

SECOND REGULAR SESSION

[P E R F E C T E D]

# SENATE BILL NO. 839

94TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR ENGLER.

Pre-filed December 1, 2007, and ordered printed.

Read 2nd time January 14, 2008, and referred to the Committee on Education.

Reported from the Committee March 13, 2008, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up April 2, 2008. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

3373S.01P

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## AN ACT

To repeal section 177.088, RSMo, and to enact in lieu thereof one new section relating to the transfer of title to real property for school districts.

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

Section A. Section 177.088, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 177.088, to read as follows:

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

2 (1) "Board", the board of education, board of trustees, board of regents, or  
3 board of governors of an educational institution;

4 (2) "Educational institution", any school district, including all junior  
5 college districts, and any state college or university organized under chapter 174,  
6 RSMo.

7 2. The board of any educational institution may enter into agreements as  
8 authorized in this section with a not-for-profit corporation formed under the  
9 general not for profit corporation law of Missouri, chapter 355, RSMo, in order to  
10 provide for the acquisition, construction, improvement, extension, repair,  
11 remodeling, renovation and financing of sites, buildings, facilities, furnishings  
12 and equipment for the use of the educational institution for educational purposes.

13 3. The board may on such terms as it shall approve:

14 (1) Lease from the corporation sites, buildings, facilities, furnishings and  
15 equipment which the corporation has acquired or constructed; or

16 (2) Notwithstanding the provisions of this chapter or any other provision

17 of law to the contrary, sell or lease at fair market value, which may be  
18 determined by appraisal, to the corporation any existing sites owned by the  
19 educational institution, together with any existing buildings and facilities  
20 thereon, in order for the corporation to acquire, construct, improve, extend,  
21 repair, remodel, renovate, furnish and equip buildings and facilities thereon, and  
22 then lease back or purchase such sites, buildings and facilities from the  
23 corporation; provided that upon selling or leasing the sites, buildings or facilities,  
24 the corporation agrees to enter into a lease for not more than one year but with  
25 not more than twenty successive options by the educational institution to renew  
26 the lease under the same conditions; and provided further that the corporation  
27 agrees to convey or sell the sites, buildings or facilities, including any  
28 improvements, extensions, renovations, furnishings or equipment, back to the  
29 educational institution with clear title at the end of the period of successive  
30 one-year options or at any time bonds, notes or other obligations issued by the  
31 corporation to pay for the improvements, extensions, renovations, furnishings or  
32 equipment have been paid and discharged.

33         4. Any consideration, promissory note or deed of trust which an  
34 educational institution receives for selling or leasing property to a not-for-profit  
35 corporation pursuant to this section shall be placed in a separate fund or in  
36 escrow, and neither the principal or any interest thereon shall be commingled  
37 with any other funds of the educational institutions. At such time as the title or  
38 deed for property acquired, constructed, improved, extended, repaired, remodeled  
39 or renovated under this section is conveyed to the educational institution, the  
40 consideration shall be returned to the corporation.

41         5. The board may make rental payments to the corporation under such  
42 leases out of its general funds or out of any other available funds, provided that  
43 in no event shall the educational institution become indebted in an amount  
44 exceeding in any year the income and revenue of the educational institution for  
45 such year plus any unencumbered balances from previous years.

46         6. Any bonds, notes and other obligations issued by a corporation to pay  
47 for the acquisition, construction, improvements, extensions, repairs, remodeling  
48 or renovations of sites, buildings and facilities, pursuant to this section, may be  
49 secured by a mortgage, pledge or deed of trust of the sites, buildings and facilities  
50 and a pledge of the revenues received from the rental thereof to the educational  
51 institution. Such bonds, notes and other obligations issued by a corporation shall  
52 not be a debt of the educational institution and the educational institution shall

53 not be liable thereon, and in no event shall such bonds, notes or other obligations  
54 be payable out of any funds or properties other than those acquired for the  
55 purposes of this section, and such bonds, notes and obligations shall not  
56 constitute an indebtedness of the educational institution within the meaning of  
57 any constitutional or statutory debt limitation or restriction.

58         7. The interest on such bonds, notes and other obligations of the  
59 corporation and the income therefrom shall be exempt from taxation by the state  
60 and its political subdivisions, except for death and gift taxes on transfers. Sites,  
61 buildings, facilities, furnishings and equipment owned by a corporation in  
62 connection with any project pursuant to this section shall be exempt from  
63 taxation.

64         8. The board may make all other contracts or agreements with the  
65 corporation necessary or convenient in connection with any project pursuant to  
66 this section. The corporation shall comply with sections 290.210 to 290.340,  
67 RSMo.

68         9. Notice that the board is considering a project pursuant to this section  
69 shall be given by publication in a newspaper published within the county in  
70 which all or a part of the educational institution is located which has general  
71 circulation within the area of the educational institution, once a week for two  
72 consecutive weeks, the last publication to be at least seven days prior to the date  
73 of the meeting of the board at which such project will be considered and acted  
74 upon.

75         10. Provisions of other law to the contrary notwithstanding, the board  
76 may refinance any lease purchase agreement that satisfies at least one of the  
77 conditions specified in subsection 6 of section 165.011, RSMo, for the purpose of  
78 payment on any lease with the corporation under this section for sites, buildings,  
79 facilities, furnishings or equipment which the corporation has acquired or  
80 constructed, but such refinance shall not extend the date of maturity of any  
81 obligation, and the refinancing obligation shall not exceed the amount necessary  
82 to pay or provide for the payment of the principal of the outstanding obligations  
83 to be refinanced, together with the interest accrued thereon to the date of  
84 maturity or redemption of such obligations and any premium which may be due  
85 under the terms of such obligations and any amounts necessary for the payments  
86 of costs and expenses related to issuing such refunding obligations and to fund  
87 a capital projects reserve fund for the obligations.

88         11. Provisions of other law to the contrary notwithstanding, payments

89 made from any source by a school district, after the latter of July 1, 1994, or July  
90 12, 1994, that result in the transfer of the title of real property to the school  
91 district, other than those payments made from the capital projects fund, shall be  
92 deducted as an adjustment to the funds payable to the district pursuant to section  
93 163.031, RSMo, beginning in the year following the transfer of title to the district,  
94 as determined by the department of elementary and secondary education. **No**  
95 **district with modular buildings leased in fiscal year 2004, with the**  
96 **lease payments made from the incidental fund and that initiates the**  
97 **transfer of title to the district after fiscal year 2007, shall have any**  
98 **adjustment to the funds payable to the district under section 163.031,**  
99 **RSMo, as a result of the transfer of title.**

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Bill

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