

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
CONFERENCE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE NO. 2 FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR  
**HOUSE BILL NO. 1543**  
**95TH GENERAL ASSEMBLY**

2010

**AN ACT**

To repeal sections 160.261, **160.775**, 161.209, 161.650, 167.029, 167.117, 167.621, 167.624, 167.627, 167.630, 168.221, 168.500, 168.515, and 178.697, RSMo, and to enact in lieu thereof sixteen new sections relating to elementary and secondary education, with penalty provisions and an emergency clause for a certain section.

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

Section A. Sections 160.261, **160.775**, 161.209, 161.650, 167.029, 167.117, 167.621, 167.624, 167.627, 167.630, 168.221, 168.500, 168.515, and 178.697, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 160.261, **160.775**, 161.209, 161.371, 161.650, 163.410, 167.029, 167.117, 167.621, 167.624, 167.627, 167.630, 168.221, 168.500, 168.515, and 178.697, to read as follows:

160.261. 1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to **all** teachers **at the attendance center** and **in addition, to** other school district employees with a need to know. For the purposes of this chapter or chapter 167, RSMo, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in subdivision (6) of section 565.002, RSMo, to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably

practical, to the appropriate law enforcement agency any of the following crimes, or any act which if committed by an adult would be one of the following crimes:

- (1) First degree murder under section 565.020, RSMo;
- (2) Second degree murder under section 565.021, RSMo;
- (3) Kidnapping under section 565.110, RSMo;
- (4) First degree assault under section 565.050, RSMo;
- (5) Forcible rape under section 566.030, RSMo;
- (6) Forcible sodomy under section 566.060, RSMo;
- (7) Burglary in the first degree under section 569.160, RSMo;
- (8) Burglary in the second degree under section 569.170, RSMo;
- (9) Robbery in the first degree under section 569.020, RSMo;
- (10) Distribution of drugs under section 195.211, RSMo;
- (11) Distribution of drugs to a minor under section 195.212, RSMo;
- (12) Arson in the first degree under section 569.040, RSMo;
- (13) Voluntary manslaughter under section 565.023, RSMo;
- (14) Involuntary manslaughter under section 565.024, RSMo;
- (15) Second degree assault under section 565.060, RSMo;
- (16) Sexual assault under section 566.040, RSMo;
- (17) Felonious restraint under section 565.120, RSMo;
- (18) Property damage in the first degree under section 569.100, RSMo;
- (19) The possession of a weapon under chapter 571, RSMo;
- (20) Child molestation in the first degree pursuant to section 566.067, RSMo;
- (21) Deviate sexual assault pursuant to section 566.070, RSMo;
- (22) Sexual misconduct involving a child pursuant to section 566.083, RSMo;
- (23) Sexual abuse pursuant to section 566.100, RSMo;
- (24) Harassment under section 565.090, RSMo; or
- (25) Stalking under section 565.225, RSMo; committed on school property, including but

not limited to actions on any school bus in service on behalf of the district or while involved in school activities. The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties. The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged.

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his or her suspension the requirement that such student is not allowed, while on such suspension, to be within one thousand feet of any [public] school **property** in the school district where such student attended school **or any activity of that district, regardless of whether or not the activity takes place on district property** unless:

- (1) Such student is under the direct supervision of the student's parent, legal guardian, or custodian **and the superintendent or the superintendent's designee has authorized the student to be on school property;**

(2) Such student is under the direct supervision of another adult designated by the student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school which suspended the student **and the superintendent or the superintendent's designee has authorized the student to be on school property;**

(3) Such student is **enrolled in and attending** an alternative school that is located within one thousand feet of a public school in the school district where such student attended school; or

(4) Such student resides within one thousand feet of any public school in the school district where such student attended school in which case such student may be on the property of his or her residence without direct adult supervision.

4. Any student who violates the condition of suspension required pursuant to subsection 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of sections 167.161, 167.164, and 167.171, RSMo. In making this determination consideration shall be given to whether the student poses a threat to the safety of any child or school employee and whether such student's unsupervised presence within one thousand feet of the school is disruptive to the educational process or undermines the effectiveness of the school's disciplinary policy. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. **This section shall not limit a school district's ability to:**

**(1) Prohibit all students who are suspended from being on school property or attending an activity while on suspension;**

**(2) Discipline students for off-campus conduct that negatively affects the educational environment to the extent allowed by law.**

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

6. For the purpose of this section, the term "weapon" shall mean a firearm as defined under 18 U.S.C. 921 and the following items, as defined in section 571.010, RSMo: a blackjack, a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except that this section shall not be construed to prohibit a school board from adopting a policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for educational purposes so long as the firearm is unloaded. The local board of education shall define weapon in the discipline policy. Such definition shall include the weapons defined in this subsection but may also include other weapons.

7. All school district personnel responsible for the care and supervision of students are authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any property of the school, on any school bus going to or returning from school, during school-sponsored activities, or during intermission or recess periods.

8. Teachers and other authorized district personnel in public schools responsible for the care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable care by the school district, shall not be civilly liable when acting in conformity with the

established [policy of discipline] **policies** developed by each board [under this section], **including but not limited to policies of student discipline** or when reporting to his or her supervisor or other person as mandated by state law acts of school violence or threatened acts of school violence, within the course and scope of the duties of the teacher, authorized district personnel or volunteer, when such individual is acting in conformity with the established policies developed by the board. Nothing in this section shall be construed to create a new cause of action against such school district, or to relieve the school district from liability for the negligent acts of such persons.

9. Each school board shall define in its discipline policy acts of violence and any other acts that constitute a serious violation of that policy. "Acts of violence" as defined by school boards shall include but not be limited to exertion of physical force by a student with the intent to do serious bodily harm to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. School districts shall for each student enrolled in the school district compile and maintain records of any serious violation of the district's discipline policy. Such records shall be made available to teachers and other school district employees with a need to know while acting within the scope of their assigned duties, and shall be provided as required in section 167.020, RSMo, to any school district in which the student subsequently attempts to enroll.

10. (1) Spanking, when administered by certificated personnel **and in the presence of a witness who is an employee of the school district, or the use of reasonable force to protect persons or property, when administered by personnel** of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210, RSMo. The provisions of sections 210.110 to 210.165, RSMo, notwithstanding, the **children's** division [of family services] shall not have jurisdiction over or investigate any report of alleged child abuse arising out of or related to **the use of reasonable force to protect persons or property when administered by personnel of a school district** or any spanking administered in a reasonable manner by any certificated school personnel **in the presence of a witness who is an employee of the school district** pursuant to a written policy of discipline established by the board of education of the school district, **as long as no allegation of sexual misconduct arises from the spanking or use of force.**

(2) Upon receipt of any reports of child abuse by the **children's** division [of family services] pursuant to sections 210.110 to 210.165, RSMo, which allegedly [involves] **involve** personnel of a school district, the **children's** division [of family services] shall notify the superintendent of schools of the district or, if the person named in the alleged incident is the superintendent of schools, the president of the school board of the school district where the alleged incident occurred. If, after an initial investigation, the superintendent of schools or the president of the school board finds that the report involves an alleged incident of child abuse other than the administration of a spanking by certificated school personnel **or the use of reasonable force to protect persons or property when administered by school personnel** pursuant to a written policy of discipline or [a] **that the** report **was** made for the sole purpose of harassing a public school employee, the superintendent of schools or the president of the school board shall immediately refer the matter back to the **children's** division [of family services] and take no further action.

(3) In all matters referred back to the **children's** division [of family services], the division [of family services] shall treat the report in the same manner as other reports of alleged child abuse received by the division. If the report pertains to an alleged incident which arose out of or

is related to a spanking administered by certificated personnel **or the use of reasonable force to protect persons or property when administered by personnel** of a school district pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, a notification of the reported child abuse shall be sent by the superintendent of schools or the president of the school board to the juvenile officer of the county in which the alleged incident occurred. The report shall be jointly investigated by the juvenile officer or a law enforcement officer designated by the juvenile officer and the superintendent of schools or, if the subject of the report is the superintendent of schools, by the juvenile officer or a law enforcement officer designated by the juvenile officer and the president of the school board or such president's designee.

(4) The investigation shall begin no later than forty-eight hours after notification from the **children's** division [of family services] is received, and shall consist of, but need not be limited to, interviewing and recording statements of the child and the child's parents or guardian within two working days after the start of the investigation, of the school district personnel allegedly involved in the report, and of any witnesses to the alleged incident. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel shall issue separate reports of their findings and recommendations after the conclusion of the investigation to the school board of the school district within seven days after receiving notice from the **children's** division [of family services]. The reports shall contain a statement of conclusion as to whether the report of alleged child abuse is substantiated or is unsubstantiated.

(5) The school board shall consider the separate reports and shall issue its findings and conclusions and the action to be taken, if any, within seven days after receiving the last of the two reports. The findings and conclusions shall be made in substantially the following form:

[(1)] (a) The report of the alleged child abuse is unsubstantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school board personnel agree that the evidence shows that no abuse occurred;

[(2)] (b) The report of the alleged child abuse is substantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel agree that the evidence is sufficient to support a finding that the alleged incident of child abuse did occur;

[(3)] (c) The issue involved in the alleged incident of child abuse is unresolved. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school personnel are unable to agree on their findings and conclusions on the alleged incident.

11. The findings and conclusions of the school board **under subdivision (5) of subsection 10 of this section** shall be sent to the **children's** division [of family services]. If the findings and conclusions of the school board are that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and no record shall be entered in the **children's** division [of family services] central registry. If the findings and conclusions of the school board are that the report of the alleged child abuse is substantiated, the **children's** division [of family services] shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school district and shall include the information in the division's central registry. If the findings and conclusions of the school board are that the issue involved in the alleged incident of child abuse is unresolved, the **children's** division [of family services] shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school board, however, the

incident and the names of the parties allegedly involved shall not be entered into the central registry of the **children's** division [of family services] unless and until the alleged child abuse is substantiated by a court of competent jurisdiction.

12. Any superintendent of schools, president of a school board or such person's designee or juvenile officer who knowingly falsifies any report of any matter pursuant to this section or who knowingly withholds any information relative to any investigation or report pursuant to this section is guilty of a class A misdemeanor.

13. In order to ensure the safety of all students, should a student be expelled for bringing a weapon to school, violent behavior, or for an act of school violence, that student shall not, for the purposes of the accreditation process of the Missouri school improvement plan, be considered a dropout or be included in the calculation of that district's educational persistence ratio.

**160.775. 1. Every district shall adopt an antibullying policy by September 1, 2007.**

**2. "Bullying" means intimidation or harassment that causes a reasonable student to fear for his or her physical safety or property. Bullying may consist of physical actions, including gestures, or oral, cyberbullying, electronic, or written communication, and any threat of retaliation for reporting of such acts.**

**3. Each district's antibullying policy shall be founded on the assumption that all students need a safe learning environment. Policies shall treat students equally and shall not contain specific lists of protected classes of students who are to receive special treatment. Policies may include age appropriate differences for schools based on the grade levels at the school. Each such policy shall contain a statement of the consequences of bullying.**

**4. Each district's antibullying policy shall require district employees to report any instance of bullying of which the employee has firsthand knowledge. The district policy shall address training of employees in the requirements of the district policy.**

161.209. 1. The department of elementary and secondary education has an affirmative duty to seek comment on its rules, regulations, and policies after their final approval or implementation. The department shall undertake such review on existing rules, regulations, and policies on an ad hoc, periodic basis with a priority given to such rules, regulations, and policies that could successfully be revised without affecting student achievement to accommodate periods when there is no increase in the appropriation for basic state aid funding pursuant to section 163.031, RSMo, from one fiscal year to the next or when withholdings of appropriated funds result in a situation equivalent to no increase in such appropriation.

**2. For fiscal years 2011, 2012, and 2013, if the appropriation for subsections 1 and 2 of section 163.031 is less than the annualized calculation of the amount needed for the phase-in required under subsection 4 for that fiscal year or the appropriation for transportation as provided in subsection 3 of section 163.031 is funded at a level that provides less than seventy-five percent of allowable costs, the department shall not penalize any district undergoing its accreditation review for a failure to meet resource standards under the Missouri school improvement program. If the governor withholds funds for the school funding formula basic apportionment under section 163.031 in fiscal years 2011, 2012, and 2013, school districts undergoing accreditation review in the fiscal year following**

**the fiscal year of withholding shall not be penalized for failure to meet resource standards under the Missouri school improvement program.**

**161.371. 1. The office of administration shall issue regulations in accordance with chapter 536, requiring that, as a condition of bidding as a contractor or subcontracting from a bidding contractor for public works construction projects on public and charter elementary and secondary education construction projects, each said contractor or subcontractor shall establish and implement a random drug and alcohol testing program. Said drug and alcohol testing program shall be administered by a laboratory duly certified by the U.S. Department of Health and Human Services, or similar agency approved by the office of administration. Such program shall require notification to the employer and employee of the results of any positive drug and alcohol test and the school district shall be notified of the action taken to protect the safety of students as a result of such positive test.**

**2. The office of administration shall ensure that rules promulgated to implement the provisions of this section shall not be in violation of any applicable federal law or regulation. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.**

**3. All costs for the program of screening and testing workers for alcohol and controlled substances, as well as all costs for administration of such drug and alcohol testing program shall be paid by the employer on the public works project. No costs under this section shall be paid by the state, any of its agencies, or any political subdivision thereof.**

**4. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly under chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rule making authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.**

**161.650. 1. The department of elementary and secondary education shall identify and adopt an existing program or programs of educational instruction regarding violence prevention to be administered by public school districts pursuant to subsection 2 of this section, and which shall include, but shall not be limited to, instructing students of the negative consequences, both to the individual and to society at large, of membership in or association with criminal street gangs or participation in criminal street gang activity, as those phrases are defined in section 578.421, RSMo, and shall include related training for school district employees directly responsible for the education of students concerning violence prevention and early identification of and intervention in violent behavior. The state board of education shall adopt such program or programs by rule as approved for use in Missouri public schools. The program or programs of instruction shall encourage nonviolent conflict resolution of problems facing youth; present alternative constructive activities for the students; encourage community participation in program instruction, including but not limited to parents and law enforcement officials; and shall**

be administered as appropriate for different grade levels and shall not be offered for academic credit.

2. All public school districts within this state with the approval of the district's board of education may administer the program or programs of student instruction adopted pursuant to subsection 1 of this section to students within the district starting at the kindergarten level and every year thereafter through the twelfth-grade level.

3. Any district adopting and providing a program of instruction pursuant to this section shall be entitled to receive state aid pursuant to section 163.031, RSMo. If such aid is determined by the department to be insufficient to implement any program or programs adopted by a district pursuant to this section:

(1) The department may fund the program or programs adopted pursuant to this section or pursuant to subsection 2 of section 160.530, RSMo, or both, after securing any funding available from alternative sources; and

(2) School districts may fund the program or programs from funds received pursuant to subsection 1 of section 160.530, RSMo[, and section 166.260, RSMo].

4. No rule or portion of a rule promulgated pursuant to this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

**163.410. 1. Notwithstanding the provisions of section 163.021, in fiscal years 2011, 2012, and 2013, if the appropriation for subsections 1 and 2 of section 163.031 is less than the annualized calculation of the amount needed for the phase-in required under subsection 4 of section 163.031 for that fiscal year or the appropriation for transportation as provided in subsection 3 of section 163.031 is funded at a level that provides less than seventy-five percent of allowable costs, school districts shall be excused from compliance with:**

**(1) Spending funds for professional development as required under subsection 1 of section 160.530; and**

**(2) The fund placement and expenditure requirements of subsection 6 of section 163.031.**

**2. If the governor withholds funds for the school funding formula basic apportionment under section 163.031, in fiscal years 2011, 2012, and 2013, school districts shall be excused from compliance with the statutes listed in subsection 1 of this section in the following fiscal year.**

167.029. A public school district [in any city not within a county shall determine whether a dress code policy requiring pupils] **may require students** to wear a school uniform [is appropriate at any school or schools within such district, and if it is so determined, shall adopt such a policy] **or restrict student dress to a particular style in accordance with the law.** The school district may determine the style and color of the school uniform.

167.117. 1. In any instance when any person is believed to have committed an act which if committed by an adult would be assault in the first, second or third degree, sexual assault, or deviate sexual assault against a pupil or school employee, while on school property, including a school bus in service on behalf of the district, or while involved in school activities, the principal shall immediately report such incident to the appropriate local law enforcement agency and to the superintendent, except in any instance when any person is believed to have committed an act which if committed by an adult would be assault in the third degree and a written agreement as to the procedure for the reporting of such incidents of third degree assault has been executed between the superintendent of the school district and the appropriate local law enforcement

agency, the principal shall report such incident to the appropriate local law enforcement agency in accordance with such agreement.

2. In any instance when a pupil is discovered to have on or about such pupil's person, or among such pupil's possessions, or placed elsewhere on the school premises, including but not limited to the school playground or the school parking lot, on a school bus or at a school activity whether on or off of school property any controlled substance as defined in section 195.010, RSMo, or any weapon as defined in subsection [4] 6 of section 160.261, RSMo, in violation of school policy, the principal shall immediately report such incident to the appropriate local law enforcement agency and to the superintendent.

3. In any instance when a teacher becomes aware of an assault as set forth in subsection 1 of this section or finds a pupil in possession of a weapon or controlled substances as set forth in subsection 2 of this section, the teacher shall immediately report such incident to the principal.

4. A school employee, superintendent or such person's designee who in good faith provides information to law enforcement or juvenile authorities pursuant to this section or section 160.261, RSMo, shall not be civilly liable for providing such information.

5. Any school official responsible for reporting pursuant to this section or section 160.261, RSMo, who willfully neglects or refuses to perform this duty shall be subject to the penalty established pursuant to section 162.091, RSMo.

167.621. 1. Persons providing health services under sections 167.600 to 167.621 shall obtain authorization from a parent or guardian of the child before providing services as provided by section 431.061, RSMo.

2. No employee of any school district may be required to administer medication or medical services for which the employee is not qualified according to standard medical practices. No **unqualified** employee who refuses to [violate this provision] **administer medication or medical services** shall be subject to any disciplinary action for such refusal. Nothing herein shall be construed to prevent any employee from providing routine first aid, provided that any employee shall be held harmless **and immune** from any liability if such employee is following a proper procedure adopted by the local school board.

**3. Any qualified employee shall be held harmless and immune from any civil liability for administering medication or medical services in good faith and according to standard medical practices.**

167.624. Each school board in the state, if the school district does not presently have a program as described below, may develop and implement a program to train the students **and employees** of the district in the administration of cardiopulmonary resuscitation and other lifesaving methods, as they determine best, and may consult the department of public safety, the state fire marshal's office, the local fire protection authorities, and others as the board sees fit. The board may make completion of the program a requirement for graduation. **Any trained employee shall be held harmless and immune from any civil liability for administering cardiopulmonary resuscitation and other lifesaving methods in good faith and according to standard medical practices.**

167.627. 1. For purposes of this section, the following terms shall mean:

(1) "Medication", any medicine prescribed or ordered by a physician for the treatment of asthma or anaphylaxis, including without limitation inhaled bronchodilators and auto-injectible epinephrine;

(2) "Self-administration", a pupil's discretionary use of medication prescribed by a physician or under a written treatment plan from a physician.

2. Each board of education and its employees and agents in this state shall grant any pupil in the school authorization for the possession and self-administration of medication to treat such pupil's **chronic health condition, including but not limited to** asthma or anaphylaxis if:

(1) A licensed physician prescribed or ordered such medication for use by the pupil and instructed such pupil in the correct and responsible use of such medication;

(2) The pupil has demonstrated to the pupil's licensed physician or the licensed physician's designee, and the school nurse, if available, the skill level necessary to use the medication and any device necessary to administer such medication prescribed or ordered;

(3) The pupil's physician has approved and signed a written treatment plan for managing **the pupil's chronic health condition, including** asthma or anaphylaxis episodes [of the pupil] and for medication for use by the pupil. Such plan shall include a statement that the pupil is capable of self-administering the medication under the treatment plan;

(4) The pupil's parent or guardian has completed and submitted to the school any written documentation required by the school, including the treatment plan required under subdivision (3) of this subsection and the liability statement required under subdivision (5) of this subsection; and

(5) The pupil's parent or guardian has signed a statement acknowledging that the school district and its employees or agents shall incur no liability as a result of any injury arising from the self-administration of medication by the pupil or the administration of such medication by school staff. Such statement shall not be construed to release the school district and its employees or agents from liability for negligence.

3. An authorization granted under subsection 2 of this section shall:

(1) Permit such pupil to possess and self-administer such pupil's medication while in school, at a school-sponsored activity, and in transit to or from school or school-sponsored activity; and

(2) Be effective only for the same school and school year for which it is granted. Such authorization shall be renewed by the pupil's parent or guardian each subsequent school year in accordance with this section.

4. Any current duplicate prescription medication, if provided by a pupil's parent or guardian or by the school, shall be kept at a pupil's school in a location at which the pupil or school staff has immediate access in the event of an asthma or anaphylaxis emergency.

5. The information described in subdivisions (3) and (4) of subsection 2 of this section shall be kept on file at the pupil's school in a location easily accessible in the event of an [asthma or anaphylaxis] emergency.

167.630. 1. Each school board may authorize a school nurse licensed under chapter 335, RSMo, who is employed by the school district and for whom the board is responsible for to maintain an adequate supply of prefilled auto syringes of epinephrine with fifteen-hundredths milligram or three-tenths milligram delivery at the school. The nurse shall recommend to the school board the number of prefilled epinephrine auto syringes that the school should maintain.

2. To obtain prefilled epinephrine auto syringes for a school district, a prescription written by a licensed physician, a physician's assistant, or nurse practitioner is required. For such prescriptions, the school district shall be designated as the patient, the nurse's name shall be required, and the prescription shall be filled at a licensed pharmacy.

3. A school nurse **or other school employee trained by and supervised by the nurse** shall have the discretion to use an epinephrine auto syringe on any student the school nurse **or trained employee** believes is having a life-threatening anaphylactic reaction based on the

[nurse's] training in recognizing an acute episode of an anaphylactic reaction. **The provisions of section 167.624 concerning immunity from civil liability for trained employees administering life-saving methods shall apply to trained employees administering a prefilled auto syringe under this section.**

168.221. 1. The first five years of employment of all teachers entering the employment of the metropolitan school district shall be deemed a period of probation during which period all appointments of teachers shall expire at the end of each school year. During the probationary period any probationary teacher whose work is unsatisfactory shall be furnished by the superintendent of schools with a written statement setting forth the nature of his incompetency. If improvement satisfactory to the superintendent is not made within one semester after the receipt of the statement, the probationary teacher shall be dismissed. The semester granted the probationary teacher in which to improve shall not in any case be a means of prolonging the probationary period beyond five years and six months from the date on which the teacher entered the employ of the board of education. The superintendent of schools on or before the fifteenth day of April in each year shall notify probationary teachers who will not be retained by the school district of the termination of their services. Any probationary teacher who is not so notified shall be deemed to have been appointed for the next school year. Any principal who prior to becoming a principal had attained permanent employee status as a teacher shall upon ceasing to be a principal have a right to resume his or her permanent teacher position with the time served as a principal being treated as if such time had been served as a teacher for the purpose of calculating seniority and pay scale. The rights and duties and remuneration of a teacher who was formerly a principal shall be the same as any other teacher with the same level of qualifications and time of service.

2. After completion of satisfactory probationary services, appointments of teachers shall become permanent, subject to removal for any one or more causes herein described and to the right of the board to terminate the services of all who attain the age of compulsory retirement fixed by the retirement system. In determining the duration of the probationary period of employment in this section specified, the time of service rendered as a substitute teacher shall not be included.

3. No teacher whose appointment has become permanent may be removed except for one or more of the following causes: immorality, inefficiency in line of duty, violation of the published regulations of the school district, violation of the laws of Missouri governing the public schools of the state, or physical or mental condition which incapacitates him for instructing or associating with children, and then only by a vote of not less than a majority of all the members of the board, upon written charges presented by the superintendent of schools, to be heard by the board after thirty days' notice, with copy of the charges served upon the person against whom they are preferred, who shall have the privilege of being present **at the hearing**, together with counsel, offering evidence and making defense thereto. Notifications received by an employee during a vacation period shall be considered as received on the first day of the school term following. At the request of any person so charged the hearing shall be public. **During any time in which powers granted to the district's board of education are vested in a special administrative board, the special administrative board may appoint a hearing officer to conduct the hearing. The hearing officer shall conduct the hearing as a contested case under chapter 536 and shall issue a written recommendation to the board rendering the charges against the teacher. The board shall render a decision on the charges upon the review of the hearing officer's recommendations and the record from the hearing.** The

action and decision of the board upon the charges shall be final. Pending the hearing of the charges, the person charged may be suspended if the rules of the board so prescribe, but in the event the board does not by a majority vote of all the members remove the teacher upon charges presented by the superintendent, the person shall not suffer any loss of salary by reason of the suspension. Inefficiency in line of duty is cause for dismissal only after the teacher has been notified in writing at least one semester prior to the presentment of charges against him by the superintendent. The notification shall specify the nature of the inefficiency with such particularity as to enable the teacher to be informed of the nature of his inefficiency.

4. No teacher whose appointment has become permanent shall be demoted nor shall his salary be reduced unless the same procedure is followed as herein stated for the removal of the teacher because of inefficiency in line of duty, and any teacher whose salary is reduced or who is demoted may waive the presentment of charges against him by the superintendent and a hearing thereon by the board. The foregoing provision shall apply only to permanent teachers prior to the compulsory retirement age under the retirement system. Nothing herein contained shall in any way restrict or limit the power of the board of education to make reductions in the number of teachers or principals, or both, because of insufficient funds, decrease in pupil enrollment, or abolition of particular subjects or courses of instruction, except that the abolition of particular subjects or courses of instruction shall not cause those teachers who have been teaching the subjects or giving the courses of instruction to be placed on leave of absence as herein provided who are qualified to teach other subjects or courses of instruction, if positions are available for the teachers in the other subjects or courses of instruction.

5. Whenever it is necessary to decrease the number of teachers because of insufficient funds or a substantial decrease of pupil population within the school district, the board of education upon recommendation of the superintendent of schools may cause the necessary number of teachers beginning with those serving probationary periods to be placed on leave of absence without pay, but only in the inverse order of their appointment. Nothing herein stated shall prevent a readjustment by the board of education of existing salary schedules. No teacher placed on a leave of absence shall be precluded from securing other employment during the period of the leave of absence. Each teacher placed on leave of absence shall be reinstated in inverse order of his placement on leave of absence. Such reemployment shall not result in a loss of status or credit for previous years of service. No new appointments shall be made while there are available teachers on leave of absence who are seventy years of age or less and who are adequately qualified to fill the vacancy unless the teachers fail to advise the superintendent of schools within thirty days from the date of notification by the superintendent of schools that positions are available to them that they will return to employment and will assume the duties of the position to which appointed not later than the beginning of the school year next following the date of the notice by the superintendent of schools.

6. If any regulation which deals with the promotion of teachers is amended by increasing the qualifications necessary to be met before a teacher is eligible for promotion, the amendment shall fix an effective date which shall allow a reasonable length of time within which teachers may become qualified for promotion under the regulations.

7. A teacher whose appointment has become permanent may give up the right to a permanent appointment to participate in the teacher choice compensation package under sections 168.745 to 168.750.

168.500. 1. For the purpose of providing career pay, which shall be a salary supplement, for public school teachers, which for the purpose of sections 168.500 to 168.515 shall include

classroom teachers, librarians, guidance counselors and certificated teachers who hold positions as school psychological examiners, parents as teachers educators, school psychologists, special education diagnosticians and speech pathologists, and are on the district salary schedule, there is hereby created and established a career advancement program which shall be known as the "Missouri Career Development and Teacher Excellence Plan", hereinafter known as the "career plan or program". Participation by local school districts in the career advancement program established under this section shall be voluntary. The career advancement program is a matching fund program [of variable match rates]. The general assembly [shall] **may** make an annual appropriation to the excellence in education fund established under section 160.268, RSMo, for the purpose of providing the state's portion for the career advancement program. The "Career Ladder Forward Funding Fund" is hereby established in the state treasury. Beginning with fiscal year 1998 and until the career ladder forward funding fund is terminated pursuant to this subsection, the general assembly [shall] **may** appropriate funds to the career ladder forward funding fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to the credit of the general revenue fund at the end of the biennium. All interest or other gain received from investment of moneys in the fund shall be credited to the fund. All funds deposited in the fund shall be maintained in the fund until such time as the balance in the fund at the end of the fiscal year is equal to or greater than the appropriation for the career ladder program for the following year, at which time all such revenues shall be used to fund, in advance, the career ladder program for such following year and the career ladder forwarding funding fund shall thereafter be terminated.

2. The department of elementary and secondary education, at the direction of the commissioner of education, shall study and develop model career plans which shall be made available to the local school districts. These state model career plans shall:

(1) Contain three steps or stages of career advancement;

(2) Contain a detailed procedure for the admission of teachers to the career program;

(3) Contain specific criteria for career step qualifications and attainment. These criteria shall clearly describe the minimum number of professional responsibilities required of the teacher at each stage of the plan and shall include reference to classroom performance evaluations performed pursuant to section 168.128;

(4) Be consistent with the teacher certification process recommended by the Missouri advisory council of certification for educators and adopted by the department of elementary and secondary education;

(5) Provide that public school teachers in Missouri shall become eligible to apply for admission to the career plans adopted under sections 168.500 to 168.515 after five years of public school teaching in Missouri. All teachers seeking admission to any career plan shall, as a minimum, meet the requirements necessary to obtain the first renewable professional certificate as provided in section 168.021;

(6) Provide procedures for appealing decisions made under career plans established under sections 168.500 to 168.515.

3. The commissioner of education shall cause the department of elementary and secondary education to establish guidelines for all career plans established under this section, and criteria that must be met by any school district which seeks funding for its career plan.

4. A participating local school district may have the option of implementing a career plan developed by the department of elementary and secondary education or a local plan which has been developed with advice from teachers employed by the district and which has met with the

approval of the department of elementary and secondary education. In approving local career plans, the department of elementary and secondary education may consider provisions in the plan of the local district for recognition of teacher mobility from one district to another within this state.

5. The career plans of local school districts shall not discriminate on the basis of race, sex, religion, national origin, color, creed, or age. Participation in the career plan of a local school district is optional, and any teacher who declines to participate shall not be penalized in any way.

6. In order to receive funds under this section, a school district which is not subject to section 162.920, RSMo, must have a total levy for operating purposes which is in excess of the amount allowed in section 11(b) of article X of the Missouri Constitution; and a school district which is subject to section 162.920, RSMo, must have a total levy for operating purposes which is equal to or in excess of twenty-five cents on each hundred dollars of assessed valuation.

7. The commissioner of education shall cause the department of elementary and secondary education to regard a speech pathologist who holds both a valid certificate of license to teach and a certificate of clinical competence to have fulfilled the standards required to be placed on stage III of the career program, provided that such speech pathologist has been employed by a public school in Missouri for at least five years and is approved for placement at such stage III by the local school district.

**8. Beginning in fiscal year 2012, the state portion of career ladder payments shall only be made available to local school districts if the general assembly makes an appropriation for such program. Payments authorized under sections 168.500 to 168.515 shall only be made available in a year for which a state appropriation is made. Any state appropriation shall be made prospectively in relation to the year in which work under the program is performed.**

**9. Nothing in this section shall be construed to prohibit a local school district from funding the program for its teachers, for work performed in years for which no state appropriation is made available.**

168.515. 1. Each teacher selected to participate in a career plan established under sections 168.500 to 168.515, who meets the requirements of such plan, [shall] **may** receive a salary supplement, the state's share of which shall be distributed under section 163.031, RSMo, equal to the following amounts applied to the career ladder entitlement of section 163.031, RSMo:

(1) Career stage I teachers may receive up to an additional one thousand five hundred dollars per school year;

(2) Career stage II teachers may receive up to an additional three thousand dollars per school year;

(3) Career stage III teachers may receive up to an additional five thousand dollars per school year. All teachers within each stage within the same school district shall receive equal salary supplements.

2. The state [shall] **may** make payments pursuant to section 163.031, RSMo, to the local school district for the purpose of [reimbursing] **providing funding to** the local school district for the payment of any salary supplements provided for in this section, subject to the availability of funds as appropriated each year and distributed on a [variable match formula which shall] **matching basis where the percentage of state funding shall be forty percent and the percentage of local funding shall be sixty percent.** [be based on assessed valuation of the district for the second preceding school year.

3. In distributing these matching funds, school districts shall be ranked by the assessed valuation for the second preceding school year per weighted average daily attendance from the highest to the lowest and divided into three groups. Group one shall contain the highest twenty-five percent of all public school districts, groups two and three combined shall contain the remaining seventy-five percent of all public school districts. The districts in groups two and three shall be rank-ordered from largest to smallest based on enrollment as of the last Wednesday in September during the second preceding school year, group two shall contain twenty-five percent of all public school districts that are larger on the enrollment-based rank-ordered list and group three shall contain the remaining fifty percent of all public school districts. Pursuant to subsection 4 of this section, districts in group one shall receive forty percent state funding and shall contribute sixty percent local funding, group two shall receive fifty percent state funding and shall contribute fifty percent local funding and group three shall receive sixty percent state funding and shall contribute forty percent local funding.

4. The incremental groups are as follows:

| Percentage<br>of Districts | Percentage<br>of State Funding | Percentage<br>of Local Funding |
|----------------------------|--------------------------------|--------------------------------|
| 1     25%                  | 40%                            | 60%                            |
| 2     25%                  | 50%                            | 50%                            |
| 3     50%                  | 60%                            | 40%                            |

5. Beginning in the 1996-97 school year, any school district in any group which participated in the career ladder program in 1995-96 and paid less than the local funding percentage required by subsection 4 of this section shall increase its local share of career ladder costs by five percentage points from the preceding year until the district pays the percentage share of cost required by subsection 4 of this section, and in no case shall the local funding percentage be increased by a greater amount for any year. For any district, the state payment shall not exceed the local payment times the state percentage share divided by the local percentage share. Except as provided in subsection 10 of this section, any district not participating in the 1995-96 school year or any district which interrupts its career ladder program for any subsequent year shall enter the program on the cost-sharing basis required by subsection 4 of this section.]

[6.] **3.** Not less than every fourth year, beginning with calendar year 1988, the general assembly, through the joint committee established under section 160.254, RSMo, shall review the amount of the career pay provided for in this section to determine if any increases are necessary to reflect the increases in the cost of living which have occurred since the salary supplements were last reviewed or set.

[7.] **4.** To participate in the salary supplement program established under this section, a school district may submit to the voters of the district a proposition to increase taxes for this purpose. If a school district's current tax rate ceiling is at or above the rate from which an increase would require a two-thirds majority, the school board may submit to the voters of the district a proposition to reduce or eliminate the amount of the levy reduction resulting from section 164.013, RSMo. If a majority of the voters voting thereon vote in favor of the proposition, the board may certify that seventy-five percent of the revenue generated from this source shall be used to implement the salary supplement program established under this section.

[8.] 5. In no case shall a school district use state funds received under this section nor local revenue generated from a tax established under subsection 7 of this section to comply with the minimum salary requirements for teachers established pursuant to section 163.172, RSMo.

[9. Beginning in the 1996-97 school year, for any teacher who participated in the career program in the 1995-96 school year, continues to participate in the program thereafter, and remains qualified to receive career pay pursuant to section 168.510, the state's share of the teacher's salary supplement shall continue to be the percentage paid by the state in the 1995-96 school year, notwithstanding any provisions of subsection 4 of this section to the contrary, and the state shall continue to pay such percentage of the teacher's salary supplement until any of the following occurs:

(1) The teacher ceases his or her participation in the program; or

(2) The teacher suspends his or her participation in the program for any school year after the 1995-96 school year. If the teacher later resumes participation in the program, the state funding shall be subject to the provisions of subsection 4 of this section.

10. Any school district that participated in the career ladder program prior to the 2001-02 school year but ceased its participation at any time from July 1, 2001, to July 1, 2005, may resume participation in the program no later than July 1, 2006, at the same matching level, pursuant to subsections 4 and 5 of this section, for which the district qualified during its last year of participation.]

178.697. 1. Funding for sections 178.691 to 178.699 shall be made available pursuant to section 163.031, RSMo, and shall be subject to appropriations made for this purpose.

2. Costs of contractual arrangements shall be the obligation of the school district of residence of each preschool child. Costs of contractual arrangements shall not exceed an amount equal to an amount reimbursable to the school districts under the provisions of sections 178.691 to 178.699. [No program shall be approved or contract entered into which requires any additional payment by participants or their parents or guardians.]

3. Payments for participants for programs outlined in section 178.693 shall be uniform for all districts or public agencies.

**4. Families with children under the age of kindergarten entry shall be eligible to receive annual development screenings and parents shall be eligible to receive prenatal visits under sections 178.691 to 178.699. Priority for service delivery of approved parent education programs under section 178.691 to 178.699, which includes, but is not limited to, home visits, group meetings, screenings, and service referrals, shall be given to high needs families in accordance with criteria set forth by the department of elementary and secondary education. Local school districts may establish cost sharing strategies to supplement funding for such program services. The provisions of this subsection shall expire on December 31, 2015, unless reauthorized by an act of the general assembly.**

Section B. Because of the need to provide adequate funding to public schools, the enactment of section 163.410 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 163.410 of section A of this act shall be in full force and effect upon its passage and approval or July 1, 2010, whichever occurs later.