

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 81

96TH GENERAL ASSEMBLY

2011

0657S.05T

AN ACT

To repeal sections 143.183, 163.037, and 165.011, RSMo, and to enact in lieu thereof three new sections relating to education, with an emergency clause for certain sections.

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

Section A. Sections 143.183, 163.037, and 165.011, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 143.183,
3 162.1195, and 165.011, to read as follows:

143.183. 1. As used in this section, the following terms mean:

2 (1) "Nonresident entertainer", a person residing or registered as a
3 corporation outside this state who, for compensation, performs any vocal,
4 instrumental, musical, comedy, dramatic, dance or other performance in this state
5 before a live audience and any other person traveling with and performing
6 services on behalf of a nonresident entertainer, including a nonresident
7 entertainer who is paid compensation for providing entertainment as an
8 independent contractor, a partnership that is paid compensation for
9 entertainment provided by nonresident entertainers, a corporation that is paid
10 compensation for entertainment provided by nonresident entertainers, or any
11 other entity that is paid compensation for entertainment provided by nonresident
12 entertainers;

13 (2) "Nonresident member of a professional athletic team", a professional
14 athletic team member who resides outside this state, including any active player,
15 any player on the disabled list if such player is in uniform on the day of the game

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 at the site of the game, and any other person traveling with and performing
17 services on behalf of a professional athletic team;

18 (3) "Personal service income" includes exhibition and regular season
19 salaries and wages, guaranteed payments, strike benefits, deferred payments,
20 severance pay, bonuses, and any other type of compensation paid to the
21 nonresident entertainer or nonresident member of a professional athletic team,
22 but does not include prizes, bonuses or incentive money received from competition
23 in a livestock, equine or rodeo performance, exhibition or show;

24 (4) "Professional athletic team" includes, but is not limited to, any
25 professional baseball, basketball, football, soccer and hockey team.

26 2. Any person, venue, or entity who pays compensation to a nonresident
27 entertainer shall deduct and withhold from such compensation as a prepayment
28 of tax an amount equal to two percent of the total compensation if the amount of
29 compensation is in excess of three hundred dollars paid to the nonresident
30 entertainer.

31 3. Any person, venue, or entity required to deduct and withhold tax
32 pursuant to subsection 2 of this section shall, for each calendar quarter, on or
33 before the last day of the month following the close of such calendar quarter,
34 remit the taxes withheld in such form or return as prescribed by the director of
35 revenue and pay over to the director of revenue or to a depository designated by
36 the director of revenue the taxes so required to be deducted and withheld.

37 4. Any person, venue, or entity subject to this section shall be considered
38 an employer for purposes of section 143.191, and shall be subject to all penalties,
39 interest, and additions to tax provided in this chapter for failure to comply with
40 this section.

41 5. Notwithstanding other provisions of this chapter to the contrary, the
42 commissioner of administration, for all taxable years beginning on or after
43 January 1, 1999, but none after December 31, 2015, shall annually estimate the
44 amount of state income tax revenues collected pursuant to this chapter which are
45 received from nonresident members of professional athletic teams and
46 nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal
47 year for a period of sixteen years, sixty percent of the annual estimate of taxes
48 generated from the nonresident entertainer and professional athletic team income
49 tax shall be allocated annually to the Missouri arts council trust fund, and shall
50 be transferred from the general revenue fund to the Missouri arts council trust
51 fund established in section 185.100 and any amount transferred shall be in

52 addition to such agency's budget base for each fiscal year. The director shall by
53 rule establish the method of determining the portion of personal service income
54 of such persons that is allocable to Missouri.

55 6. Notwithstanding the provisions of sections 186.050 to 186.067 to the
56 contrary, the commissioner of administration, for all taxable years beginning on
57 or after January 1, 1999, but for none after December 31, 2015, shall estimate
58 annually the amount of state income tax revenues collected pursuant to this
59 chapter which are received from nonresident members of professional athletic
60 teams and nonresident entertainers. For fiscal year 2000, and for each
61 subsequent fiscal year for a period of sixteen years, ten percent of the annual
62 estimate of taxes generated from the nonresident entertainer and professional
63 athletic team income tax shall be allocated annually to the Missouri humanities
64 council trust fund, and shall be transferred from the general revenue fund to the
65 Missouri humanities council trust fund established in section 186.055 and any
66 amount transferred shall be in addition to such agency's budget base for each
67 fiscal year.

68 7. Notwithstanding other provisions of section 182.812 to the contrary, the
69 commissioner of administration, for all taxable years beginning on or after
70 January 1, 1999, but for none after December 31, 2015, shall estimate annually
71 the amount of state income tax revenues collected pursuant to this chapter which
72 are received from nonresident members of professional athletic teams and
73 nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal
74 year for a period of sixteen years, ten percent of the annual estimate of taxes
75 generated from the nonresident entertainer and professional athletic team income
76 tax shall be allocated annually to the Missouri state library networking fund, and
77 shall be transferred from the general revenue fund to the secretary of state for
78 distribution to public libraries for acquisition of library materials as established
79 in section 182.812 and any amount transferred shall be in addition to such
80 agency's budget base for each fiscal year.

81 8. Notwithstanding other provisions of section 185.200 to the contrary, the
82 commissioner of administration, for all taxable years beginning on or after
83 January 1, 1999, but for none after December 31, 2015, shall estimate annually
84 the amount of state income tax revenues collected pursuant to this chapter which
85 are received from nonresident members of professional athletic teams and
86 nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal
87 year for a period of sixteen years, ten percent of the annual estimate of taxes

88 generated from the nonresident entertainer and professional athletic team income
89 tax shall be allocated annually to the Missouri public television broadcasting
90 corporation special fund, and shall be transferred from the general revenue fund
91 to the Missouri public television broadcasting corporation special fund, and any
92 amount transferred shall be in addition to such agency's budget base for each
93 fiscal year; provided, however, that twenty-five percent of such allocation shall
94 be used for grants to public radio stations which were qualified by the corporation
95 for public broadcasting as of November 1, 1996. Such grants shall be distributed
96 to each of such public radio stations in this state after receipt of the station's
97 certification of operating and programming expenses for the prior fiscal
98 year. Certification shall consist of the most recent fiscal year financial statement
99 submitted by a station to the corporation for public broadcasting. The grants
100 shall be divided into two categories, an annual basic service grant and an
101 operating grant. The basic service grant shall be equal to thirty-five percent of
102 the total amount and shall be divided equally among the public radio stations
103 receiving grants. The remaining amount shall be distributed as an operating
104 grant to the stations on the basis of the proportion that the total operating
105 expenses of the individual station in the prior fiscal year bears to the aggregate
106 total of operating expenses for the same fiscal year for all Missouri public radio
107 stations which are receiving grants.

108 9. Notwithstanding other provisions of section 253.402 to the contrary, the
109 commissioner of administration, for all taxable years beginning on or after
110 January 1, 1999, but for none after December 31, 2015, shall estimate annually
111 the amount of state income tax revenues collected pursuant to this chapter which
112 are received from nonresident members of professional athletic teams and
113 nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal
114 year for a period of sixteen years, ten percent of the annual estimate of taxes
115 generated from the nonresident entertainer and professional athletic team income
116 tax shall be allocated annually to the Missouri department of natural resources
117 Missouri historic preservation revolving fund, and shall be transferred from the
118 general revenue fund to the Missouri department of natural resources Missouri
119 historic preservation revolving fund established in section 253.402 and any
120 amount transferred shall be in addition to such agency's budget base for each
121 fiscal year. As authorized pursuant to subsection 2 of section 30.953, it is the
122 intention and desire of the general assembly that the state treasurer convey, to
123 the Missouri investment trust on January 1, 1999, up to one hundred percent of

124 the balances of the Missouri arts council trust fund established pursuant to
125 section 185.100 and the Missouri humanities council trust fund established
126 pursuant to section 186.055. The funds shall be reconveyed to the state treasurer
127 by the investment trust as follows: the Missouri arts council trust fund, no
128 earlier than January 2, 2009; and the Missouri humanities council trust fund, no
129 earlier than January 2, 2009.

130 **10. This section shall not be construed to apply to any person**
131 **who makes a presentation for professional or technical education**
132 **purposes or to apply to any presentation that is part of a seminar,**
133 **conference, convention, school, or similar program format designed to**
134 **provide professional or technical education.**

162.1195. 1. Beginning in fiscal year 2013, the office of quality
2 schools within the department of elementary and secondary education
3 may ensure that each regional professional development center in the
4 state provides professional development educational assistance for fine
5 arts.

6 **2. The emphasis may include the following:**

7 **(1) To act as a resource for school districts under the regional**
8 **office of professional development with regard to fine arts education,**
9 **as delivered by certified arts specialists, and the integration of the arts**
10 **into non-arts curricula;**

11 **(2) To work with school districts in staff development and**
12 **curriculum issues related to fine arts education and fine arts**
13 **integration;**

14 **(3) To collaborate with regional office of professional**
15 **development personnel and other regional personnel associated with**
16 **the regional office of professional development;**

17 **(4) To coordinate services available from other entities involved**
18 **in fine arts education and fine arts integration;**

19 **(5) To assist and support local school districts in providing fine**
20 **arts education and the integration of the fine arts; and**

21 **(6) To contribute to the development and implementation of in-**
22 **service training, regionally and statewide, which responds to the needs**
23 **of arts specialists, and other educators pertaining to the needs of**
24 **Missouri students in fine arts and the integration of the arts.**

165.011. 1. The following funds are created for the accounting of all
2 school moneys: teachers' fund, incidental fund, capital projects fund and debt

3 service fund. The treasurer of the school district shall open an account for each
4 fund specified in this section, and all moneys received from the county school
5 fund and all moneys derived from taxation for teachers' wages shall be placed to
6 the credit of the teachers' fund. All tuition fees, state moneys received under
7 section 163.031, and all other moneys received from the state except as herein
8 provided shall be placed to the credit of the teachers' and incidental funds at the
9 discretion of the district board of education, except as provided in subsection 6 of
10 section 163.031. Money received from other districts for transportation and
11 money derived from taxation for incidental expenses shall be credited to the
12 incidental fund. All money derived from taxation or received from any other
13 source for the erection of buildings or additions thereto and the remodeling or
14 reconstruction of buildings and the furnishing thereof, for the payment of
15 lease-purchase obligations, for the purchase of real estate, or from sale of real
16 estate, schoolhouses or other buildings of any kind, or school furniture, from
17 insurance, from sale of bonds other than refunding bonds shall be placed to the
18 credit of the capital projects fund. All moneys derived from the sale or lease of
19 sites, buildings, facilities, furnishings, and equipment by a school district as
20 authorized under section 177.088 shall be credited to the capital projects
21 fund. Money derived from taxation for the retirement of bonds and the payment
22 of interest thereon shall be credited to the debt service fund, which shall be
23 maintained as a separate bank account. Receipts from delinquent taxes shall be
24 allocated to the several funds on the same basis as receipts from current taxes,
25 except that where the previous years' obligations of the district would be affected
26 by such distribution, the delinquent taxes shall be distributed according to the
27 tax levies made for the years in which the obligations were incurred. All refunds
28 received shall be placed to the credit of the fund from which the original
29 expenditures were made. Money donated to the school districts shall be placed
30 to the credit of the fund where it can be expended to meet the purpose for which
31 it was donated and accepted. Money received from any other source whatsoever
32 shall be placed to the credit of the fund or funds designated by the board.

33 2. The school board may transfer any portion of the unrestricted balance
34 remaining in the incidental fund to the teachers' fund. Any district that uses an
35 incidental fund transfer to pay for more than twenty-five percent of the annual
36 certificated compensation obligation of the district and has an incidental fund
37 balance on June thirtieth in any year in excess of fifty percent of the combined
38 incidental teachers' fund expenditures for the fiscal year just ended shall be

39 required to transfer the excess from the incidental fund to the teachers' fund. If
40 a balance remains in the debt service fund, after the total outstanding
41 indebtedness for which the fund was levied is paid, the board may transfer the
42 unexpended balance to the capital projects fund. If a balance remains in the bond
43 proceeds after completion of the project for which the bonds were issued, the
44 balance shall be transferred from the incidental or capital projects fund to the
45 debt service fund. After making all placements of interest otherwise provided by
46 law, a school district may transfer from the capital projects fund to the incidental
47 fund the interest earned from undesignated balances in the capital projects fund.
48 A school district may borrow from one of the following funds: teachers' fund,
49 incidental fund, or capital projects fund, as necessary to meet obligations in
50 another of those funds; provided that the full amount is repaid to the lending
51 fund within the same fiscal year.

52 3. Tuition shall be paid from either the teachers' or incidental
53 funds. Employee benefits for certificated staff shall be paid from the teachers'
54 fund.

55 4. Other provisions of law to the contrary notwithstanding, the school
56 board of a school district that meets the provisions of subsection 6 of section
57 163.031 may transfer from the incidental fund to the capital projects fund the
58 sum of:

59 (1) The amount to be expended for transportation equipment that is
60 considered an allowable cost under state board of education rules for
61 transportation reimbursements during the current year; plus

62 (2) Any amount necessary to satisfy obligations of the capital projects
63 fund for state-approved area vocational-technical schools; plus

64 (3) Current year obligations for lease-purchase obligations entered into
65 prior to January 1, 1997; plus

66 (4) The amount necessary to repay costs of one or more guaranteed energy
67 savings performance contracts to renovate buildings in the school district,
68 provided that the contract is only for energy conservation measures as defined in
69 section 640.651 and provided that the contract specifies that no payment or total
70 of payments shall be required from the school district until at least an equal total
71 amount of energy and energy-related operating savings and payments from the
72 vendor pursuant to the contract have been realized by the school district; plus

73 (5) An amount not to exceed the greater of:

74 (a) One hundred sixty-two thousand three hundred twenty- six dollars; or

75 (b) Seven percent of the state adequacy target multiplied by the district's
76 weighted average daily attendance, provided that transfer amounts in excess of
77 current year obligations of the capital projects fund authorized under this
78 subdivision may be transferred only by a resolution of the school board approved
79 by a majority of the board members in office when the resolution is voted on and
80 identifying the specific capital projects to be funded directly by the district by the
81 transferred funds and an estimated expenditure date.

82 5. Beginning in the 2006-07 school year, a district meeting the provisions
83 of subsection 6 of section 163.031 and not making the transfer under subdivision
84 (5) of subsection 4 of this section, nor making payments or expenditures related
85 to obligations made under section 177.088 may transfer from the incidental fund
86 to the debt service fund or the capital projects fund the greater of:

87 (1) The state aid received in the 2005-06 school year as a result of no more
88 than eighteen cents of the sum of the debt service and capital projects levy used
89 in the foundation formula and placed in the respective debt service or capital
90 projects fund, whichever fund had the designated tax levy; or

91 (2) Five percent of the state adequacy target multiplied by the district's
92 weighted average daily attendance.

93 6. Beginning in the 2006-07 school year, the department of elementary
94 and secondary education shall deduct from a school district's state aid calculated
95 pursuant to section 163.031 an amount equal to the amount of any transfer of
96 funds from the incidental fund to the capital projects fund or debt service fund
97 performed during the previous year in violation of this section; except that the
98 state aid shall be deducted over no more than five school years following the
99 school year of an unlawful transfer based on a plan from the district approved by
100 the commissioner of elementary and secondary education.

101 7. A school district may transfer unrestricted funds from the capital
102 projects fund to the incidental fund in any year [in which that year's June
103 thirtieth combined incidental and teachers' funds unrestricted balance compared
104 to the combined incidental and teachers' funds expenditures would be less than
105 ten percent without such transfer] **to avoid becoming financially stressed**
106 **as defined in subsection 1 of section 161.520. If on June thirtieth of any**
107 **fiscal year the sum of unrestricted balances in a school district's**
108 **incidental fund and teacher's fund is less than twenty percent of the**
109 **sum of the school district's expenditures from those funds for the fiscal**
110 **year ending on that June thirtieth, the school district may, during the**

111 next succeeding fiscal year, transfer to its incidental fund an amount
112 up to and including the amount of the unrestricted balance in its
113 capital projects fund on that June thirtieth. For purposes of this
114 subsection, in addition to any other restrictions that may apply to
115 funds in the school district's capital projects fund, any funds that are
116 derived from the proceeds of one or more general obligation bond
117 issues shall be considered restricted funds and shall not be transferred
118 to the school district's incidental fund.

[163.037. In any school year after the 2009-10 school year,
2 if there is a twenty-five percent decrease in the statewide
3 percentage of average daily attendance attributable to summer
4 school compared to the percentage of average daily attendance
5 attributable to summer school in the 2005-06 school year, then for
6 the subsequent school year, weighted average daily attendance, as
7 such term is defined in section 163.011, shall include the addition
8 of the product of twenty-five hundredth times the average daily
9 attendance for summer school.]

Section B. Because of the need to provide adequate funding to school
2 districts, the repeal of section 163.037 and the repeal and reenactment of section
3 165.011 of section A of this act is deemed necessary for the immediate
4 preservation of the public health, welfare, peace and safety, and is hereby
5 declared to be an emergency act within the meaning of the constitution, and the
6 repeal of section 163.037 and the repeal and reenactment of section 165.011 of
7 section A of this act shall be in full force and effect upon its passage and
8 approval.

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