

FIRST REGULAR SESSION

[CORRECTED]

HOUSE BILL NO. 532

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SOMMER.

1394L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 163.011 as enacted by house bill no. 1689, ninety-seventh general assembly, second regular session, and section 163.011 as enacted by senate bill no. 291, ninety-fifth general assembly, first regular session, and section 163.031 as enacted by house bill no. 1689, ninety-seventh general assembly, second regular session, and section 163.031 as enacted by senate bill no. 291, ninety-fifth general assembly, first regular session, 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. Section 163.011 as enacted by house bill no. 1689, ninety-seventh general
2 assembly, second regular session, and section 163.011 as enacted by senate bill no. 291,
3 ninety-fifth general assembly, first regular session, and section 163.031 as enacted by house bill
4 no. 1689, ninety-seventh general assembly, second regular session, and section 163.031 as
5 enacted by senate bill no. 291, ninety-fifth general assembly, first regular session, are repealed
6 and two new sections enacted in lieu thereof, to be known as sections 163.011 and 163.031, to
7 read as follows:

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

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

5 (2) "Average daily attendance", the quotient or the sum of the quotients obtained by
6 dividing the total number of hours attended in a term by resident pupils between the ages of five

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.

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

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

55 (b) "Regional wage per job":

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

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

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

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

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

76 (6) "Free and reduced lunch pupil count", for school districts not eligible for and those
77 that do not choose the USDA Community Eligibility Option, the number of pupils eligible for
78 free and reduced lunch on the last Wednesday in January for the preceding school year who were

79 enrolled as students of the district, as approved by the department in accordance with applicable
80 federal regulations. For eligible school districts that choose the USDA Community Eligibility
81 Option, the free and reduced lunch pupil count shall be the percentage of free and reduced lunch
82 students calculated as eligible on the last Wednesday in January of the most recent school year
83 that included household applications to determine free and reduced lunch count multiplied by
84 the district's average daily attendance figure;

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

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

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

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

111 [(9)] (11) "Limited English proficiency threshold" shall be calculated by dividing the
112 total limited English proficiency pupil count of every performance district that falls entirely
113 above the bottom five percent and entirely below the top five percent of average daily attendance,

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

116 [(10)] **(12)** "Local effort":

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

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

149 [(11)] **(13)** "Membership" shall be the average of:

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

154 (b) The number of resident full-time students and the full-time equivalent number of
155 part-time students who were enrolled in the public schools of the district on the last Wednesday
156 in January of the previous year and who were in attendance one day or more during the preceding
157 ten school days, plus the full-time equivalent number of summer school pupils. "Full-time
158 equivalent number of part-time students" is determined by dividing the total number of hours for
159 which all part-time students are enrolled by the number of hours in the school term. "Full-time
160 equivalent number of summer school pupils" is determined by dividing the total number of hours
161 for which all summer school pupils were enrolled by the number of hours required pursuant to
162 section 160.011 in the school term. Only students eligible to be counted for average daily
163 attendance shall be counted for membership;

164 [(12)] **(14)** "Operating levy for school purposes", the sum of tax rates levied for teachers'
165 and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100
166 of any transitional school district containing the school district, in the payment year, not
167 including any equalized operating levy for school purposes levied by a special school district in
168 which the district is located;

169 [(13)] **(15)** "Performance district", any district that has met performance standards and
170 indicators as established by the department of elementary and secondary education for purposes
171 of accreditation under section 161.092 and as reported on the final annual performance report
172 for that district each year; for calculations to be utilized for payments in fiscal years subsequent
173 to fiscal year 2018, the number of performance districts shall not exceed twenty-five percent of
174 all public school districts;

175 [(14)] **(16)** "Performance levy", three dollars and forty-three cents;

176 [(15)] **(17)** "School purposes" pertains to teachers' and incidental funds;

177 [(16)] **(18)** "Special education pupil count", the number of public school students with
178 a current individualized education program or services plan and receiving services from the
179 resident district as of December first of the preceding school year, except for special education
180 services provided through a school district established under sections 162.815 to 162.940 in a
181 county with a charter form of government and with more than one million inhabitants, in which
182 case the sum of the students in each district within the county exceeding the special education
183 threshold of each respective district within the county shall be counted within the special district
184 and not in the district of residence for purposes of distributing the state aid derived from the
185 special education pupil count;

186 [(17)] (19) "Special education threshold" shall be calculated by dividing the total special
187 education pupil count of every performance district that falls entirely above the bottom five
188 percent and entirely below the top five percent of average daily attendance, when such districts
189 are rank-ordered based on their current operating expenditures per average daily attendance, by
190 the total average daily attendance of all included performance districts;

191 [(18)] (20) "State adequacy target", the sum of the current operating expenditures of
192 every performance district that falls entirely above the bottom five percent and entirely below
193 the top five percent of average daily attendance, when such districts are rank-ordered based on
194 their current operating expenditures per average daily attendance, divided by the total average
195 daily attendance of all included performance districts. The department of elementary and
196 secondary education shall first calculate the state adequacy target for fiscal year 2007 and
197 recalculate the state adequacy target every two years using the most current available data. The
198 recalculation shall never result in a decrease from the previous state adequacy target amount.
199 Should a recalculation result in an increase in the state adequacy target amount, fifty percent of
200 that increase shall be included in the state adequacy target amount in the year of recalculation,
201 and fifty percent of that increase shall be included in the state adequacy target amount in the
202 subsequent year. The state adequacy target may be adjusted to accommodate available
203 appropriations as provided in subsection 8 of section 163.031;

204 [(19)] (21) "Teacher", any teacher, teacher-secretary, substitute teacher, supervisor,
205 principal, supervising principal, superintendent or assistant superintendent, school nurse, social
206 worker, counselor or librarian who shall, regularly, teach or be employed for no higher than
207 grade twelve more than one-half time in the public schools and who is certified under the laws
208 governing the certification of teachers in Missouri;

209 [(20)] (22) "Weighted average daily attendance", the average daily attendance plus the
210 product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that
211 exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths
212 multiplied by the number of special education pupil count that exceeds the special education
213 threshold, plus the product of six-tenths multiplied by the number of limited English proficiency
214 pupil count that exceeds the limited English proficiency threshold, **and beginning July 1, 2016,**
215 **plus the product of six-tenths multiplied by the number of the district's gifted education**
216 **pupil count that exceeds the gifted threshold.** For special districts established under sections
217 162.815 to 162.940 in a county with a charter form of government and with more than one
218 million inhabitants, weighted average daily attendance shall be the average daily attendance plus
219 the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that
220 exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths
221 multiplied by the sum of the special education pupil count that exceeds the threshold for each

222 county district, plus the product of six-tenths multiplied by the limited English proficiency pupil
223 count that exceeds the limited English proficiency threshold; **and beginning July 1, 2016, plus**
224 **the product of six-tenths multiplied by the number of the district's gifted education pupil**
225 **count that exceeds the gifted threshold.** None of the districts comprising a special district
226 established under sections 162.815 to 162.940 in a county with a charter form of government and
227 with more than one million inhabitants, shall use any special education pupil count in calculating
228 their weighted average daily attendance.

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

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

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

27 (3) "Current operating expenditures":

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

35 to 168.515; the vocational education entitlement for the district, as provided for
36 in section 167.332; and payments from other districts;

37 (b) In every fiscal year subsequent to fiscal year 2007, current operating
38 expenditures shall be the amount in paragraph (a) of this subdivision plus any
39 increases in state funding pursuant to sections 163.031 and 163.043 subsequent
40 to fiscal year 2005, not to exceed five percent, per recalculation, of the state
41 revenue received by a district in the 2004-05 school year from the foundation
42 formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and
43 free textbook payments for any district from the first preceding calculation of the
44 state adequacy target. Beginning on July 1, 2010, current operating expenditures
45 shall be the amount in paragraph (a) of this subdivision plus any increases in state
46 funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005
47 received by a district in the 2004-05 school year from the foundation formula,
48 line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free
49 textbook payments for any district from the first preceding calculation of the state
50 adequacy target;

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

54 (5) "Dollar-value modifier", an index of the relative purchasing power
55 of a dollar, calculated as one plus fifteen percent of the difference of the regional
56 wage ratio minus one, provided that the dollar value modifier shall not be applied
57 at a rate less than 1.0:

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

63 (b) "Regional wage per job":

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

73 b. The total Missouri wage and salary disbursements of the micropolitan
74 area as defined by the Office of Management and Budget divided by the total
75 Missouri micropolitan wage and salary employment for the micropolitan area for
76 the county signified in the school district number, as reported by the Bureau of
77 Economic Analysis of the United States Department of Commerce for the fourth

78 year preceding the payment year, if a micropolitan area for such county has been
79 established and recalculated upon every decennial census to incorporate counties
80 that are newly added to the description of micropolitan areas; or

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

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

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

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

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

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

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

120 (10) "Local effort":

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

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

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

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

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

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

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

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

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

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

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

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

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

(20) "Weighted average daily attendance", the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the number of special education pupil count that exceeds the special education threshold, plus the product of six-tenths multiplied by the number of limited English proficiency pupil count that exceeds the limited English proficiency threshold. For special districts established under sections 162.815 to 162.940 in a county with a charter form of government and with more than one million inhabitants, weighted average daily attendance shall be the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the sum of the special education pupil count that exceeds the threshold for each county district, plus the product of six-tenths multiplied by the limited English proficiency pupil count that exceeds the limited English proficiency threshold. None of the districts comprising a special district established under sections 162.815 to 162.940 in a county with a charter form of government and with more than one million inhabitants, shall use any special education pupil count in calculating their weighted average daily attendance.]

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

2. Other provisions of law to the contrary notwithstanding:

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

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

16 dollar value modifier minus one, and dividing this product by the weighted average daily
17 attendance computed for the 2005-06 school year;

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

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

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

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

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

46 (b) For the 2007-08 school year, the state revenue received by a district from the state
47 aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust
48 fund under section 163.043 shall not be less than the greater of state revenue received by a
49 district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted,
50 remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts

51 multiplied by the sum of one plus the product of two-thirds multiplied by the remainder of the
52 dollar value modifier minus one;

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

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

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

64 3. School districts that meet the requirements of section 163.021 shall receive categorical
65 add-on revenue as provided in this subsection. The categorical add-on for the district shall be
66 the sum of: seventy-five percent of the district allowable transportation costs under section
67 163.161; the career ladder entitlement for the district, as provided for in sections 168.500 to
68 168.515; the vocational education entitlement for the district, as provided for in section 167.332;
69 and the district educational and screening program entitlements as provided for in sections
70 178.691 to 178.699. The categorical add-on revenue amounts may be adjusted to accommodate
71 available appropriations.

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

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

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

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

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

99 (5) For the 2010-11 school year, the amount of state aid shall be seventy-two percent of
100 the amount of state aid calculated for the district for the 2010-11 school year under the provisions
101 of subsection 1 of this section plus twenty-eight percent of the total amount of state revenue
102 received by the district for the 2005-06 school year from the foundation formula, line 14, gifted,
103 remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts
104 received under section 163.043.

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

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

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

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

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

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

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

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

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

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

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

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

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

In the event a district fails to comply with this provision, the amount by which the district fails to spend funds as provided herein shall be deducted from the district's state revenue received under the provisions of subsections 1, 2, and 4 of this section for the following year, provided that the state board of education may exempt a school district from this provision if the state board of education determines that circumstances warrant such exemption.

7. If a school district's annual audit discloses that students were inappropriately identified as eligible for free and reduced lunch, special education, or limited English proficiency, **or that funding generated by the gifted education pupil count was expended on matters not directly related to gifted education**, and the district does not resolve the audit finding, the department of elementary and secondary education shall require that the amount of aid paid pursuant to the weighting for free and reduced lunch, special education, [or] limited English proficiency, **or gifted education** in the weighted average daily attendance on the inappropriately identified pupils be repaid by the district in the next school year and shall additionally impose a penalty of one hundred percent of such aid paid on such pupils, which penalty shall also be paid within the next school year. Such amounts may be repaid by the district through the withholding of the amount of state aid.

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

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

7 of this section, subtracting payments from the classroom trust fund under section
8 163.043.

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

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

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

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

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

39 (d) For each year subsequent to the 2008-09 school year, the amount shall
40 be no less than that computed in paragraph (c) of this subdivision, multiplied by
41 the weighted average daily attendance pursuant to section 163.036, less any
42 increase in revenue received from the classroom trust fund under section
43 163.043;

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

46 (a) For the 2006-07 school year, the state revenue received by a district
47 from the state aid calculation under subsections 1 and 4 of this section, as
48 applicable, and the classroom trust fund under section 163.043 shall not be less
49 than the greater of state revenue received by a district in the 2004-05 or 2005-06

50 school year from the foundation formula, line 14, gifted, remedial reading,
51 exceptional pupil aid, fair share, and free textbook payment amounts multiplied
52 by the sum of one plus the product of one-third multiplied by the remainder of the
53 dollar value modifier minus one;

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

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

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

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

74 3. School districts that meet the requirements of section 163.021 shall
75 receive categorical add-on revenue as provided in this subsection. The
76 categorical add-on for the district shall be the sum of: seventy-five percent of the
77 district allowable transportation costs under section 163.161; the career ladder
78 entitlement for the district, as provided for in sections 168.500 to 168.515; the
79 vocational education entitlement for the district, as provided for in section
80 167.332; and the district educational and screening program entitlements as
81 provided for in sections 178.691 to 178.699. The categorical add-on revenue
82 amounts may be adjusted to accommodate available appropriations.

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

87 (1) For the 2006-07 school year, the amount shall be fifteen percent of
88 the amount of state aid calculated for the district for the 2006-07 school year
89 under the provisions of subsection 1 of this section, plus eighty-five percent of
90 the total amount of state revenue received by the district for the 2005-06 school
91 year from the foundation formula, line 14, gifted, remedial reading, exceptional

pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

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

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

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

(5) For the 2010-11 school year, the amount of state aid shall be seventy-two percent of the amount of state aid calculated for the district for the 2010-11 school year under the provisions of subsection 1 of this section plus twenty-eight percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

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

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

(b) a. For the 2006-07 school year, if a school district experiences a decrease in summer school average daily attendance of more than twenty percent from the district's 2005-06 summer school average daily attendance, an amount

equal to the product of the percent reduction that is in excess of twenty percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's current year payment amount.

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

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

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

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

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

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

6. (1) No less than seventy-five percent of the state revenue received under the provisions of subsections 1, 2, and 4 of this section shall be placed in the teachers' fund, and the remaining percent of such moneys shall be placed in the incidental fund. No less than seventy-five percent of one-half of the funds

received from the school district trust fund distributed under section 163.087 shall be placed in the teachers' fund. One hundred percent of revenue received under the provisions of section 163.161 shall be placed in the incidental fund. One hundred percent of revenue received under the provisions of sections 168.500 to 168.515 shall be placed in the teachers' fund.

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

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

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

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

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

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