

FIRST REGULAR SESSION

# SENATE BILL NO. 537

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Read 1st time February 26, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

2226S.011

## AN ACT

To amend chapter 162, RSMo, by adding thereto one new section relating to open enrollment.

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

Section A. Chapter 162, RSMo, is amended by adding thereto one new section, to be known as section 162.1033, to read as follows:

**162.1033. 1. The provisions of this section shall be known as the "Students First Act".**

**2. For the school year beginning July 1, 2010, and each succeeding school year, the parent or guardian of a child who is employed as a firefighter, emergency medical technician, or peace officer who is required to live in a designated school district by the terms of his or her employment may enroll his or her child in a public school for kindergarten or grades above kindergarten in another school district in the manner provided in this section. A child in foster care under chapter 210 may also enroll in a public school for kindergarten or grades above kindergarten in another school district in the manner provided in this section.**

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

**(1) "Public school", includes school districts, charter schools, magnet schools, and the virtual school created in section 161.670, RSMo;**

**(2) "IEP", individualized education program.**

**4. (1) Every school district shall adopt a policy which defines the term "class size" for the purposes of open enrollment. The "minimum standard" of teacher-pupil ratio promulgated by the department shall be used in formulating the policy. The policy may allow for a number of spaces to remain open to accommodate potential additional pupils**

22 who will reside in the district. The receiving district shall make  
23 available to the public the number of open seats in each grade each  
24 year on a timely basis. A child in the foster care system under chapter  
25 210, RSMo, or the parent or guardian of any student, who wishes to  
26 participate in open enrollment shall declare the student's intent by  
27 March first preceding the school year in which the student wishes to  
28 participate. Open enrollment requests shall be valid for an entire  
29 school year.

30 (2) If capacity is insufficient to enroll all pupils who submit an  
31 application, the receiving school district shall have an admissions  
32 process that assures all applicants of an equal chance of gaining  
33 admission except that preferences for admission of children whose  
34 siblings attend the school may be permitted. Whenever there is a  
35 federal court-ordered desegregation directive for a school district,  
36 enrollment options under this section are subject to the approval of the  
37 court of continuing jurisdiction, and the court order shall govern.

38 (3) If a parent believes that a receiving district is unreasonable  
39 in disapproving applications submitted in accordance with this  
40 subsection, the parent or guardian may request that the department of  
41 elementary and secondary education review and take appropriate  
42 action. School districts shall keep records of the numbers of transfers  
43 requested into and out of the district and numbers accepted and  
44 denied. These records shall be publicly available.

45 (4) If a request filed under this section is for a child requiring  
46 special education under sections 162.670 to 162.999, the request to  
47 transfer to the other district shall be granted only if the individualized  
48 education program team in the receiving district verifies that the  
49 receiving district maintains a special education instructional program  
50 which is appropriate to meet the child's educational needs and the  
51 enrollment of the child in the receiving district's program would not  
52 cause the size of the class in that special education instructional  
53 program in the receiving district to exceed the maximum class size  
54 established in rules adopted by the state board of education or federal  
55 guidelines for that program. For children requiring special education,  
56 a member of the child's IEP team in the school district of residence  
57 shall be part of the IEP team in the receiving district for the initial IEP  
58 planning sessions, and the school district of residence shall pay to the

59 receiving district the actual costs incurred in providing the  
60 appropriate special education.

61 5. A student who enrolls in another public school under this  
62 section shall be counted, for state school foundation aid purposes, in  
63 the receiving district.

64 6. Notwithstanding section 167.241, RSMo, relating to  
65 transportation of nonresident pupils, the parent or guardian is  
66 responsible for transporting the pupil without reimbursement. At the  
67 discretion of the receiving district based on availability of bus seats,  
68 the pupil may be transported by the parent to and from a point on a  
69 regular school bus route of the receiving district. Nothing in this  
70 subsection shall be construed to prohibit a sending or receiving district  
71 from voluntarily providing such transportation, nor shall this  
72 subsection be construed to prohibit a district from charging a fee for  
73 use of school buses for any purpose the school district deems necessary  
74 and appropriate to accomplish the ends of this section.

75 7. For accountability purposes on adequate yearly progress and  
76 the annual performance report, the statewide assessment scores of  
77 pupils using open enrollment to attend a district other than their  
78 school district of residence shall be treated in the same manner as the  
79 scores of English language learners.

80 8. To the extent practicable based on available capacity, each  
81 public school district with multiple attendance centers serving the  
82 same grade level may provide intradistrict open enrollment. A  
83 district's intradistrict transfers shall receive priority over interdistrict  
84 transfers.

85 9. Students who participate in open enrollment shall be treated  
86 like resident students of the receiving district for school activities  
87 participation on any team, and no organization shall prevent such  
88 students from participating in school activities. Districts and  
89 organizations involved in school activities in open enrollment districts  
90 shall make a good faith effort to facilitate participation.

91 10. In a public school district that qualified for a small school  
92 grant under section 163.044, RSMo, for the previous school year, the  
93 addition of up to five percent average daily attendance attributable to  
94 open enrollment shall not disqualify the district for the grant, nor shall  
95 a decrease of less than five percent from the average daily attendance

96 used to determine qualification for the grant for the subsequent school  
97 year that is attributable to open enrollment qualify a district for the  
98 grant.

99       11. Any rule or portion of a rule, as that term is defined in  
100 section 536.010, RSMo, that is created under the authority delegated in  
101 this section shall become effective only if it complies with and is  
102 subject to all of the provisions of chapter 536, RSMo, and, if applicable,  
103 section 536.028, RSMo. This section and chapter 536, RSMo, are  
104 nonseverable and if any of the powers vested with the general assembly  
105 pursuant to chapter 536, RSMo, to review, to delay the effective date,  
106 or to disapprove and annul a rule are subsequently held  
107 unconstitutional, then the grant of rulemaking authority and any rule  
108 proposed or adopted after August 28, 2009, shall be invalid and void.

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Bill

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