

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 399
90TH GENERAL ASSEMBLY

Reported from the Committee on Education - Elementary and Secondary, April 15, 1999, with recommendation that the House Committee Substitute for Senate Bill No. 399 Do Pass.

ANNE C. WALKER, Chief Clerk

L1713.04C

AN ACT

To repeal sections 135.205, 135.207, 135.208, 135.225 and 135.230, RSMo Supp. 1998, relating to enterprise zones, and to enact in lieu thereof five new sections relating to the same subject.

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

Section A. Section 163.011, as both versions appear in RSMo Supp. 1998, is repealed and one new section enacted in lieu thereof, to be known as section 163.011, to read as follows:

[163.011. As used in this chapter unless the context requires otherwise:

(1) "Adjusted gross income":

(a) "District adjusted gross income per return" shall be the total Missouri individual adjusted gross income in a school district divided by the total number of Missouri income tax returns filed from the school district as reported by the state department of revenue for the second preceding year;

(b) "State adjusted gross income per return" shall be the total Missouri individual adjusted gross income divided by the total number of Missouri individual income tax returns, of those returns designating school districts, as reported by the state department of revenue for the second preceding year;

(c) "District income factor" shall be one plus thirty percent of the difference of the district income ratio minus one, except that the district income factor applied to the portion of the assessed valuation corresponding to any increase in assessed valuation above the assessed valuation of a district as of December 31, 1994, shall not exceed a value of one;

(d) "District income ratio" shall be the ratio of the district adjusted gross income per return divided by the state adjusted gross income per return;

(2) "Average daily attendance" means the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by resident pupils between the ages of five and twenty-one by the actual number of hours school was in session in that term. To the average daily attendance of the school term shall be added the full-time equivalent average daily attendance of summer school students. "Full-time equivalent average daily attendance of summer school students" shall be computed by dividing the total number of hours attended by all summer school pupils by the number of hours required in section 160.011, RSMo, in the school term. For purposes of determining average daily attendance under this subdivision, the term "resident pupil" shall include all children

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

between the ages of five and twenty-one who are residents of the school district and who are attending kindergarten through grade twelve in such district. If a child is attending school in a district other than the district of residence and the child's parent is teaching in the school district or is a regular employee of the school district which the child is attending, then such child shall be considered a resident pupil of the school district which the child is attending for such period of time when the district of residence is not otherwise liable for tuition. Average daily attendance for students below the age of five years for which a school district may receive state aid based on such attendance shall be computed as regular school term attendance unless otherwise provided by law;

(3) "District's tax rate ceiling", the highest tax rate ceiling in effect subsequent to the 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for debt service;

(4) "Eligible pupils" shall be the sum of the average daily attendance of the school term plus the product of two times the average daily attendance for summer school;

(5) "Equalized assessed valuation of the property of a school district" shall be determined by multiplying the assessed valuation of the real property subclasses specified in section 137.115, RSMo, times the percent of true value as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent and dividing by either the percent of true value as determined by the state tax commission on or before March fifteenth preceding the fiscal year in which the valuation will be effective as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent or the average percent of true value for the highest three of the last four years as determined and certified by the state tax commission, whichever is greater. To the equalized locally assessed valuation of each district shall be added the assessed valuation of tangible personal property. The assessed valuation of property which has previously been excluded from the tax rolls, which is being contested as not being taxable and which increases the total assessed valuation of the school district by fifty percent or more, shall not be included in the calculation of equalized assessed valuation under this subdivision;

(6) "Free and reduced lunch eligible pupil count", the number of pupils eligible for free and reduced lunch on the last Wednesday in January for the preceding school year who were enrolled as students of the district, as approved by the department in accordance with applicable federal regulations;

(7) "Guaranteed tax base" means the amount of equalized assessed valuation per eligible pupil guaranteed each school district by the state in the computation of state aid. To compute the guaranteed tax base, school districts shall be ranked annually from lowest to highest according to the amount of equalized assessed valuation per pupil. The guaranteed tax base shall be based upon the amount of equalized assessed valuation per pupil of the school district in which the ninety-fifth percentile of the state aggregate number of pupils falls during the third preceding year and shall be equal to the state average equalized assessed valuation per eligible pupil for the third preceding year times two and one hundred and sixty-seven thousandths. The average equalized assessed valuation per pupil shall be the quotient of the total equalized assessed valuation of the state divided by the number of eligible pupils;

(8) "Membership" shall be the average of (1) the number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in September of the previous year and who were in attendance one day or more during the preceding ten school days and (2) the number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in January of the previous year and who were in attendance one day

or more during the preceding ten school days, plus the full-time equivalent number of summer school pupils. "Full-time equivalent number of part-time students" is determined by dividing the total number of hours for which all part-time students are enrolled by the number of hours in the school term. "Full-time equivalent number of summer school pupils" is determined by dividing the total number of hours for which all summer school pupils were enrolled by the number of hours required pursuant to section 160.011, RSMo, in the school term. Only students eligible to be counted for average daily attendance shall be counted for membership;

(9) "Operating levy for school purposes" means the sum of tax rates levied for teachers' and incidental funds in the payment year and shall be, after all adjustments and equalization of the operating levy, no less than the minimum value required in section 163.021 for eligibility for increases in state aid as calculated pursuant to section 163.031 and no greater than a maximum value of four dollars and sixty cents per one hundred dollars assessed valuation. To equalize the operating levy, multiply the aggregate tax rates for teachers', incidental, and building funds by either the percent of true value, as determined by the state tax commission on or before March fifteenth preceding the fiscal year in which the evaluation will be effective as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent, or the average percent of true value for the highest three of the last four years as determined and certified by the state tax commission, whichever is greater, and divide by the percent of true value as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent, provided that for any district for which the equivalent sales ratio is equal to or greater than thirty-three and one-third percent, the equalized operating levy shall be the adjusted operating levy. For any county in which the equivalent sales ratio is less than thirty-one and two-thirds percent, the state tax commission shall conduct a second study in that county and shall use a sample consisting of the parcels used as a sample in the original study combined with an equal number of newly selected parcels. If the new ratio is higher than the original ratio provided by this subdivision, the new ratio shall be used for the purposes of this subdivision and for determining equalized assessed valuation pursuant to subdivision (5) of this section. For the purposes of calculating state aid pursuant to section 163.031, for any district which has not enacted a voluntary tax rate rollback nor increased the amount of a voluntary tax rate rollback from the previous year's amount, the tax rate used to determine a district's entitlement shall be adjusted so that any decrease in the entitlement due to a decrease in the tax rate resulting from the reassessment shall equal the decrease in the deduction for the assessed valuation of the district as a result of the change in the tax rate due to reassessment. The tax rate adjustments required under this subdivision due to reassessment shall be cumulative and shall be applied each year to determine the tax rate used to calculate the entitlement; except that whenever the actual current operating levy exceeds the tax rate calculated pursuant to this subdivision for the purpose of determining the district's entitlement, then the prior tax rate adjustments required under this subdivision due to reassessment shall be eliminated and shall not be applied in determining the tax rate used to calculate the district entitlement;

(10) "School purposes" pertains to teachers' and incidental funds;

(11) "Teacher" means any teacher, teacher-secretary, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, school nurse, social worker, counselor or librarian who shall, regularly, teach or be employed for no higher than grade twelve more than one-half time in the public schools and who is certified under the laws governing the certification of teachers in Missouri;

(12) "Adjusted operating levy", the sum of tax rates for the current year for teachers' and

incidental funds for a school district as reported to the proper officer of each county pursuant to section 164.011, RSMo;

(13) "Current operating costs", all expenditures for instruction and support services excluding capital outlay and debt service expenditures less the revenue from federal categorical sources, food service, student activities and payments from other districts.]

163.011. As used in this chapter unless the context requires otherwise:

(1) "Adjusted gross income":

(a) "District adjusted gross income per return" shall be the total Missouri individual adjusted gross income in a school district divided by the total number of Missouri income tax returns filed from the school district as reported by the state department of revenue for the second preceding year;

(b) "State adjusted gross income per return" shall be the total Missouri individual adjusted gross income divided by the total number of Missouri individual income tax returns, of those returns designating school districts, as reported by the state department of revenue for the second preceding year;

(c) "District income factor" shall be one plus thirty percent of the difference of the district income ratio minus one, except that the district income factor applied to the portion of the assessed valuation corresponding to any increase in assessed valuation above the assessed valuation of a district as of December 31, 1994, shall not exceed a value of one;

(d) "District income ratio" shall be the ratio of the district adjusted gross income per return divided by the state adjusted gross income per return;

(2) "Adjusted operating levy", the sum of tax rates for the current year for teachers' and incidental funds for a school district as reported to the proper officer of each county pursuant to section 164.011, RSMo;

(3) "Average daily attendance" means the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by resident pupils between the ages of five and twenty-one by the actual number of hours school was in session in that term. To the average daily attendance of the following school term shall be added the full-time equivalent average daily attendance of summer school students. "Full-time equivalent average daily attendance of summer school students" shall be computed by dividing the total number of hours attended by all summer school pupils by the number of hours required in section 160.011, RSMo, in the school term. For purposes of determining average daily attendance under this subdivision, the term "resident pupil" shall include all children between the ages of five and twenty-one who are residents of the school district and who are attending kindergarten through grade twelve in such district. If a child is attending school in a district other than the district of residence and the child's parent is teaching in the school district or is a regular employee of the school district which the child is attending, then such child shall be considered a resident pupil of the school district which the child is attending for such period of time when the district of residence is not otherwise liable for tuition. Average daily attendance for students below the age of five years for which a school district may receive state aid based on such attendance shall be computed as regular school term attendance unless otherwise provided by law;

(4) "Current operating costs", all expenditures for instruction and support services excluding capital outlay and debt service expenditures less the revenue from federal categorical sources, food service, student activities and payments from other districts;

(5) "District's target rate", the district's average percentage of pupils from fiscal years 2000 to 2005 scoring at or above the proficiency level on the statewide assessment system on either

mathematics or reading/communication arts plus one percentage point for each year after fiscal year 2005 except that the district's target rate shall not exceed the statewide average percentage from fiscal year 2000 to fiscal year 2005 scoring at or above the proficiency level on the statewide assessment system on either mathematics or reading/communication arts;

(6) "District's tax rate ceiling", the highest tax rate ceiling in effect subsequent to the 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for debt service;

(7) "Eligible pupils" shall be the sum of the average daily attendance of the school term plus the product of two times the average daily attendance for summer school;

(8) "Equalized assessed valuation of the property of a school district" shall be determined by multiplying the assessed valuation of the real property subclasses specified in section 137.115, RSMo, times the percent of true value as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent and dividing by either the percent of true value as determined by the state tax commission on or before March fifteenth preceding the fiscal year in which the valuation will be effective as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent or the average percent of true value for the highest three of the last four years as determined and certified by the state tax commission, whichever is greater. To the equalized locally assessed valuation of each district shall be added the assessed valuation of tangible personal property. The assessed valuation of property which has previously been excluded from the tax rolls, which is being contested as not being taxable and which increases the total assessed valuation of the school district by fifty percent or more, shall not be included in the calculation of equalized assessed valuation under this subdivision;

(9) "Fiscal instructional ratio of efficiency", the quotient of the sum of the district's current operating costs for all kindergarten through grade twelve direct instructional and direct pupil support service functions plus the costs of improvement of instruction and the cost of purchased services and supplies for operation of the facilities housing those programs, excluding student activities, divided by the sum of the district's current operating cost for kindergarten through grade twelve, plus all tuition revenue received from other districts minus all noncapital transportation costs;

(10) "Free and reduced lunch eligible pupil count", the number of pupils eligible for free and reduced lunch on the last Wednesday in January for the preceding school year who were enrolled as students of the district, as approved by the department in accordance with applicable federal regulations;

(11) "Guaranteed tax base" means the amount of equalized assessed valuation per eligible pupil guaranteed each school district by the state in the computation of state aid. To compute the guaranteed tax base, school districts shall be ranked annually from lowest to highest according to the amount of equalized assessed valuation per pupil. The guaranteed tax base shall be based upon the amount of equalized assessed valuation per pupil of the school district in which the ninety-fifth percentile of the state aggregate number of pupils falls during the third preceding year and shall be equal to the state average equalized assessed valuation per eligible pupil for the third preceding year times two and one hundred and sixty-seven thousandths; except that, for the purposes of line 14(b) the guaranteed tax base shall be no greater than the guaranteed tax base used for the 1998-99 payment year. The average equalized assessed valuation per pupil shall be the quotient of the total equalized assessed valuation of the state divided by the number of eligible pupils;

(12) "Membership" shall be the average of (1) the number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in September of the previous year and who were in attendance one day

or more during the preceding ten school days and (2) the number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in January of the previous year and who were in attendance one day or more during the preceding ten school days, plus the full-time equivalent number of summer school pupils. "Full-time equivalent number of part-time students" is determined by dividing the total number of hours for which all part-time students are enrolled by the number of hours in the school term. "Full-time equivalent number of summer school pupils" is determined by dividing the total number of hours for which all summer school pupils were enrolled by the number of hours required pursuant to section 160.011, RSMo, in the school term. Only students eligible to be counted for average daily attendance shall be counted for membership;

(13) "Operating levy for school purposes" for districts making transfers pursuant to subsection 4 of section 165.011, RSMo, based upon amounts multiplied by the guaranteed tax base, or making payments or expenditures related to obligations made pursuant to section 177.088, RSMo, or any combination of such transfers, payments or expenditures, means the sum of tax rates levied for teachers' and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100, RSMo, of any transitional school district containing the school district, in the payment year, and, for other districts, means the sum of tax rates levied for incidental, teachers', debt service and capital projects funds plus the operating levy or sales tax equivalent pursuant to section 162.1100, RSMo, of any transitional school district containing the school district, with no more than eighteen cents of the sum levied in the debt service and capital projects funds. Any portion of the operating levy for school purposes levied in the debt service and capital projects funds in excess of a sum of ten cents must be authorized by a vote of the people, after August 28, 1998, approving an increase in the operating levy, or a full waiver of the rollback pursuant to section 164.013, RSMo, with a tax rate ceiling in excess of the minimum tax rate or an issuance of general obligation bond. The operating levy shall be, after all adjustments and equalization of the operating levy, no greater than a maximum value of four dollars and ninety- five cents per one hundred dollars assessed valuation, except that the operating levy shall be no greater than a maximum value of four dollars and seventy cents per one hundred dollars assessed valuation for the purposes of line 2 of subsection 6 of section 163.031. To equalize the operating levy, multiply the aggregate tax rates for teachers' and incidental funds by either the percent of true value, as determined by the state tax commission on or before March fifteenth preceding the fiscal year in which the evaluation will be effective as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent, or the average percent of true value for the highest three of the last four years as determined and certified by the state tax commission, whichever is greater, and divide by the percent of true value as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent, provided that for any district for which the equivalent sales ratio is equal to or greater than thirty-three and one-third percent, the equalized operating levy shall be the adjusted operating levy. For any county in which the equivalent sales ratio is less than thirty-one and two-thirds percent, the state tax commission shall conduct a second study in that county and shall use a sample [at least twice as large as the one originally used] **consisting of the parcels used as a sample in the original study combined with an equal number of newly selected parcels.** If the new ratio is higher than the original ratio provided by this subdivision, the new ratio shall be used for the purposes of this subdivision and for determining equalized assessed valuation pursuant to subdivision (8) of this section. For the purposes of calculating state aid pursuant to section 163.031, for any district which has not enacted a voluntary tax rate rollback nor

increased the amount of a voluntary tax rate rollback from the previous year's amount, the tax rate used to determine a district's entitlement shall be adjusted so that any decrease in the entitlement due to a decrease in the tax rate resulting from the reassessment shall equal the decrease in the deduction for the assessed valuation of the district as a result of the change in the tax rate due to reassessment. The tax rate adjustments required under this subdivision due to reassessment shall be cumulative and shall be applied each year to determine the tax rate used to calculate the entitlement; [except that whenever the actual current operating levy exceeds the tax rate calculated pursuant to this subdivision for the purpose of determining the district's entitlement, then the prior tax rate adjustments required under this subdivision due to reassessment shall be eliminated and shall not be applied in determining the tax rate used to calculate the district entitlement;]

(14) "School purposes" pertains to teachers' and incidental funds;

(15) "Teacher" means any teacher, teacher-secretary, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, school nurse, social worker, counselor or librarian who shall, regularly, teach or be employed for no higher than grade twelve more than one-half time in the public schools and who is certified under the laws governing the certification of teachers in Missouri.

Section B. Section 165.011, RSMo Supp. 1998, 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] **pursuant to** 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, 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] **pursuant to** 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. 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 .06 dollars per one hundred dollars equalized assessed valuation multiplied by the guaranteed tax base for the second preceding year multiplied by the number of resident and nonresident eligible pupils educated in the district for the second preceding 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] **pursuant to** 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. 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.

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 an amount not to exceed the greater of zero or the sum of .18 dollars per one hundred dollars equalized assessed valuation multiplied by the guaranteed tax base for the second preceding year multiplied by the number of resident and nonresident eligible pupils educated in the district for the second preceding year and 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 and any amount necessary to satisfy obligations of the capital projects fund for state-approved area vocational-technical schools and an amount not to exceed .06 dollars per one hundred dollars equalized assessed valuation multiplied by the guaranteed tax base for the second preceding year multiplied by the number of resident and nonresident eligible pupils educated in the district for the second preceding year less any amount transferred pursuant to subsection 7 of this section, provided that any amount transferred pursuant to this subsection shall only be transferred as necessary to satisfy obligations of the capital projects fund less any amount expended from the incidental fund for classroom instructional capital outlay pursuant to subsection 2 of this section. For the purposes of this subsection, the guaranteed tax base

and a district's count of resident and nonresident eligible pupils educated in the district shall not be less than their respective values calculated from data for the 1992-93 school year.

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 ten 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] **pursuant to** 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] **pursuant to** section 177.088, RSMo; or

(c) An issue for funding payments under a lease purchase contract authorized [under] **pursuant to** 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] **pursuant to** 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, 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, RSMo, 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 funds 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] **pursuant to** 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.

Section C. Because of the urgent need to revise state penalties for certain fund transfer violations, section B 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 section B of this act shall be in full force and effect upon its passage and approval.

Unofficial

Bill

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