

SECOND REGULAR SESSION

# SENATE BILL NO. 616

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NASHEED.

Pre-filed December 6, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

4463S.02I

## AN ACT

To repeal section 167.131, RSMo, and to enact in lieu thereof six new sections relating to school operations, with an emergency clause.

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

Section A. Section 167.131, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as sections 160.085, 161.088, 167.131, 167.730, 168.310, and 171.417, to read as follows:

**160.085. 1. Section 160.085, section 161.088, section 167.730, section 168.310, and section 171.417 shall be known and may be cited as the "Every Child Can Learn Act".**

**2. For any school that has been classified as unaccredited by the state board of education under the system of classification enacted under section 161.088, the school board of the district in which it is located shall adopt and implement a school turnaround option for the unaccredited school no later than the first day of school of the school year beginning in the next calendar year.**

**3. For purposes of this section, the following terms shall mean:**

**(1) "Department", the department of elementary and secondary education;**

**(2) "Education management organization", a for-profit or nonprofit organization that provides whole-school operation services to a district;**

**(3) "Restart model", a model in which a district converts a school or closes and reopens a school using an education management organization that has been selected through a rigorous review process. Any school in which a restart model is used shall enroll, within the grades it serves, any former student who wishes to attend**

21 the school;

22 (4) "School turnaround option", when used alone, shall refer to  
23 a restart model, a transformation model, and a turnaround model;

24 (5) "Student academic growth", the change in achievement for an  
25 individual student between two or more points in time based on  
26 standards-based measures that are valid, rigorous, and comparable  
27 across classrooms of similar content and levels;

28 (6) "Transformation model", a model in which a district shall  
29 implement each of the following actions:

30 (a) The district develops and increases teacher and school leader  
31 effectiveness through required activities. To accomplish this action,  
32 the district shall:

33 a. Replace the principal who led the school prior to  
34 commencement of the transformation model;

35 b. Use rigorous, transparent, and equitable evaluation systems  
36 for teachers and principals that take into account data on student  
37 academic growth, as defined in this section, as a significant factor as  
38 well as other factors such as multiple observation-based assessments of  
39 performance and ongoing collections of professional practice reflective  
40 of student achievement and increased high school graduation rates and  
41 that are designed and developed with teacher and principal  
42 involvement;

43 c. Identify and reward school leaders, teachers, and other staff  
44 who, in implementing this model, have increased student achievement  
45 and high school graduation rates and identify and remove those who,  
46 after ample opportunities have been provided for them to improve their  
47 professional practice, have not done so; and

48 d. Provide staff with ongoing, high-quality, job-embedded  
49 professional development, including but not limited to specific subject  
50 pedagogy, instruction that reflects a deeper understanding of the  
51 community served by the school or differentiated instruction that is  
52 aligned with the school's comprehensive instructional program and  
53 designed with school staff to ensure they are equipped to facilitate  
54 effective teaching and learning and have the capacity to successfully  
55 implement school reform strategies;

56 (b) The district implements strategies, which may include but  
57 not be limited to financial incentives, increased opportunities for

58 promotion and career growth, and flexible work conditions that are  
59 designed to recruit, place, and retain staff with the skills necessary to  
60 meet the needs of the students in a transformation school;

61 (c) The district implements comprehensive instructional reform  
62 strategies, which shall include:

63 a. The use of data to identify and implement an instructional  
64 program that is research-based and vertically aligned from one grade  
65 to the next as well as aligned with state academic standards; and

66 b. The promotion of the continuous use of student data to inform  
67 and differentiate instruction in order to meet the academic needs of  
68 individual students. Student data may be obtained from the use of  
69 formative, interim, and summative assessments;

70 (d) Increases learning time and creates community-oriented  
71 schools by:

72 a. Establishing schedules and implementing strategies that  
73 provide increased and extended learning time and opportunities; and

74 b. Provides ongoing mechanisms for family and community  
75 engagement; and

76 (e) Provides operational flexibility and sustained support by:

77 a. Giving the school sufficient operational flexibility to fully  
78 implement a comprehensive approach to substantially improve student  
79 achievement outcomes and increase high school graduation  
80 rates. Operational flexibility shall include, but not be limited to,  
81 staffing decisions at the school, changes in school calendars and  
82 attendance time, and budgeting; and

83 b. Ensuring that the school receives ongoing, intensive technical  
84 assistance and related support from the district, the department, or a  
85 designated external lead partner organization, such as a school  
86 turnaround organization or an education management organization;

87 (7) "Turnaround model", a model in which a district performs the  
88 following actions:

89 (a) Replaces the principal and grants a new principal sufficient  
90 operational flexibility to implement a comprehensive approach in order  
91 to substantially improve student achievement outcomes and increase  
92 high school graduation rates. Operational flexibility shall include, but  
93 not be limited to, staffing decisions at the school, changes in school  
94 calendars and attendance time, and budgeting;

- 95           **(b) Notwithstanding any provision of law to the contrary, uses**  
96 **locally adopted competencies to measure the effectiveness of staff who**  
97 **can work within the turnaround environment to meet the needs of**  
98 **students, screen all existing staff and rehire no more than fifty percent**  
99 **of existing staff, and select new staff;**
- 100           **(c) Implements such strategies as financial incentives, increased**  
101 **opportunities for promotion and career growth, and more flexible work**  
102 **conditions that are designed to recruit, place, and retain staff with the**  
103 **skills necessary to meet the needs of the students in the turnaround**  
104 **school;**
- 105           **(d) Provides staff with ongoing, high quality, job-embedded**  
106 **professional development that is aligned with the school's**  
107 **comprehensive instructional program and designed with school staff to**  
108 **ensure that they are equipped to facilitate effective teaching and**  
109 **learning and have the capacity to successfully implement school reform**  
110 **strategies;**
- 111           **(e) Adopts a new governance structure, which may include, but**  
112 **not be limited to, requiring the school to report to a new turnaround**  
113 **office that may be established in the district or in the department, hire**  
114 **a turnaround leader who reports directly to the district**  
115 **superintendent, or enter into a multi-year contract with the district or**  
116 **the department to obtain added flexibility in exchange for greater**  
117 **accountability;**
- 118           **(f) Uses data to identify and implement an instructional program**  
119 **that is research-based and vertically aligned from one grade to the next**  
120 **as well as aligned with state academic standards;**
- 121           **(g) Promotes the continuous use of student data, such as**  
122 **formative assessments, interim assessments, and summative**  
123 **assessments to inform and differentiate instruction in order to meet the**  
124 **academic needs of individual students;**
- 125           **(h) Establishes schedules and implements strategies that provide**  
126 **increased learning time; and**
- 127           **(i) Provides appropriate social-emotional and community-**  
128 **oriented services and supports for students.**

161.088. 1. As authorized under its duty to classify the schools  
2 of the state under section 161.092, the state board of education shall  
3 adopt a system of classification as part of the Missouri school

4 **improvement program that classifies and accredits individual schools**  
5 **within a district separately from the district for:**

6 (1) **Any metropolitan school district; and**

7 (2) **Any urban school district containing most or all of a home**  
8 **rule city with more than four hundred thousand inhabitants and**  
9 **located in more than one county.**

10 2. **For any district identified in subsection 1 of this section, the**  
11 **state board of education shall classify the district as a whole in**  
12 **addition to classifying each individual school within the district.**

13 3. **The system of classification shall classify the schools in the**  
14 **following manner:**

15 (1) **Accredited with distinction;**

16 (2) **Accredited;**

17 (3) **Provisionally accredited; or**

18 (4) **Unaccredited.**

19 4. **The state board of education's system of classification shall be**  
20 **promulgated through administrative rule. Any rule or portion of a rule,**  
21 **as that term is defined in section 536.010 that is created under the**  
22 **authority delegated in this section shall become effective only if it**  
23 **complies with and is subject to all of the provisions of chapter 536, and,**  
24 **if applicable, section 536.028. This section and chapter 536 are**  
25 **nonseverable and if any of the powers vested with the general assembly**  
26 **pursuant to chapter 536, to review, to delay the effective date, or to**  
27 **disapprove and annul a rule are subsequently held unconstitutional,**  
28 **then the grant of rulemaking authority and any rule proposed or**  
29 **adopted after August 28, 2014, shall be invalid and void.**

167.131. 1. **Except as provided in subsection 3 of this section, the**  
2 **board of education of each district in this state that does not maintain an**  
3 **accredited school pursuant to the authority of the state board of education to**  
4 **classify schools as established in section 161.092 shall pay the tuition of and**  
5 **provide transportation consistent with the provisions of section 167.241 for each**  
6 **pupil resident therein who attends an accredited school in another district of the**  
7 **same or an adjoining county.**

8 2. **The rate of tuition to be charged by the district attended and paid by**  
9 **the sending district is the per pupil cost of maintaining the district's grade level**  
10 **grouping which includes the school attended. The cost of maintaining a grade**  
11 **level grouping shall be determined by the board of education of the district but**

12 in no case shall it exceed all amounts spent for teachers' wages, incidental  
13 purposes, debt service, maintenance and replacements. The term "debt service",  
14 as used in this section, means expenditures for the retirement of bonded  
15 indebtedness and expenditures for interest on bonded indebtedness. Per pupil  
16 cost of the grade level grouping shall be determined by dividing the cost of  
17 maintaining the grade level grouping by the average daily pupil attendance. If  
18 there is disagreement as to the amount of tuition to be paid, the facts shall be  
19 submitted to the state board of education, and its decision in the matter shall be  
20 final. Subject to the limitations of this section, each pupil shall be free to attend  
21 the public school of his or her choice.

22 **3. Before a student enrolled in and attending a public school that**  
23 **is classified as unaccredited by the state board of education under the**  
24 **system of classification enacted under section 161.088 may transfer to**  
25 **a public school in an accredited district in the same or an adjoining**  
26 **county under subsection 1 of this section, the district in which an**  
27 **unaccredited school is located shall determine if there is sufficient**  
28 **capacity in another public school in the student's district of residence**  
29 **that offers the student's grade level of enrollment and is accredited by**  
30 **the state board of education. If such capacity exists, the district shall**  
31 **permit the student to enroll in the accredited school. If such capacity**  
32 **does not exist or the student is unable to transfer to another accredited**  
33 **public school within his or her district of residence, the student may**  
34 **transfer to a public school in an accredited district in the same or an**  
35 **adjoining county. To be eligible to transfer to an accredited district in**  
36 **the same or an adjoining county, a student shall have been enrolled in**  
37 **and attending a public school in the unaccredited district for the three**  
38 **previous school years.**

39 **4. Each district in which an unaccredited school is located, as**  
40 **determined under the system of classification created under section**  
41 **161.088, shall publicly post a student transfer application on its**  
42 **internet website and otherwise it make available to parents and**  
43 **guardians. Any parent or guardian who seeks to transfer his or her**  
44 **child under this section shall complete a transfer application by April**  
45 **1 for enrollment in the following school year. If an unaccredited school**  
46 **regains accreditation from the state board of education during the**  
47 **school year, any student who has enrolled in another accredited public**  
48 **school within the district or in an accredited district in the same or an**

49 adjoining county may complete the school year at the school of  
50 enrollment.

167.730. 1. Beginning July 1, 2015, every public school in the  
2 metropolitan school district, including charter schools, shall  
3 incorporate a response-to-intervention tiered approach to reading  
4 instruction to focus resources on students who are determined by their  
5 school to need additional or changed instruction to make progress as  
6 readers. At a minimum, the reading levels of students in kindergarten  
7 through tenth grade shall be assessed at the beginning and middle of  
8 the school year, and students who score below district benchmarks  
9 shall be provided with intensive, systematic reading instruction.

10 2. Beginning January 1, 2015, and every January first thereafter,  
11 every public school in the metropolitan school district, including  
12 charter schools, shall prepare a personalized learning plan for any  
13 kindergarten or first grade student whose most recent school-wide  
14 reading assessment result shows the student is working below grade  
15 level unless the student has been determined by other means in the  
16 current school year to be working at grade level or above. The  
17 provisions of this section shall not apply to students otherwise served  
18 under an individualized education program, to students receiving  
19 services through a plan prepared under Section 504 of the  
20 Rehabilitation Act of 1973 that includes an element addressing reading  
21 below grade level, or to students determined to have limited English  
22 proficiency.

23 3. For any student that is required by this section to have a  
24 personalized learning plan, the student's main teacher shall consult  
25 with the student's parent or guardian during the preparation of the  
26 plan and shall consult, as appropriate, any district personnel or  
27 department of elementary and secondary education personnel with  
28 necessary expertise to develop such a plan. The school shall require  
29 the written consent of the parent or guardian to implement the plan;  
30 however, if the school is unsuccessful in contacting the parent or  
31 guardian by January fifteenth, the school may send a letter by certified  
32 mail to the student's last known address stating its intention to  
33 implement the plan by February first.

34 4. After implementing the personalized learning plan through the  
35 end of the student's first grade year, the school shall refer any student

36 who still performs below grade level for assessment to determine if an  
37 individualized education program is necessary for the student. A  
38 student who is assessed as not needing an individualized education  
39 program but who is reading below grade level at the end of the first  
40 grade shall continue to be required to have a personalized learning  
41 plan until the student is reading at grade level.

42 5. A student who is not reading at second-grade level by the end  
43 of second grade may be promoted to the third grade only under one of  
44 the following circumstances:

45 (1) The school provides additional reading instruction during the  
46 summer and demonstrates the student is ready for third grade at the  
47 end of the summer school;

48 (2) The school provides a combined classroom in which the  
49 student continues with the same teacher, sometimes referred to as  
50 "looping". If the student in such a classroom is not reading at third-  
51 grade level by the end of third grade, the student shall be retained in  
52 third grade; or

53 (3) The student's parents or guardians have signed a notice that  
54 they prefer to have their student promoted although the student is  
55 reading below grade level. The school shall have the final  
56 determination on the issue of retention.

57 6. The metropolitan school district and each charter school  
58 located in it shall provide in its annual report card under section  
59 160.522 the numbers and percentages by grade from first grade to tenth  
60 grade in each school of any students at any grade level who have been  
61 promoted who have been determined as reading below grade level,  
62 except that no reporting shall permit the identification of an individual  
63 student.

168.310. Notwithstanding any provision of sections 168.102 to  
2 168.130 or 168.221 to the contrary, upon classification of a school as  
3 unaccredited under the system of classification provided in section  
4 161.088, the school board of the district in which the school is located  
5 may, without a hearing or the procedures required by sections 168.102  
6 to 168.130 or section 168.221:

7 (1) Terminate the employment of any school personnel employed  
8 in an unaccredited school; or

9 (2) Not renew the contract of any school personnel employed in

10 an unaccredited school.

171.417. 1. By July 1, 2016, the department of elementary and  
2 secondary education shall develop and implement a system of assigning  
3 letter grades to each public school based on the public school's  
4 performance and student growth.

5 2. Except as otherwise provided in this section, the department  
6 shall determine the grade for each public school that includes any of  
7 grades kindergarten through eight in the following manner:

8 (1) Assign points for the public school for each of the following  
9 performance and student growth factors, as determined by the  
10 department:

11 (a) One point for each one percent of included pupils of the  
12 public school who score at or above the proficient level on state  
13 standardized assessments in English language arts;

14 (b) One point for each one percent of included pupils of the  
15 public school who score at or above the proficient level on state  
16 standardized assessments in mathematics;

17 (c) One point for each one percent of included pupils of the  
18 public school who score at or above the proficient level on state  
19 standardized assessments in science, as applicable;

20 (d) One point for each one percent of included pupils of the  
21 public school who make annual learning gains in English language arts;

22 (e) One point for each one percent of included pupils of the  
23 public school who make annual learning gains in mathematics;

24 (f) One point for each one percent of included pupils who are in  
25 the lowest thirty percent of included pupils in English language arts in  
26 the public school and make annual learning gains in English language  
27 arts;

28 (g) One point for each one percent of included pupils who are in  
29 the lowest thirty percent of included pupils in mathematics in the  
30 public school and make annual learning gains in mathematics;

31 (2) Add together all of the points assigned for the public school  
32 under subdivision (1) of this subsection;

33 (3) Assign a grade to the public school according to the scale  
34 described in subsection 4 of this section.

35 3. Except as otherwise provided in this section, the department  
36 shall determine the grade for each public school that includes any of

37 grades nine through twelve as follows:

38 (1) Assign points for the public school using a point system  
39 determined by the department to be appropriate for assigning a letter  
40 grade to a high school. The point system shall satisfy all of the  
41 following requirements:

42 (a) Assign at least fifty percent of the points based on pupil  
43 proficiency of included pupils, as determined by state standardized  
44 assessments and other measures considered appropriate by the  
45 department;

46 (b) Assign the balance of the points based on graduation rate,  
47 measures of college and career readiness, and measures of learning  
48 gains for included pupils;

49 (2) Add together all of the points assigned for the public school  
50 under subdivision (1) of this subsection; and

51 (3) Assign a grade to the public school according to the scale  
52 described in subsection 4 of this section.

53 4. After the department assigns points to each public school in  
54 this state under subsections 2 and 3 of this section, the department  
55 shall establish a grading scale for the letter grades to be assigned for  
56 that year according to the number of points assigned to each public  
57 school under subsections 2 or 3 of this section and shall assign grades  
58 according to that scale. The department shall develop a separate  
59 grading scale for public schools that operate any of grades  
60 kindergarten through eight and a separate grading scale for public  
61 schools that operate any of grades nine through twelve. All of the  
62 following criteria apply to these grading scales:

63 (1) For the first school year for which grades are assigned, for  
64 each of the two separate grading scales, the department shall ensure  
65 that:

66 (a) No more than ten percent of public schools are assigned a  
67 grade of A;

68 (b) Approximately twenty-eight percent of public schools are  
69 assigned a grade of B;

70 (c) Approximately thirty-one percent of public schools are  
71 assigned a grade of C;

72 (d) Approximately twenty-eight percent of public schools are  
73 assigned a grade of D;

74 (e) At least five percent of public schools are assigned a grade of  
75 F; and

76 (f) The department's deviations from the specified percentages  
77 shall be based on any observed natural cut points in the distribution of  
78 school scores;

79 (2) Except as provided in this subdivision, for subsequent school  
80 years for which grades are assigned, for each of the two separate  
81 grading scales, the number of points required for each grade on a  
82 grading scale established under subdivision (1) of this subsection shall  
83 remain the same as when it was established under subdivision (1) of  
84 this subsection. The department shall adjust the number of points  
85 required to achieve a grade on the grading scale if either of the  
86 following conditions exists by increasing the number of points required  
87 to achieve each grade on the scale by five percent or by a greater  
88 amount if the department projects that a greater adjustment is likely  
89 to be needed to ensure that the conditions requiring the adjustment do  
90 not occur again in the next year:

91 (a) The use of that point scale resulted in more than seventy-four  
92 percent of the public schools graded on that scale being assigned a  
93 grade of A or B for the immediately preceding school year;

94 (b) If at the time of the projection a federal law requires the  
95 department to identify the lowest achieving five percent of all public  
96 schools in this state, the department projects that it is probable that  
97 the use of that point scale will result in less than five percent of the  
98 public schools graded on that scale being assigned a grade of F for the  
99 next school year;

100 (3) For a public school that does not operate all of grades  
101 kindergarten through eight or all of grades nine through twelve and is  
102 unable to achieve the full allotment of points under subsection 2 or 3  
103 of this section, the department shall modify the grading scale to reflect  
104 the total possible points that may be achieved with the grade  
105 configuration at the public school. The modification shall be designed  
106 to grade all public schools on an equitable basis without regard to  
107 grade configuration at the public school.

108 5. After the implementation of the letter grade system under this  
109 section, all of the following requirements shall apply:

110 (1) Before August first annually, the department shall notify each

111 public school and school district of all of the following information and  
112 provide an appeal process that is concluded by that September first:

113 (a) For each public school, the public school's letter grade for  
114 that year and, if available, the public school's letter grade from the  
115 immediately preceding two years;

116 (b) The detailed formula and metrics for the letter grade system;  
117 and

118 (c) The building-level data used to generate the letter grade;

119 (2) By August first annually, the department shall post on its  
120 internet website and shall report to the president pro tempore of the  
121 senate, the speaker of the house of representatives, and the joint  
122 committee on education all of the information under subdivision (1) of  
123 this subsection;

124 (3) Each district shall publish the information under subdivision  
125 (1) of this subsection on the district's internet website and, if the  
126 district maintains an internet website for a particular public school, a  
127 link on the internet website to the information for that public school;

128 (4) If the department changes any aspect of the letter grade  
129 system, it shall provide written notice of the change to the president  
130 pro tempore of the senate, the speaker of the house of representatives,  
131 and joint committee on education and shall make department personnel  
132 available to the general assembly to discuss the change if requested  
133 prior to implementing the change.

134 6. If a public school offers any combination of grades  
135 kindergarten through eight and grades nine through twelve, the  
136 department shall calculate and assign a separate grade for the school  
137 for the separate grade configurations. The department shall treat each  
138 of the separate grade configurations as a separate public school for  
139 purposes of this section.

140 7. A school district may apply to the commissioner of education  
141 in a form and manner prescribed by him or her for designation of one  
142 or more of the public schools that it operates as an alternative  
143 education campus. The commissioner of education shall designate a  
144 public school as an alternative education campus if he or she  
145 determines that the public school meets one or more of the following  
146 criteria:

147 (1) The public school serves a pupil population in which more

148 than ninety-five percent of the pupils have an individualized education  
149 program;

150 (2) The public school serves a pupil population in which a  
151 majority of the pupils meet one or more of the following criteria:

152 (a) Are homeless;

153 (b) Have a documented history of one or more serious  
154 psychological behavioral disorders, including, but not limited to,  
155 suicidal behaviors; or

156 (c) For a high school, are over the traditional age for the pupil's  
157 grade level and lack adequate credit hours to be on track to graduate  
158 in four years.

159 8. If a public school is designated as an alternative education  
160 campus under subsection 7 of this section, then the department shall  
161 not assign a letter grade to that public school and shall instead issue  
162 a summary status of "maintaining" or "failing" for that public  
163 school. The information reported under subsection 5 of this section  
164 shall be based on this summary status. The department shall issue a  
165 summary status of "maintaining" if the department determines that  
166 included pupils enrolled at a public school designated as an alternative  
167 education campus are making meaningful, measurable academic  
168 progress toward educational goals that have been established by the  
169 district's school board and approved by the commissioner of education.

170 9. Neither the state board of education nor the department shall  
171 establish any evaluation or ranking system for public schools or school  
172 districts other than the letter grade system under this section.

173 10. By July 1, 2016, the department shall establish and implement  
174 a waiver system for waiving regulatory or statutory reports and  
175 requirements for a public school that consistently maintains a grade of  
176 A or B under this section. If the department determines that a public  
177 school qualifies for a waiver under this section, the commissioner of  
178 education shall grant the waiver, effective for as long as the public  
179 school maintains a grade of A or B, and the regulatory or statutory  
180 requirement that is waived does not apply to that public school for the  
181 duration of the waiver. Before implementing this waiver system, the  
182 department shall submit to the joint committee on education a list of  
183 the regulatory and statutory reports and requirements that are  
184 proposed to be subject to the waiver.

185           **11. For purposes of this section, the following terms shall mean:**

186           **(1) "Department", the department of elementary and secondary**  
187 **education;**

188           **(2) "Included pupil", a pupil who has been enrolled in the public**  
189 **school for at least one full school year.**

190           **12. Any rule or portion of a rule, as that term is defined in**  
191 **section 536.010 that is created under the authority delegated in this**  
192 **section shall become effective only if it complies with and is subject to**  
193 **all of the provisions of chapter 536, and, if applicable, section**  
194 **536.028. This section and chapter 536 are nonseverable and if any of**  
195 **the powers vested with the general assembly pursuant to chapter 536,**  
196 **to review, to delay the effective date, or to disapprove and annul a rule**  
197 **are subsequently held unconstitutional, then the grant of rulemaking**  
198 **authority and any rule proposed or adopted after August 28, 2014, shall**  
199 **be invalid and void.**

          Section B. Because of the importance of providing guidance to school  
2 districts on student transfers and improving underperforming schools, section A  
3 of this act is deemed necessary for the immediate preservation of the public  
4 health, welfare, peace and safety, and is hereby declared to be an emergency act  
5 within the meaning of the constitution, and section A of this act shall be in full  
6 force and effect upon its passage and approval.

✓

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