

SECOND REGULAR SESSION

SENATE BILL NO. 1051

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR FOSTER.

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TERRY L. SPIELER, Secretary.

4209S.011

AN ACT

To repeal section 165.011, RSMo, and to enact in lieu thereof one new section relating to transfers from the incidental fund.

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

Section A. Section 165.011, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 165.011, to read as follows:

165.011. 1. The following funds are created for the accounting of all school moneys: teachers' fund, incidental fund, free textbook fund, capital projects fund and debt service fund. The treasurer of the school district shall open an account for each fund specified in this section, and all moneys received from the county school fund and all moneys derived from taxation for teachers' wages shall be placed to the credit of the teachers' fund. All tuition fees, state moneys received under sections 162.975, RSMo, and 163.031, RSMo, and all other moneys received from the state except as herein provided shall be placed to the credit of the teachers' and incidental funds at the discretion of the district board of education. The portion of state aid received by the district pursuant to section 163.031, RSMo, based upon the portion of the tax rate in the debt service or capital projects fund, respectively, which is included in the operating levy for school purposes pursuant to section 163.011, RSMo, shall be placed to the credit of the debt service fund or capital projects fund, respectively. Money received from other districts for transportation and money derived from taxation for incidental expenses shall be credited to the incidental fund. Money apportioned for free textbooks shall be credited to the free textbook fund. All money derived from taxation or received from any other source for the erection of buildings or additions thereto and the remodeling or reconstruction of buildings and the furnishing thereof,

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

for the payment of lease-purchase obligations, for the purchase of real estate, or from sale of real estate, schoolhouses or other buildings of any kind, or school furniture, from insurance, from sale of bonds other than refunding bonds shall be placed to the credit of the capital projects fund. All moneys derived from the sale or lease of sites, buildings, facilities, furnishings and equipment by a school district as authorized under section 177.088, RSMo, shall be credited to the capital projects fund. Money derived from taxation for the retirement of bonds and the payment of interest thereon shall be credited to the debt service fund which shall be maintained as a separate bank account. Receipts from delinquent taxes shall be allocated to the several funds on the same basis as receipts from current taxes, except that where the previous years' obligations of the district would be affected by such distribution, the delinquent taxes shall be distributed according to the tax levies made for the years in which the obligations were incurred. All refunds received shall be placed to the credit of the fund from which the original expenditures were made. Money donated to the school districts shall be placed to the credit of the fund where it can be expended to meet the purpose for which it was donated and accepted. Money received from any other source whatsoever shall be placed to the credit of the fund or funds designated by the board.

2. (1) The school board may expend from the incidental fund the sum that is necessary for the ordinary repairs of school property and an amount not to exceed the sum of expenditures for classroom instructional capital outlay, as defined by the department of elementary and secondary education by rule, in state-approved area vocational-technical schools and the greater of twenty-five percent of the guaranteed tax base for the preceding year or two and one-fourth percent of the district's entitlement for the preceding school year as established pursuant to line 1 of subsection 6 of section 163.031, RSMo, as of June thirtieth of the preceding school year for classroom instructional capital outlay, including but not limited to payments authorized pursuant to section 177.088, RSMo. Any and all payments authorized under section 177.088, RSMo, except as otherwise provided in this subsection, for the purchase or lease of sites, buildings, facilities, furnishings and equipment and all other expenditures for capital outlay shall be made from the capital projects fund. If a balance remains in the free textbook fund after books are furnished to pupils as provided in section 170.051, RSMo, it shall be transferred to the teachers' fund. The board may transfer the portion of the balance remaining in the incidental fund to the teachers' fund that is necessary for the total payment of all contracted obligations to teachers. If a balance remains in the debt service fund, after the total outstanding indebtedness for which the fund was levied is paid, the board may transfer the unexpended balance to the capital projects fund. If a balance remains in the bond proceeds after completion of the project for which the bonds were issued, the balance shall be transferred from the incidental or capital projects fund to the debt service fund. After making all placements of interest otherwise provided by law, a school district may transfer from the capital projects fund to the incidental fund the interest

earned from undesignated balances in the capital projects fund. All other sections of the law notwithstanding, a school district may transfer from the incidental fund to the capital projects fund an amount equal to the capital expenditures for school safety and security purposes. A school district may borrow from one of the following funds: teachers' fund, incidental fund or capital projects fund, as necessary to meet obligations in another of those funds; provided that the full amount is repaid to the lending fund within the same fiscal year.

(2) No school district shall make any expenditure for any lease purchase obligation authorized pursuant to section 177.088, RSMo, and incurred on or after January 1, 1997, from the district's capital projects fund unless the district levies, in the current year, a tax rate in the capital projects fund which is sufficient to generate revenues equal to or greater than the amount of such expenditure and collects such revenues and credits such revenues to the capital projects fund. For the purposes of subsection 8 of this section, any expenditure made in violation of this subdivision shall be considered a transfer of funds performed in violation of this section and that amount shall be deducted from the school district's state aid calculated pursuant to section 163.031, RSMo, in the school year following the year such expenditure is made.

3. Tuition shall be paid from either the teachers' or incidental funds.

4. Other provisions of law to the contrary notwithstanding, the school board of a school district that satisfies the criteria specified in subsection 5 of this section may transfer from the incidental fund to the capital projects fund the sum of:

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

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

(3) An amount not to exceed the greater of:

(a) The guaranteed tax base for the preceding year; or

(b) Nine percent of the district's entitlement for the preceding school year as established pursuant to line 1 of subsection 6 of section 163.031, RSMo, as of June thirtieth of the preceding school year, **less any amount expended from the incidental fund for classroom instructional capital outlay pursuant to subsection 2 of this section**; provided that transfer amounts authorized pursuant to this subdivision may only be transferred by a resolution of the school board approved by a majority of the board members in office when the resolution is voted upon and identifying the specific capital projects to be funded by the transferred funds and an estimated expenditure date; and provided that if a district did not maintain compliance with the requirements of section 165.016 the preceding year without recourse to a waiver for that year or a base year adjustment received that year or a fund balance exclusion unless the fund balance exclusion had also been used the second preceding year, the transfer amount pursuant

to this subdivision may be transferred only to the extent required to meet current year obligations of the capital projects fund.

5. In order to transfer funds pursuant to subsection 4 of this section, a school district shall:

(1) Meet the minimum criteria for state aid and for increases in state aid for the current year established pursuant to section 163.021, RSMo;

(2) Not incur a total debt, including short-term debt and bonded indebtedness in excess of fifteen percent of the guaranteed tax base for the preceding payment year multiplied by the number of resident and nonresident eligible pupils educated in the district in the preceding year;

(3) Set tax rates pursuant to section 164.011, RSMo;

(4) First apply any voluntary rollbacks or reductions to the total tax rate levied to the teachers' and incidental funds;

(5) In order to be eligible to transfer funds for paying lease purchase obligations:

(a) Incur such obligations, except for obligations for lease purchase for school buses, prior to January 1, 1997;

(b) Limit the term of such obligations to no more than twenty years;

(c) Limit annual installment payments on such obligations to an amount no greater than the amount of the payment for the first full year of the obligation, including all payments of principal and interest, except that the amount of the final payment shall be limited to an amount no greater than two times the amount of such first-year payment;

(d) Limit such payments to leasing nonathletic, classroom, instructional facilities as defined by the state board of education through rule; and

(e) Not offer instruction at a higher grade level than was offered by the district on July 12, 1994.

6. A school district shall be eligible to transfer funds pursuant to subsection 7 of this section if:

(1) Prior to August 28, 1993:

(a) The school district incurred an obligation for the purpose of funding payments under a lease purchase contract authorized under section 177.088, RSMo;

(b) The school district notified the appropriate local election official to place an issue before the voters of the district for the purpose of funding payments under a lease purchase contract authorized under section 177.088, RSMo; or

(c) An issue for funding payments under a lease purchase contract authorized under section 177.088, RSMo, was approved by the voters of the district; or

(2) Prior to November 1, 1993, a school board adopted a resolution authorizing an action necessary to comply with subsection 9 of section 177.088, RSMo. Any increase in the operating levy of a district above the 1993 tax rate resulting from passage of an issue described in

paragraph (b) of subdivision (1) of this subsection shall be considered as part of the 1993 tax rate for the purposes of subsection 1 of section 164.011, RSMo.

7. Prior to transferring funds pursuant to subsection 4 of this section, a school district may transfer, pursuant to this subsection, from the incidental fund to the capital projects fund an amount as necessary to satisfy an obligation of the capital projects fund that satisfies at least one of the conditions specified in subsection 6 of this section, but not to exceed its payments authorized under section 177.088, RSMo, for the purchase or lease of sites, buildings, facilities, furnishings, equipment, and all other expenditures for capital outlay, plus the amount to be expended for transportation equipment that is considered an allowable cost under state board of education rules for transportation reimbursements during the current year plus any amount necessary to satisfy obligations of the capital projects fund for state-approved area vocational-technical schools. A school district [with a levy for school purposes no greater than the minimum levy specified in section 163.021, RSMo, and an obligation in the capital projects fund that satisfies at least one of the conditions specified in subsection 6 of this section] **that is in compliance with section 165.016 during the second preceding year or has paid all penalties for the second preceding year**, may transfer from the incidental fund to the capital projects fund the amount necessary to meet the obligation plus the transfers pursuant to subsection 4 of this section.

8. Beginning in the 1995-96 school year, the department of elementary and secondary education shall deduct from a school district's state aid calculated pursuant to section 163.031, RSMo, an amount equal to the amount of any transfer of funds from the incidental fund to the capital projects fund performed during the previous year in violation of this section; except that the state aid shall be deducted in equal amounts over the five school years following the school year of an unlawful transfer provided that:

(1) The district shall provide written notice to the state board of education, no later than June first of the first school year following the school year of the unlawful transfer, stating the district's intention to comply with the provisions of subdivisions (1) to (4) of this subsection and have state aid deducted for that unlawful transfer over a five-year period;

(2) On or before September first of the second school year following the school year of the unlawful transfer, the district shall approve an increase to the district's operating levy for school purposes to the greater of: two dollars and seventy-five cents per one hundred dollars assessed valuation or the levy which produces an increase in total state and local revenues, as determined by the department, in comparison to the first school year following the school year of the unlawful transfer which is equal to or greater than the amount of state aid to be deducted pursuant to this subsection each school year for such unlawful transfer, provided that increases required pursuant to this subdivision for subsequent unlawful transfers shall be made in comparison to the latter tax rate described in this subdivision;

(3) During each school year after the school year in which the operating levy is increased pursuant to subdivision (2) of this subsection and in which state aid is deducted pursuant to subdivisions (1) to (4) of this subsection, the district shall maintain an operating levy for school purposes which produces total state and local revenues for the district which are no less than the total state and local revenues produced by the levy required pursuant to subdivision (2) of this subsection;

(4) During each school year state aid is deducted pursuant to subdivisions (1) to (4) of this subsection except for the 1998-99 school year, the district shall maintain compliance with the requirements of section 165.016 without any recourse to waivers or base-year adjustments and without the option to demonstrate compliance based upon the district's fund balances; and

(5) If, in any school year state aid is deducted pursuant to subdivisions (1) to (4) of this subsection, the district fails to comply with any requirement of subdivisions (1) to (4) of this subsection, the full, remaining amount of state aid to be deducted pursuant to this subsection shall be deducted from the district's state aid payments by the department during such school year.

9. On or before June 30, 1999, a school district may transfer to the capital projects fund from the balances of the teachers' and incidental funds any amount, but only to the extent that the amount transferred is equal to or less than the amount that the teachers' and incidental funds' unrestricted balances on June 30, 1995, exceeded eight percent of expenditures from the teachers' and incidental funds for the year ending June 30, 1995.

10. (1) Other provisions of law to the contrary notwithstanding, a school district which satisfies all conditions specified in subdivision (2) of this subsection may make the transfer allowed in subdivision (3) of this subsection.

(2) To make the transfer allowed under subdivision (3) of this subsection, a school district shall:

(a) Have a membership count for school year 1997-98 which is at least sixteen percent greater than the district's membership count for the 1991-92 school year; and

(b) Have passed a full waiver of Proposition C tax rate rollback pursuant to section 164.013, RSMo, or approved an increase to the district's tax rate ceiling on or after June 1, 1994; and

(c) Be in compliance or have paid all penalties required pursuant to section 165.016 for the 1994-95, 1995-96 and 1996-97 school years without waiver or adjustment of the base school year certificated salary percentage; and

(d) After all transfers, have a remaining balance on June 30, 1998, in the combined teachers' and incidental funds which is no less than ten percent of the combined expenditures from those funds for the 1997-98 school year.

(3) A district which satisfies all of the criteria specified in paragraphs (a) to (d) of

subdivision (2) of this subsection may, on or before June 30, 1998, make a one-time combined transfer from the teachers' and incidental funds to the capital projects fund of an amount no greater than the sum of the following amounts:

(a) The product of the district's equalized assessed valuation for 1994 times the difference of the district's equalized operating levy for school purposes for 1994 minus the district's equalized operating levy for school purposes for 1993;

(b) The product of the district's equalized assessed valuation for 1995 times the difference of the district's equalized operating levy for school purposes for 1995 minus the district's equalized operating levy for school purposes for 1993;

(c) The product of the district's equalized assessed valuation for 1996 times the difference of the district's equalized operating levy for school purposes for 1996 minus the district's equalized operating levy for school purposes for 1993;

(d) The product of the district's equalized assessed valuation for 1997 times the difference of the district's equalized operating levy for school purposes for 1997 minus the district's equalized operating levy for school purposes for 1993; provided that the remaining balance in the incidental fund shall be no less than twelve percent of the total expenditures during that fiscal year from the incidental fund.

(4) A district which makes a transfer pursuant to subdivision (3) of this subsection shall be subject to compliance with the requirements of section 165.016 for fiscal years 1999, 2000 and 2001, without the option to request a waiver or an adjustment of the base school year certificated salary percentage.

(5) Other provisions of section 165.016 to the contrary notwithstanding, the transfer of an amount of funds from either the teachers' or incidental fund to the capital projects fund pursuant to subdivision (3) of this subsection shall not be considered an expenditure from the teachers' or incidental fund for the purpose of determining compliance with the provisions of subsections 1 and 2 of section 165.016.

11. In addition to other transfers authorized under subsections 1 to 9 of this section, a district may transfer from the teachers' and incidental funds to the capital projects fund the amount necessary to repay costs of one or more guaranteed energy savings performance contracts to renovate buildings in the school district; provided that the contract is only for energy conservation measures, as defined in section 640.651, RSMo, and provided that the contract specifies that no payment or total of payments shall be required from the school district until at least an equal total amount of energy and energy-related operating savings and payments from the vendor pursuant to the contract have been realized by the school district.

12. In addition to other transfers authorized pursuant to subsections 1 to 9 of this section, any school district that has undergone at least a twenty-percent increase in assessed valuation from the preceding year because of the construction of a power plant may make a

one-time transfer on the basis of each such increase, to the capital projects fund from the balances of the teachers' and incidental funds' unrestricted balances in an amount equal to twice the amount of such transfer otherwise permitted pursuant to this section for the year in which such one-time transfer is made; provided that such transfer shall be made prior to the end of the second fiscal year following the fiscal year in which the increase in assessed valuation is effective. Such one-time transfer may be made without regard to whether the transferred funds are used for current expenditures. No transfer shall be made pursuant to this subsection after June 30, 2003.

13. In addition to other transfers authorized pursuant to this section, an eligible school district may transfer from the incidental fund to the capital projects fund to make expenditures which decrease the total interest cost of payments for a lease-purchase obligation authorized by section 177.088, RSMo. An eligible school district shall:

- (1) Have never made a previous transfer pursuant to this subsection;**
- (2) Have ending cash reserves during the year of the transfer in incidental and teachers' funds combined equal to or greater than fifteen percent of expenditures;**
- (3) Decrease the interest cost of all remaining lease-purchase payments by at least the cost of refinancing plus ten percent;**
- (4) Make payments equal to or greater than the amount of the transfer for a lease-purchase obligation meeting an eligibility requirement of subsections 5 or 6 of this section;**
- (5) Levy in the incidental and teachers' funds a levy greater than two dollars and seventy-five cents during the year of the transfer and each of the two previous years;**
- (6) Demonstrate compliance with the requirements of section 165.016 or have paid all outstanding penalties to eligible staff for five consecutive years prior to the year of the transfer; and**
- (7) Have an average salary for teachers in the district which equals or exceeds for three consecutive years prior to the year of the transfer at least one of the following:**
 - (a) The average salary for teachers statewide; or**
 - (b) The average salary for teachers in its senatorial district.**