

FIRST REGULAR SESSION

HOUSE BILL NO. 153

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WALLACE.

Pre-filed January 4, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0518L.011

AN ACT

To repeal section 165.011, RSMo, and to enact in lieu thereof one new section relating to capital projects.

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Section A. Section 165.011, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 165.011, to read as follows: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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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. The school board may expend from the incidental fund the sum that is necessary for
34 the ordinary repairs of school property and an amount not to exceed the sum of expenditures for
35 classroom instructional capital outlay, as defined by the department of elementary and secondary
36 education by rule, in state-approved area vocational-technical schools and the greater of
37 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 3. Tuition shall be paid from either the teachers' or incidental funds.

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

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

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

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

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

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

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

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

88 (2) Not incur a total debt, including short-term debt and bonded indebtedness in excess

89 of fifteen percent of the guaranteed tax base for the preceding payment year multiplied by the
90 number of resident and nonresident eligible pupils educated in the district in the preceding year;

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

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

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

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

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

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

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

104 (e) Not offer instruction at a higher grade level than was offered by the district on July
105 12, 1994.

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

108 (1) Prior to August 28, 1993:

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

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

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

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

121 7. Prior to transferring funds pursuant to subsection 4 of this section, a school district
122 may transfer, pursuant to this subsection, from the incidental fund to the capital projects fund an
123 amount as necessary to satisfy an obligation of the capital projects fund that satisfies at least one
124 of the conditions specified in subsection 6 of this section, but not to exceed its payments

125 authorized under section 177.088, RSMo, for the purchase or lease of sites, buildings, facilities,
126 furnishings, equipment, and all other expenditures for capital outlay, plus the amount to be
127 expended for transportation equipment that is considered an allowable cost under state board of
128 education rules for transportation reimbursements during the current year plus any amount
129 necessary to satisfy obligations of the capital projects fund for state-approved area
130 vocational-technical schools. A school district that is in compliance with section 165.016 during
131 the second preceding year or has paid all penalties for the second preceding year may transfer
132 from the incidental fund to the capital projects fund the amount necessary to meet the obligation
133 plus the transfers pursuant to subsection 4 of this section.

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

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

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

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

159 (4) During each school year state aid is deducted pursuant to subdivisions (1) to (4) of
160 this subsection except for the 1998-99 school year, the district shall maintain compliance with

161 the requirements of section 165.016 without any recourse to waivers or base-year adjustments
162 and without the option to demonstrate compliance based upon the district's fund balances; and

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

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

173 10. (1) Other provisions of law to the contrary notwithstanding, a school district which
174 satisfies all conditions specified in subdivision (2) of this subsection may make the transfer
175 allowed in subdivision (3) of this subsection.

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

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

180 (b) Have passed a full waiver of Proposition C tax rate rollback pursuant to section
181 164.013, RSMo, or approved an increase to the district's tax rate ceiling on or after June 1, 1994;
182 and

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

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

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

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

196 (b) The product of the district's equalized assessed valuation for 1995 times the

197 difference of the district's equalized operating levy for school purposes for 1995 minus the
198 district's equalized operating levy for school purposes for 1993;

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

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

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

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

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

224 12. In addition to other transfers authorized pursuant to subsections 1 to 9 of this section,
225 any school district that has undergone at least a twenty-percent increase in assessed valuation
226 from the preceding year because of the construction of a power plant may make a one-time
227 transfer on the basis of each such increase to the capital projects fund from the balances of the
228 teachers' and incidental funds' unrestricted balances in an amount equal to twice the amount of
229 such transfer otherwise permitted pursuant to this section for the year in which such one-time
230 transfer is made; provided that such transfer shall be made prior to the end of the second fiscal
231 year following the fiscal year in which the increase in assessed valuation is effective. Such
232 one-time transfer may be made without regard to whether the transferred funds are used for

233 current expenditures. No transfer shall be made pursuant to this subsection after June 30, 2003.

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

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

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

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

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

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

260 (a) Documentation of the establishment of the local academy/business partnership and
261 the ten percent business match for qualified zone academy bonds pursuant to 26 U.S.C. Section
262 1397E;

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

268 (c) The business name, office location, state of incorporation, and names of any

269 representative of the bonding institution and bond counsel, if applicable, who handled the
270 qualified zone academy bond issuance, including all individuals who signed correspondence to
271 or made presentations to the school district concerning such bonds; and providing the amount
272 of fees or costs of issuance paid to the bonding institution and bond counsel stated as a whole
273 dollar amount and as a percentage of the qualified zone academy bond;

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

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

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

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

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

- 305 (1) Have never made a previous transfer pursuant to this subsection;
- 306 (2) Have ending cash reserves during the year of the transfer in incidental and teachers'
- 307 funds combined equal to or greater than fifteen percent of expenditures;
- 308 (3) Decrease the interest cost of all remaining lease-purchase payments by at least the
- 309 cost of refinancing plus ten percent;
- 310 (4) Make payments equal to or greater than the amount of the transfer for a
- 311 lease-purchase obligation meeting an eligibility requirement of subsection 5 or 6 of this section;
- 312 (5) Levy in the incidental and teachers' funds a levy greater than two dollars and
- 313 seventy-five cents during the year of the transfer and each of the two previous years;
- 314 (6) Demonstrate compliance with the requirements of section 165.016 or have paid all
- 315 outstanding penalties to eligible staff for five consecutive years prior to the year of the transfer;
- 316 and
- 317 (7) Have an average salary for teachers in the district which equals or exceeds for three
- 318 consecutive years prior to the year of the transfer at least one of the following:
- 319 (a) The average salary for teachers statewide; or
- 320 (b) The average salary for teachers in its senatorial district.
- 321 **18. (1) Notwithstanding any other law, beginning in the 2005-2006 school year,**
- 322 **districts meeting all of the requirements of subdivision (2) of this subsection shall have the**
- 323 **option of exercising a one-time transfer of unrestricted funds from the teachers' and**
- 324 **incidental funds to the capital projects fund, but only to the extent that the amount**
- 325 **transferred is equal to or less than the amount that the teachers' and incidental funds**
- 326 **unrestricted balances during the year in which the transfer is made exceeded fifteen**
- 327 **percent of expenditures from the teachers' and incidental funds during that same year.**
- 328 **(2) In order to transfer funds under subdivision (1) of this subsection, a school**
- 329 **district shall:**
- 330 **(a) Not be provisionally accredited or unaccredited under the Missouri school**
- 331 **improvement program;**
- 332 **(b) Have an average salary for teachers in the districts which equals or exceeds for**
- 333 **three consecutive years prior to the year of the transfer eighty-five percent of the average**
- 334 **salary for teachers statewide;**
- 335 **(c) Have honored annual salary increments on teacher salary schedules during each**
- 336 **of the previous five years;**
- 337 **(d) Have not reduced instructional staff due to budget concerns during any of the**
- 338 **previous five years;**
- 339 **(e) Show economic need by ranking in the lowest fifty percent of school districts**
- 340 **relative to local assessed valuation per student;**

- 341 **(f) Demonstrate that local effort has been made to raise capital projects funds by**
- 342 **the sale of general obligation bonds and levy a debt service tax rate that equals or exceeds**
- 343 **eighty-five percent of the debt service levy statewide per one hundred dollars assessed**
- 344 **valuation in the year the transfer is made; and**
- 345 **(g) Meet the fiscal instructional ratio of efficiency under section 165.016.**