

FIRST REGULAR SESSION

HOUSE BILL NO. 333

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MERIDETH, MYERS, HUNTER, WALLACE (Co-sponsors),
BEAN, MILLER, KINGERY AND STEVENSON.

Read 1st time January 30, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0923L.021

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Section A. Section 165.011, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 165.011, to read as follows: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

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

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

33 2. [(1)] The school board may expend from the incidental fund the sum that is necessary
34 for the ordinary repairs of school property and an amount not to exceed the sum of expenditures
35 for classroom instructional capital outlay, as defined by the department of elementary and
36 secondary education by rule, in state-approved area vocational-technical schools and the greater
37 of twenty-five percent of the guaranteed tax base for the preceding year or two and one-fourth
38 percent of the district's entitlement for the preceding school year as established pursuant to line
39 1 of subsection 6 of section 163.031, RSMo, as of June thirtieth of the preceding school year for
40 classroom instructional capital outlay, including but not limited to payments authorized pursuant
41 to section 177.088, RSMo. Any and all payments authorized under section 177.088, RSMo,
42 except as otherwise provided in this subsection, for the purchase or lease of sites, buildings,
43 facilities, furnishings and equipment and all other expenditures for capital outlay shall be made
44 from the capital projects fund. If a balance remains in the free textbook fund after books are
45 furnished to pupils as provided in section 170.051, RSMo, it shall be transferred to the teachers'
46 fund. The board may transfer the portion of the balance remaining in the incidental fund to the
47 teachers' fund that is necessary for the total payment of all contracted obligations to teachers.
48 If a balance remains in the debt service fund, after the total outstanding indebtedness for which
49 the fund was levied is paid, the board may transfer the unexpended balance to the capital projects
50 fund. If a balance remains in the bond proceeds after completion of the project for which the
51 bonds were issued, the balance shall be transferred from the incidental or capital projects fund

52 to the debt service fund. After making all placements of interest otherwise provided by law, a
53 school district may transfer from the capital projects fund to the incidental fund the interest
54 earned from undesignated balances in the capital projects fund. All other sections of the law
55 notwithstanding, a school district may transfer from the incidental fund to the capital projects
56 fund an amount equal to the capital expenditures for school safety and security purposes. A
57 school district may borrow from one of the following funds: teachers' fund, incidental fund or
58 capital projects fund, as necessary to meet obligations in another of those funds; provided that
59 the full amount is repaid to the lending fund within the same fiscal year.

60 (2) No school district shall make any expenditure for any lease purchase obligation
61 authorized pursuant to section 177.088, RSMo, and incurred on or after January 1, 1997, from
62 the district's capital projects fund unless the district levies, in the current year, a tax rate in the
63 capital projects fund which is sufficient to generate revenues equal to or greater than the amount
64 of such expenditure and collects such revenues and credits such revenues to the capital projects
65 fund. For the purposes of subsection 8 of this section, any expenditure made in violation of this
66 subdivision shall be considered a transfer of funds performed in violation of this section and that
67 amount shall be deducted from the school district's state aid calculated pursuant to section
68 163.031, RSMo, in the school year following the year such expenditure is made.]

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

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

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

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

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

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

80 (b) Nine percent of the district's entitlement for the preceding school year as established
81 pursuant to line 1 of subsection 6 of section 163.031, RSMo, as of June thirtieth of the preceding
82 school year, **less any amount expended from the incidental fund for classroom instructional**
83 **capital outlay pursuant to subsection 2 of this section**; provided that transfer amounts
84 authorized pursuant to this subdivision may only be transferred by a resolution of the school
85 board approved by a majority of the board members in office when the resolution is voted upon
86 and identifying the specific capital projects to be funded **directly by the district** by the
87 transferred funds and an estimated expenditure date; and provided that if a district did not

88 maintain compliance with the requirements of section 165.016 the preceding year without
89 recourse to a waiver for that year or a base year adjustment received that year or a fund balance
90 exclusion unless the fund balance exclusion had also been used the second preceding year, the
91 transfer amount pursuant to this subdivision may be transferred only to the extent required to
92 meet current year obligations of the capital projects fund.

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

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

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

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

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

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

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

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

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

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

113 (e) Not offer instruction at a higher grade level than was offered by the district on July
114 12, 1994.

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

117 (1) Prior to August 28, 1993:

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

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

123 (c) An issue for funding payments under a lease purchase contract authorized under

124 section 177.088, RSMo, was approved by the voters of the district; or

125 (2) Prior to November 1, 1993, a school board adopted a resolution authorizing an action
126 necessary to comply with subsection 9 of section 177.088, RSMo. Any increase in the operating
127 levy of a district above the 1993 tax rate resulting from passage of an issue described in
128 paragraph (b) of subdivision (1) of this subsection shall be considered as part of the 1993 tax rate
129 for the purposes of subsection 1 of section 164.011, RSMo.

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

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

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

156 (2) On or before September first of the second school year following the school year of
157 the unlawful transfer, the district shall approve an increase to the district's operating levy for
158 school purposes to the greater of: two dollars and seventy-five cents per one hundred dollars
159 assessed valuation or the levy which produces an increase in total state and local revenues, as

160 determined by the department, in comparison to the first school year following the school year
161 of the unlawful transfer which is equal to or greater than the amount of state aid to be deducted
162 pursuant to this subsection each school year for such unlawful transfer, provided that increases
163 required pursuant to this subdivision for subsequent unlawful transfers shall be made in
164 comparison to the latter tax rate described in this subdivision;

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

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

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

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

185 10. (1) Other provisions of law to the contrary notwithstanding, a school district which
186 satisfies all conditions specified in subdivision (2) of this subsection may make the transfer
187 allowed in subdivision (3) of this subsection.

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

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

192 (b) Have passed a full waiver of Proposition C tax rate rollback pursuant to section
193 164.013, RSMo, or approved an increase to the district's tax rate ceiling on or after June 1, 1994;
194 and

195 (c) Be in compliance or have paid all penalties required pursuant to section 165.016 for

196 the 1994-95, 1995-96 and 1996-97 school years without waiver or adjustment of the base school
197 year certificated salary percentage; and

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

201 (3) A district which satisfies all of the criteria specified in paragraphs (a) to (d) of
202 subdivision (2) of this subsection may, on or before June 30, 1998, make a one-time combined
203 transfer from the teachers' and incidental funds to the capital projects fund of an amount no
204 greater than the sum of the following amounts:

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

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

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

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

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

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

228 11. In addition to other transfers authorized under subsections 1 to 9 of this section, a
229 district may transfer from the teachers' and incidental funds to the capital projects fund the
230 amount necessary to repay costs of one or more guaranteed energy savings performance contracts
231 to renovate buildings in the school district; provided that the contract is only for energy

232 conservation measures, as defined in section 640.651, RSMo, and provided that the contract
233 specifies that no payment or total of payments shall be required from the school district until at
234 least an equal total amount of energy and energy-related operating savings and payments from
235 the vendor pursuant to the contract have been realized by the school district.

236 12. In addition to other transfers authorized pursuant to subsections 1 to 9 of this section,
237 any school district that has undergone at least a twenty-percent increase in assessed valuation
238 from the preceding year because of the construction of a power plant may make a one-time
239 transfer on the basis of each such increase, to the capital projects fund from the balances of the
240 teachers' and incidental funds' unrestricted balances in an amount equal to twice the amount of
241 such transfer otherwise permitted pursuant to this section for the year in which such one-time
242 transfer is made; provided that such transfer shall be made prior to the end of the second fiscal
243 year following the fiscal year in which the increase in assessed valuation is effective. Such
244 one-time transfer may be made without regard to whether the transferred funds are used for
245 current expenditures. No transfer shall be made pursuant to this subsection after June 30, 2003.

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

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