
45 provided that the dollar value modifier shall not be applied at a rate less than 1.0. **As used in**  
46 **this subdivision, the following terms mean:**

47 (a) "County wage per job", the total county wage and salary disbursements divided by  
48 the total county wage and salary employment for each county and the City of St. Louis as  
49 reported by the Bureau of Economic Analysis of the United States Department of Commerce for  
50 the fourth year preceding the payment year;

51 (b) "Regional wage per job":

52 a. The total Missouri wage and salary disbursements of the metropolitan area as defined  
53 by the Office of Management and Budget divided by the total Missouri metropolitan wage and

54 salary employment for the metropolitan area for the county signified in the school district number  
55 or the City of St. Louis, as reported by the Bureau of Economic Analysis of the United States  
56 Department of Commerce for the fourth year preceding the payment year and recalculated upon  
57 every decennial census to incorporate counties that are newly added to the description of  
58 metropolitan areas; or if no such metropolitan area is established, then:

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

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

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

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

72       (6) "Free and reduced price lunch pupil count", for school districts not eligible for and  
73 those that do not choose the USDA Community Eligibility Option, the number of pupils eligible  
74 for free and reduced price lunch on the last Wednesday in January for the preceding school year  
75 who were enrolled as students of the district, as approved by the department in accordance with  
76 applicable federal regulations. For eligible school districts that choose the USDA Community  
77 Eligibility Option, the free and reduced price lunch pupil count shall be the percentage of free  
78 and reduced price lunch students calculated as eligible on the last Wednesday in January of the  
79 most recent school year that included household applications to determine free and reduced price  
80 lunch count multiplied by the district's average daily attendance figure;

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

86       (8) "Limited English proficiency pupil count", the number in the preceding school year  
87 of pupils aged three through twenty-one enrolled or preparing to enroll in an elementary school  
88 or secondary school who were not born in the United States or whose native language is a  
89 language other than English or are Native American or Alaskan native, or a native resident of

90 the outlying areas, and come from an environment where a language other than English has had  
91 a significant impact on such individuals' level of English language proficiency, or are migratory,  
92 whose native language is a language other than English, and who come from an environment  
93 where a language other than English is dominant; and have difficulties in speaking, reading,  
94 writing, or understanding the English language sufficient to deny such individuals the ability to  
95 meet the state's proficient level of achievement on state assessments described in Public Law  
96 ~~[107-10]~~ **107-110 or successor legislation**, the ability to achieve successfully in classrooms  
97 where the language of instruction is English, or the opportunity to participate fully in society;

98 (9) "Limited English proficiency threshold" shall be calculated by dividing the total  
99 limited English proficiency pupil count of every performance district that falls entirely above the  
100 bottom five percent and entirely below the top five percent of average daily attendance, when  
101 such districts are rank-ordered based on their current operating expenditures per average daily  
102 attendance, by the total average daily attendance of all included performance districts;

103 (10) "Local effort":

104 (a) For the fiscal year 2007 calculation, "local effort" shall be computed as the equalized  
105 assessed valuation of the property of a school district in calendar year 2004 divided by one  
106 hundred and multiplied by the performance levy less the percentage retained by the county  
107 assessor and collector plus one hundred percent of the amount received in fiscal year 2005 for  
108 school purposes from intangible taxes, fines, escheats, payments in lieu of taxes and receipts  
109 from state-assessed railroad and utility tax, one hundred percent of the amount received for  
110 school purposes pursuant to the merchants' and manufacturers' taxes under sections 150.010 to  
111 150.370, one hundred percent of the amounts received for school purposes from federal  
112 properties under sections 12.070 and 12.080 except when such amounts are used in the  
113 calculation of federal impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues  
114 received for school purposes from the school district trust fund under section 163.087, and one  
115 hundred percent of any local earnings or income taxes received by the district for school  
116 purposes. Under this paragraph, for a special district established under sections 162.815 to  
117 162.940 in a county with a charter form of government and with more than one million  
118 inhabitants, a tax levy of zero shall be utilized in lieu of the performance levy for the special  
119 school district;

120 (b) In every year subsequent to fiscal year 2007, "local effort" shall be the amount  
121 calculated under paragraph (a) of this subdivision plus any increase in the amount received for  
122 school purposes from fines. If a district's assessed valuation has decreased subsequent to the  
123 calculation outlined in paragraph (a) of this subdivision, the district's local effort shall be  
124 calculated using the district's current assessed valuation in lieu of the assessed valuation utilized  
125 in the calculation outlined in paragraph (a) of this subdivision. When a change in a school

126 district's boundary lines occurs because of a boundary line change, annexation, attachment,  
127 consolidation, reorganization, or dissolution under section 162.071, 162.081, sections 162.171  
128 to 162.201, section 162.221, 162.223, 162.431, 162.441, or 162.451, or in the event that a school  
129 district assumes any territory from a district that ceases to exist for any reason, the department  
130 of elementary and secondary education shall make a proper adjustment to each affected district's  
131 local effort, so that each district's local effort figure conforms to the new boundary lines of the  
132 district. The department shall compute the local effort figure by applying the calendar year 2004  
133 assessed valuation data to the new land areas resulting from the boundary line change,  
134 annexation, attachment, consolidation, reorganization, or dissolution and otherwise follow the  
135 procedures described in this subdivision;

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

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

141 (b) The number of resident full-time students and the full-time equivalent number of  
142 part-time students who were enrolled in the public schools of the district on the last Wednesday  
143 in January of the previous year and who were in attendance one day or more during the preceding  
144 ten school days, plus the full-time equivalent number of summer school pupils. "Full-time  
145 equivalent number of part-time students" is determined by dividing the total number of hours for  
146 which all part-time students are enrolled by the number of hours in the school term. "Full-time  
147 equivalent number of summer school pupils" is determined by dividing the total number of hours  
148 for which all summer school pupils were enrolled by the number of hours required pursuant to  
149 section 160.011 in the school term. Only students eligible to be counted for average daily  
150 attendance shall be counted for membership;

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

156 (13) "Performance district", any district that has met performance standards and  
157 indicators as established by the department of elementary and secondary education for purposes  
158 of accreditation under section 161.092 and as reported on the final annual performance report  
159 for that district each year; for calculations to be utilized for payments in fiscal years subsequent  
160 to fiscal year 2018, the number of performance districts shall not exceed twenty-five percent of  
161 all public school districts;

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

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

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

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

178 (18) "State adequacy target", the sum of the current operating expenditures of every  
179 performance district that falls entirely above the bottom five percent and entirely below the top  
180 five percent of average daily attendance, when such districts are rank-ordered based on their  
181 current operating expenditures per average daily attendance, divided by the total average daily  
182 attendance of all included performance districts. The department of elementary and secondary  
183 education shall first calculate the state adequacy target for fiscal year 2007 and recalculate the  
184 state adequacy target every two years using the most current available data. The recalculation  
185 shall never result in a decrease from the state adequacy target as calculated for fiscal years 2017  
186 and 2018 and any state adequacy target figure calculated subsequent to fiscal year 2018. Should  
187 a recalculation result in an increase in the state adequacy target amount, fifty percent of that  
188 increase shall be included in the state adequacy target amount in the year of recalculation, and  
189 fifty percent of that increase shall be included in the state adequacy target amount in the  
190 subsequent year. The state adequacy target may be adjusted to accommodate available  
191 appropriations as provided in subsection 7 of section 163.031;

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

197 (20) "Weighted average daily attendance", the average daily attendance plus the product  
198 of [~~twenty-five~~] **twenty-eight** hundredths multiplied by the free and reduced price lunch pupil  
199 count that exceeds the free and reduced price lunch threshold, plus the product of [~~seventy-five~~]  
200 **one and forty-nine** hundredths multiplied by the number of special education pupil count that  
201 exceeds the special education threshold, plus the product of six-tenths multiplied by the number  
202 of limited English proficiency pupil count that exceeds the limited English proficiency threshold.  
203 For special districts established under sections 162.815 to 162.940 in a county with a charter  
204 form of government and with more than one million inhabitants, weighted average daily  
205 attendance shall be the average daily attendance plus the product of [~~twenty-five~~] **twenty-eight**  
206 hundredths multiplied by the free and reduced price lunch pupil count that exceeds the free and  
207 reduced price lunch threshold, plus the product of [~~seventy-five~~] **one and forty-nine** hundredths  
208 multiplied by the sum of the special education pupil count that exceeds the threshold for each  
209 county district, plus the product of six-tenths multiplied by the limited English proficiency pupil  
210 count that exceeds the limited English proficiency threshold. None of the districts comprising  
211 a special district established under sections 162.815 to 162.940 in a county with a charter form  
212 of government and with more than one million inhabitants[;] shall use any special education  
213 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 subtracting payments from the classroom trust fund  
6 under section 163.043.

7 2. Other provisions of law to the contrary notwithstanding:

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

10 (a) For the 2008-09 school year, the state revenue per weighted average daily attendance  
11 received by a district from the state aid calculation under subsections 1 and 4 of this section, as  
12 applicable, and the classroom trust fund under section 163.043 shall not be less than the state  
13 revenue received by a district in the 2005-06 school year from the foundation formula, line 14,  
14 gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts  
15 multiplied by the dollar value modifier, and dividing this product by the weighted average daily  
16 attendance computed for the 2005-06 school year;

17 (b) For each year subsequent to the 2008-09 school year, the amount shall be no less than  
18 that computed in paragraph (a) of this subdivision, multiplied by the weighted average daily

19 attendance pursuant to section 163.036, less any increase in revenue received from the classroom  
20 trust fund under section 163.043;

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

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

29 (b) For each year subsequent to the 2008-09 school year **through the 2018-19 school**  
30 **year**, the amount shall be no less than that computed in paragraph (a) of this subdivision;

31 (c) **For each year subsequent to the 2018-19 school year, the amount shall be no less**  
32 **than that computed in paragraph (d) of this subdivision, multiplied by the weighted**  
33 **average daily attendance under section 163.036, less any increase in revenue received from**  
34 **the classroom trust fund under section 163.043;**

35 (d) **The figure used as the base in paragraph (c) of this subdivision shall be the**  
36 **figure that would have been calculated for the 2008-09 school year under paragraph (a)**  
37 **of subdivision (1) of this subsection for the district if the district had been subject to**  
38 **subdivision (1) of this subsection for the 2008-09 school year;**

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

42 3. School districts that meet the requirements of section 163.021 shall receive categorical  
43 add-on revenue as provided in this subsection. The categorical add-on for the district shall be  
44 the sum of: seventy-five percent of the district allowable transportation costs under section  
45 163.161; the career ladder entitlement for the district, as provided for in sections 168.500 to  
46 168.515; the vocational education entitlement for the district, as provided for in section 167.332;  
47 and the district educational and screening program entitlements as provided for in sections  
48 178.691 to 178.699. The categorical add-on revenue amounts may be adjusted to accommodate  
49 available appropriations.

50 4. For any school district meeting the eligibility criteria for state aid as established in  
51 section 163.021, but which is considered an option district under section 163.042 and therefore  
52 receives no state aid, the commissioner of education shall present a plan to the superintendent  
53 of the school district for the waiver of rules and the duration of said waivers, in order to promote



54 flexibility in the operations of the district and to enhance and encourage efficiency in the delivery  
55 of instructional services as provided in section 163.042.

56 5. (1) No less than seventy-five percent of the state revenue received under the  
57 provisions of subsections 1 and 2 of this section shall be placed in the teachers' fund, and the  
58 remaining percent of such moneys shall be placed in the incidental fund. No less than  
59 seventy-five percent of one-half of the funds received from the school district trust fund  
60 distributed under section 163.087 shall be placed in the teachers' fund. One hundred percent of  
61 revenue received under the provisions of section 163.161 shall be placed in the incidental fund.  
62 One hundred percent of revenue received under the provisions of sections 168.500 to 168.515  
63 shall be placed in the teachers' fund.

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

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

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

71 (c) Beginning in fiscal year 2008, as much as was spent per the second preceding year's  
72 weighted average daily attendance for certificated compensation and tuition expenditures the  
73 previous year from revenue produced by local and county tax sources in the teachers' fund, plus  
74 the amount of the incidental fund to teachers' fund transfer calculated to be local and county tax  
75 sources by dividing local and county tax sources in the incidental fund by total revenue in the  
76 incidental fund.

77

78 In the event a district fails to comply with this provision, the amount by which the district fails  
79 to spend funds as provided herein shall be deducted from the district's state revenue received  
80 under the provisions of subsections 1 and 2 of this section for the following year, provided that  
81 the state board of education may exempt a school district from this provision if the state board  
82 of education determines that circumstances warrant such exemption.

83 6. (1) If a school district's annual audit discloses that students were inappropriately  
84 identified as eligible for free and reduced price lunch, special education, or limited English  
85 proficiency and the district does not resolve the audit finding, the department of elementary and  
86 secondary education shall require that the amount of aid paid pursuant to the weighting for free  
87 and reduced price lunch, special education, or limited English proficiency in the weighted  
88 average daily attendance on the inappropriately identified pupils be repaid by the district in the  
89 next school year and shall additionally impose a penalty of one hundred percent of such aid paid

90 on such pupils, which penalty shall also be paid within the next school year. Such amounts may  
 91 be repaid by the district through the withholding of the amount of state aid.

92 (2) In the 2017-18 school year and in each subsequent school year, if a district  
 93 experiences a decrease in its gifted program enrollment of twenty percent or more from the  
 94 previous school year, an amount equal to the product of the difference between the number of  
 95 students enrolled in the gifted program in the current school year and the number of students  
 96 enrolled in the gifted program in the previous school year multiplied by six hundred eighty  
 97 dollars shall be subtracted from the district's current year payment amount. The provisions of  
 98 this subdivision shall apply to districts entitled to receive state aid payments under both  
 99 subsections 1 and 2 of this section but shall not apply to any school district with an average daily  
 100 attendance of three hundred fifty or less.

101 7. Notwithstanding any provision of law to the contrary, in any fiscal year during which  
 102 the total formula appropriation is insufficient to fully fund the entitlement calculation of this  
 103 section, the department of elementary and secondary education shall adjust the state adequacy  
 104 target in order to accommodate the appropriation level for the given fiscal year. In no manner  
 105 shall any payment modification be rendered for any district qualified to receive payments under  
 106 subsection 2 of this section based on insufficient appropriations.

2 ~~[163.044. 1. Beginning with the 2007 fiscal year and each subsequent~~  
 3 ~~fiscal year, the general assembly shall appropriate fifteen million dollars to be~~  
 4 ~~directed in the following manner to school districts with an average daily~~  
 5 ~~attendance of three hundred fifty students or less in the school year preceding the~~  
 6 ~~payment year.~~

7 ~~(1) Ten million dollars shall be distributed to the eligible districts in~~  
 8 ~~proportion to their average daily attendance; and~~

9 ~~(2) Five million dollars shall be directed to the eligible districts that have~~  
 10 ~~an operating levy for school purposes in the current year equal to or greater than~~  
 11 ~~the performance levy and any school districts which have an operating levy for~~  
 12 ~~school purposes in the current year less than the performance levy solely due to~~  
 13 ~~a modification of such district's levy required under subdivision (4) of subsection~~  
 14 ~~5 of section 137.073. A tax-rate-weighted average daily attendance shall be~~  
 15 ~~calculated for each eligible district in proportion to its operating levy for school~~  
 16 ~~purposes for the current year divided by the performance levy with that result~~  
 17 ~~multiplied by the district's average daily attendance in the school year preceding~~  
 18 ~~the payment year. The total appropriation pursuant to this subdivision shall then~~  
 19 ~~be divided by the sum of the tax-rate-weighted average daily attendance of the~~  
 20 ~~eligible districts, and the resulting amount per tax-rate-weighted average daily~~  
 21 ~~attendance shall be multiplied by each eligible district's tax-rate-weighted average~~  
 22 ~~daily attendance to determine the amount to be paid to each eligible district.~~

23 ~~2. The payment under this section shall not be transferred to the capital~~  
~~projects fund.~~

24 ~~3. Except as provided in subsection 2 of this section, districts receiving~~  
25 ~~payments under this section may use the moneys for, including but not limited to,~~  
26 ~~the following:-~~  
27 ~~(1) Distance learning;~~  
28 ~~(2) Extraordinary transportation costs;~~  
29 ~~(3) Rural teacher recruitment; and~~  
30 ~~(4) Student learning opportunities not available within the district.]~~

✓