

SECOND REGULAR SESSION

HOUSE BILL NO. 1429

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SOMMER.

4434H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 163.011 and 163.031, RSMo, and to enact in lieu thereof two new sections relating to funding for gifted education.

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

Section A. Sections 163.011 and 163.031, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 163.011 and 163.031, to read as follows: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. Beginning on July 1, 2010, current operating expenditures shall be the amount
40 in paragraph (a) of this subdivision plus any increases in state funding pursuant to sections
41 163.031 and 163.043 subsequent to fiscal year 2005 received by a district in the 2004-05 school
42 year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair
43 share, and free textbook payments for any district from the first preceding calculation of the state
44 adequacy target;

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

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

52 (a) "County wage per job", the total county wage and salary disbursements divided by
53 the total county wage and salary employment for each county and the City of St. Louis as

54 reported by the Bureau of Economic Analysis of the United States Department of Commerce for
55 the fourth year preceding the payment year;

56 (b) "Regional wage per job":

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

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

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

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

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

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

86 (7) "Free and reduced **price** lunch threshold" shall be calculated by dividing the total free
87 and reduced **price** lunch pupil count of every performance district that falls entirely above the
88 bottom five percent and entirely below the top five percent of average daily attendance, when

89 such districts are rank-ordered based on their current operating expenditures per average daily
90 attendance, by the total average daily attendance of all included performance districts;

91 (8) **"Gifted education pupil count", the number of pupils who qualify as gifted**
92 **under the definition of gifted children in section 162.675 and who are enrolled and have**
93 **participated in a state-approved gifted education program provided by the district by June**
94 **first for the immediately preceding school year;**

95 (9) **"Gifted threshold", calculated by dividing the total gifted education pupil count**
96 **of every performance district that falls entirely above the bottom five percent and entirely**
97 **below the top five percent of average daily attendance, when such districts are rank-**
98 **ordered based on their current operating expenditures per average daily attendance, by**
99 **the total average daily attendance of all included performance districts;**

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

112 [(9)] (11) "Limited English proficiency threshold" shall be calculated by dividing the
113 total limited English proficiency pupil count of every performance district that falls entirely
114 above the bottom five percent and entirely below the top five percent of average daily attendance,
115 when such districts are rank-ordered based on their current operating expenditures per average
116 daily attendance, by the total average daily attendance of all included performance districts;

117 [(10)] (12) "Local effort":

118 (a) For the fiscal year 2007 calculation, "local effort" shall be computed as the equalized
119 assessed valuation of the property of a school district in calendar year 2004 divided by one
120 hundred and multiplied by the performance levy less the percentage retained by the county
121 assessor and collector plus one hundred percent of the amount received in fiscal year 2005 for
122 school purposes from intangible taxes, fines, escheats, payments in lieu of taxes and receipts
123 from state-assessed railroad and utility tax, one hundred percent of the amount received for
124 school purposes pursuant to the merchants' and manufacturers' taxes under sections 150.010 to

125 150.370, one hundred percent of the amounts received for school purposes from federal
126 properties under sections 12.070 and 12.080 except when such amounts are used in the
127 calculation of federal impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues
128 received for school purposes from the school district trust fund under section 163.087, and one
129 hundred percent of any local earnings or income taxes received by the district for school
130 purposes. Under this paragraph, for a special district established under sections 162.815 to
131 162.940 in a county with a charter form of government and with more than one million
132 inhabitants, a tax levy of zero shall be utilized in lieu of the performance levy for the special
133 school district;

134 (b) In every year subsequent to fiscal year 2007, "local effort" shall be the amount
135 calculated under paragraph (a) of this subdivision plus any increase in the amount received for
136 school purposes from fines. If a district's assessed valuation has decreased subsequent to the
137 calculation outlined in paragraph (a) of this subdivision, the district's local effort shall be
138 calculated using the district's current assessed valuation in lieu of the assessed valuation utilized
139 in the calculation outlined in paragraph (a) of this subdivision. When a change in a school
140 district's boundary lines occurs because of a boundary line change, annexation, attachment,
141 consolidation, reorganization, or dissolution under section 162.071, 162.081, sections 162.171
142 to 162.201, section 162.221, 162.223, 162.431, 162.441, or 162.451, or in the event that a school
143 district assumes any territory from a district that ceases to exist for any reason, the department
144 of elementary and secondary education shall make a proper adjustment to each affected district's
145 local effort, so that each district's local effort figure conforms to the new boundary lines of the
146 district. The department shall compute the local effort figure by applying the calendar year 2004
147 assessed valuation data to the new land areas resulting from the boundary line change,
148 annexation, attachment, consolidation, reorganization, or dissolution and otherwise follow the
149 procedures described in this subdivision;

150 [(11)] (13) "Membership" shall be the average of:

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

155 (b) The number of resident full-time students and the full-time equivalent number of
156 part-time students who were enrolled in the public schools of the district on the last Wednesday
157 in January of the previous year and who were in attendance one day or more during the preceding
158 ten school days, plus the full-time equivalent number of summer school pupils. "Full-time
159 equivalent number of part-time students" is determined by dividing the total number of hours for
160 which all part-time students are enrolled by the number of hours in the school term. "Full-time

161 equivalent number of summer school pupils" is determined by dividing the total number of hours
162 for which all summer school pupils were enrolled by the number of hours required pursuant to
163 section 160.011 in the school term. Only students eligible to be counted for average daily
164 attendance shall be counted for membership;

165 [(12)] (14) "Operating levy for school purposes", the sum of tax rates levied for teachers'
166 and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100
167 of any transitional school district containing the school district, in the payment year, not
168 including any equalized operating levy for school purposes levied by a special school district in
169 which the district is located;

170 [(13)] (15) "Performance district", any district that has met performance standards and
171 indicators as established by the department of elementary and secondary education for purposes
172 of accreditation under section 161.092 and as reported on the final annual performance report
173 for that district each year; for calculations to be utilized for payments in fiscal years subsequent
174 to fiscal year 2018, the number of performance districts shall not exceed twenty-five percent of
175 all public school districts;

176 [(14)] (16) "Performance levy", three dollars and forty-three cents;

177 [(15)] (17) "School purposes" pertains to teachers' and incidental funds;

178 [(16)] (18) "Special education pupil count", the number of public school students with
179 a current individualized education program or services plan and receiving services from the
180 resident district as of December first of the preceding school year, except for special education
181 services provided through a school district established under sections 162.815 to 162.940 in a
182 county with a charter form of government and with more than one million inhabitants, in which
183 case the sum of the students in each district within the county exceeding the special education
184 threshold of each respective district within the county shall be counted within the special district
185 and not in the district of residence for purposes of distributing the state aid derived from the
186 special education pupil count;

187 [(17)] (19) "Special education threshold" shall be calculated by dividing the total special
188 education pupil count of every performance district that falls entirely above the bottom five
189 percent and entirely below the top five percent of average daily attendance, when such districts
190 are rank-ordered based on their current operating expenditures per average daily attendance, by
191 the total average daily attendance of all included performance districts;

192 [(18)] (20) "State adequacy target", the sum of the current operating expenditures of
193 every performance district that falls entirely above the bottom five percent and entirely below
194 the top five percent of average daily attendance, when such districts are rank-ordered based on
195 their current operating expenditures per average daily attendance, divided by the total average
196 daily attendance of all included performance districts. The department of elementary and

197 secondary education shall first calculate the state adequacy target for fiscal year 2007 and
198 recalculate the state adequacy target every two years using the most current available data. The
199 recalculation shall never result in a decrease from the previous state adequacy target amount.
200 Should a recalculation result in an increase in the state adequacy target amount, fifty percent of
201 that increase shall be included in the state adequacy target amount in the year of recalculation,
202 and fifty percent of that increase shall be included in the state adequacy target amount in the
203 subsequent year. The state adequacy target may be adjusted to accommodate available
204 appropriations as provided in subsection 7 of section 163.031;

205 [(19)] **(21)** "Teacher", any teacher, teacher-secretary, substitute teacher, supervisor,
206 principal, supervising principal, superintendent or assistant superintendent, school nurse, social
207 worker, counselor or librarian who shall, regularly, teach or be employed for no higher than
208 grade twelve more than one-half time in the public schools and who is certified under the laws
209 governing the certification of teachers in Missouri;

210 [(20)] **(22)** "Weighted average daily attendance", the average daily attendance plus the
211 product of twenty-five hundredths multiplied by the free and reduced **price** lunch pupil count
212 that exceeds the free and reduced **price** lunch threshold, plus the product of seventy-five
213 hundredths multiplied by the number of special education pupil count that exceeds the special
214 education threshold, plus the product of six-tenths multiplied by the number of limited English
215 proficiency pupil count that exceeds the limited English proficiency threshold, **and beginning**
216 **July 1, 2017, plus the product of six-tenths multiplied by the number of the district's gifted**
217 **education pupil count that exceeds the gifted threshold.** For special districts established
218 under sections 162.815 to 162.940 in a county with a charter form of government and with more
219 than one million inhabitants, weighted average daily attendance shall be the average daily
220 attendance plus the product of twenty-five hundredths multiplied by the free and reduced **price**
221 lunch pupil count that exceeds the free and reduced **price** lunch threshold, plus the product of
222 seventy-five hundredths multiplied by the sum of the special education pupil count that exceeds
223 the threshold for each county district, plus the product of six-tenths multiplied by the limited
224 English proficiency pupil count that exceeds the limited English proficiency threshold, **and**
225 **beginning July 1, 2017, plus the product of six-tenths multiplied by the number of the**
226 **district's gifted education pupil count that exceeds the gifted threshold.** None of the districts
227 comprising a special district established under sections 162.815 to 162.940 in a county with a
228 charter form of government and with more than one million inhabitants[,] shall use any special
229 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 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
12 **163.031 as it existed on July 1, 2015**, as applicable, and the classroom trust fund under section
13 163.043 shall not be less than the state revenue received by a district in the 2005-06 school year
14 from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share,
15 and free textbook payment amounts multiplied by the dollar value modifier, and dividing this
16 product by the weighted average daily 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 **163.031 as it existed on July 1, 2015**,
25 as applicable, and the classroom trust fund under section 163.043 shall not be less than the
26 greater of state revenue received by a district in the 2004-05 or 2005-06 school year from the
27 foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free
28 textbook payment amounts multiplied by the dollar value modifier;

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

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

34 3. School districts that meet the requirements of section 163.021 shall receive categorical
35 add-on revenue as provided in this subsection. The categorical add-on for the district shall be
36 the sum of: seventy-five percent of the district allowable transportation costs under section
37 163.161; the career ladder entitlement for the district, as provided for in sections 168.500 to
38 168.515; the vocational education entitlement for the district, as provided for in section 167.332;
39 and the district educational and screening program entitlements as provided for in sections

40 178.691 to 178.699. The categorical add-on revenue amounts may be adjusted to accommodate
41 available appropriations.

42 4. For any school district meeting the eligibility criteria for state aid as established in
43 section 163.021, but which is considered an option district under section 163.042 and therefore
44 receives no state aid, the commissioner of education shall present a plan to the superintendent
45 of the school district for the waiver of rules and the duration of said waivers, in order to promote
46 flexibility in the operations of the district and to enhance and encourage efficiency in the delivery
47 of instructional services as provided in section 163.042.

48 5. (1) No less than seventy-five percent of the state revenue received under the
49 provisions of subsections 1 and 2 of this section shall be placed in the teachers' fund, and the
50 remaining percent of such moneys shall be placed in the incidental fund. No less than
51 seventy-five percent of one-half of the funds received from the school district trust fund
52 distributed under section 163.087 shall be placed in the teachers' fund. One hundred percent of
53 revenue received under the provisions of section 163.161 shall be placed in the incidental fund.
54 One hundred percent of revenue received under the provisions of sections 168.500 to 168.515
55 shall be placed in the teachers' fund.

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

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

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

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

69

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

75 6. **(1)** If a school district's annual audit discloses that students were inappropriately
76 identified as eligible for free and reduced **price** lunch, special education, or limited English
77 proficiency and the district does not resolve the audit finding, the department of elementary and
78 secondary education shall require that the amount of aid paid pursuant to the weighting for free
79 and reduced **price** lunch, special education, or limited English proficiency in the weighted
80 average daily attendance on the inappropriately identified pupils be repaid by the district in the
81 next school year and shall additionally impose a penalty of one hundred percent of such aid paid
82 on such pupils, which penalty shall also be paid within the next school year. Such amounts may
83 be repaid by the district through the withholding of the amount of state aid.

84 **(2) If a school district's annual audit discloses that funding generated by the gifted**
85 **education pupil count was expended on matters not directly related to gifted education and**
86 **the district does not resolve the audit finding, the department of elementary and secondary**
87 **education shall require that the amount of aid paid pursuant to the weighting for gifted**
88 **education in the weighted average daily attendance on the matters not directly related to**
89 **gifted education be repaid by the district in the next school year and shall additionally**
90 **impose a penalty of one hundred percent of such aid paid on the matters not directly**
91 **related to gifted education, which penalty shall also be paid within the next school year.**
92 **Such amounts may be repaid by the district through the withholding of the amount of state**
93 **aid.**

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

✓