

SECOND REGULAR SESSION

HOUSE BILL NO. 1191

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SMITH (118) (Sponsor), SELF, SEIGFREID, PEARCE,
COOPER (120) AND CRAWFORD (Co-sponsors).

Read 1st time January 21, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4150L.011

AN ACT

To repeal section 165.011, RSMo, and to enact in lieu thereof one new section relating to Pettis County school 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Section A. Section 165.011, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 165.011, to read as follows: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, 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

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. Notwithstanding the provisions of subsection 1 of this section, all moneys**
34 **received in the Pettis County school fund prior to November 1, 2003, in resolution of**
35 **environmental law violations shall be deposited into the capital projects fund. The**
36 **provisions of this subsection shall terminate on December 31, 2005.**

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

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

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

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

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

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

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

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

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

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

90 (1) Meet the minimum criteria for state aid and for increases in state aid for the current

91 year established pursuant to section 163.021, RSMo;

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

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

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

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

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

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

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

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

108 (e) Not offer instruction at a higher grade level than was offered by the district on July
109 12, 1994.

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

112 (1) Prior to August 28, 1993:

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

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

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

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

125 7. Prior to transferring funds pursuant to subsection 4 of this section, a school district
126 may transfer, pursuant to this subsection, from the incidental fund to the capital projects fund an

127 amount as necessary to satisfy an obligation of the capital projects fund that satisfies at least one
128 of the conditions specified in subsection 6 of this section, but not to exceed its payments
129 authorized under section 177.088, RSMo, for the purchase or lease of sites, buildings, facilities,
130 furnishings, equipment, and all other expenditures for capital outlay, plus the amount to be
131 expended for transportation equipment that is considered an allowable cost under state board of
132 education rules for transportation reimbursements during the current year plus any amount
133 necessary to satisfy obligations of the capital projects fund for state-approved area
134 vocational-technical schools. A school district that is in compliance with section 165.016 during
135 the second preceding year or has paid all penalties for the second preceding year may transfer
136 from the incidental fund to the capital projects fund the amount necessary to meet the obligation
137 plus the transfers pursuant to subsection 4 of this section.

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

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

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

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

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

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

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

177 10. (1) Other provisions of law to the contrary notwithstanding, a school district which
178 satisfies all conditions specified in subdivision (2) of this subsection may make the transfer
179 allowed in subdivision (3) of this subsection.

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

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

184 (b) Have passed a full waiver of Proposition C tax rate rollback pursuant to section
185 164.013, RSMo, or approved an increase to the district's tax rate ceiling on or after June 1, 1994;
186 and

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

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

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

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

199 district's equalized operating levy for school purposes for 1993;

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

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

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

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

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

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

228 12. In addition to other transfers authorized pursuant to subsections 1 to 9 of this section,
229 any school district that has undergone at least a twenty-percent increase in assessed valuation
230 from the preceding year because of the construction of a power plant may make a one-time
231 transfer on the basis of each such increase to the capital projects fund from the balances of the
232 teachers' and incidental funds' unrestricted balances in an amount equal to twice the amount of
233 such transfer otherwise permitted pursuant to this section for the year in which such one-time
234 transfer is made; provided that such transfer shall be made prior to the end of the second fiscal

235 year following the fiscal year in which the increase in assessed valuation is effective. Such
236 one-time transfer may be made without regard to whether the transferred funds are used for
237 current expenditures. No transfer shall be made pursuant to this subsection after June 30, 2003.

238 13. A school district may transfer unrestricted funds from the capital projects fund to the
239 incidental fund in any year in which that year's June thirtieth combined incidental and teachers'
240 funds unrestricted balance compared to the combined incidental and teachers' funds expenditures
241 would be less than ten percent without such transfer.

242 14. School districts that have issued qualified zone academy bonds pursuant to 26 U.S.C.
243 Section 1397E, also known as the Taxpayers Relief Act of 1997, prior to December 31, 2002,
244 and have placed bond proceeds into an interest-bearing account in the capital projects fund
245 without meeting the requirement to set a levy in the debt service fund as required in section
246 164.161, RSMo, shall be permitted to make transfers to the debt service fund in an amount up
247 to but not exceeding the original amount of bond proceeds invested, under the following
248 conditions:

249 (1) The district has an unrestricted balance in the capital projects fund equivalent to the
250 original amount of bond proceeds invested that may be transferred to the debt service fund; or

251 (2) If the district does not have sufficient unrestricted funds in the capital projects fund
252 pursuant to subdivision (1) of this subsection, then additional funds may be transferred from the
253 incidental fund to the debt service fund up to the amount needed to equal the original amount of
254 bond proceeds invested, but such transfer in combination with other district expenditures may
255 not reduce the ending fund balance in the combined teachers' and incidental funds below ten
256 percent balance of the expenditures in those funds;

257 (3) If the transfers allowed pursuant to subdivisions (1) and (2) of this subsection are not
258 sufficient to equal the original amount of bond proceeds invested, the district shall provide an
259 annual tax in the debt service fund sufficient to generate the amount required within five years
260 from June 23, 2003;

261 (4) The district shall report the following information as prescribed by the department
262 of elementary and secondary education on the annual secretary of the board report required to
263 be submitted pursuant to section 162.821, RSMo, for the fiscal year ending June 30, 2003:

264 (a) Documentation of the establishment of the local academy/business partnership and
265 the ten percent business match for qualified zone academy bonds pursuant to 26 U.S.C. Section
266 1397E;

267 (b) A detailed schedule of completed and planned expenditures for the projects as
268 specified in the department-approved qualified zone academy bond application, identified by
269 building with certification by the district that a minimum of ninety-five percent of the
270 voter-approved qualified zone academy bonds will be expended within ten years from the date

271 of the sale of bonds; and

272 (c) The business name, office location, state of incorporation, and names of any
273 representative of the bonding institution and bond counsel, if applicable, who handled the
274 qualified zone academy bond issuance, including all individuals who signed correspondence to
275 or made presentations to the school district concerning such bonds; and providing the amount
276 of fees or costs of issuance paid to the bonding institution and bond counsel stated as a whole
277 dollar amount and as a percentage of the qualified zone academy bond;

278 (5) Any transfer made pursuant to subdivision (1) or (2) of this subsection shall be
279 reported on the district's fiscal year 2003 financial records;

280 (6) If the district fails to provide the information in the manner prescribed by the
281 department on the annual secretary of the board report by December 31, 2003, the amount of
282 unrestricted fund balance transferred into the debt service fund from the capital projects fund or
283 incidental fund shall be returned to the original fund from which the transfer was made and an
284 annual tax established in the debt service fund sufficient to pay the principal and interest of the
285 bonds as they fall due.

286 15. On or before August 31, 2005, a school district located in a county of the third
287 classification without a township form of government and with more than thirty-seven thousand
288 two hundred but less than thirty-seven thousand three hundred inhabitants and in a county of the
289 third classification without a township form of government and with more than nine thousand
290 four hundred fifty but less than nine thousand five hundred fifty inhabitants and a school district
291 with an assessed valuation of no less than twenty-one million seven hundred fifty thousand
292 dollars and no more than twenty-two million dollars located in a county of the third classification
293 without a township form of government and with more than forty thousand eight hundred but
294 less than forty thousand nine hundred inhabitants shall be permitted to make a one-time
295 additional transfer from the incidental fund to the capital projects fund in an appropriate amount
296 for the specific purpose of completing a sewer project in order to comply with regulations
297 established by the department of natural resources.

298 16. On or before August 31, 2005, a school district with an assessed valuation of at least
299 thirty-one million dollars and less than thirty-two million dollars located in a county of the third
300 classification without a township form of government and with more than thirty-one thousand
301 but less than thirty-one thousand one hundred inhabitants shall be permitted to make a one-time
302 additional transfer from the incidental fund to the capital projects fund in an appropriate amount
303 for the specific purpose of improving the library media and technology center that serves the
304 district's high school and middle school.

305 17. In addition to other transfers authorized pursuant to this section, an eligible school
306 district may transfer from the incidental fund to the capital projects fund to make expenditures

307 which decrease the total interest cost of payments for a lease-purchase obligation authorized by
308 section 177.088, RSMo. An eligible school district shall:

309 (1) Have never made a previous transfer pursuant to this subsection;

310 (2) Have ending cash reserves during the year of the transfer in incidental and teachers'
311 funds combined equal to or greater than fifteen percent of expenditures;

312 (3) Decrease the interest cost of all remaining lease-purchase payments by at least the
313 cost of refinancing plus ten percent;

314 (4) Make payments equal to or greater than the amount of the transfer for a
315 lease-purchase obligation meeting an eligibility requirement of subsection 5 or 6 of this section;

316 (5) Levy in the incidental and teachers' funds a levy greater than two dollars and
317 seventy-five cents during the year of the transfer and each of the two previous years;

318 (6) Demonstrate compliance with the requirements of section 165.016 or have paid all
319 outstanding penalties to eligible staff for five consecutive years prior to the year of the transfer;
320 and

321 (7) Have an average salary for teachers in the district which equals or exceeds for three
322 consecutive years prior to the year of the transfer at least one of the following:

323 (a) The average salary for teachers statewide; or

324 (b) The average salary for teachers in its senatorial district.