

FIRST REGULAR SESSION

# HOUSE BILL NO. 1069

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES THOMSON (Sponsor), WILSON (130), AULL, WALLACE,  
STREAM, WOOD AND SCHAD (Co-sponsors).

2288L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 166.300, RSMo, and to enact in lieu thereof twelve new sections relating to capital improvement funds for elementary and secondary schools, with an emergency clause.

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

Section A. Section 166.300, RSMo, is repealed and twelve new sections enacted in lieu thereof, to be known as sections 30.1010, 30.1014, 37.530, 166.300, 166.391, 166.392, 166.393, 166.394, 166.395, 166.396, 166.397, and 1, to read as follows:

**30.1010. There is hereby created in the state treasury the "Federal Budget Stabilization Fund", which, notwithstanding any law to the contrary, shall consist of all moneys, except those specifically allocable to the funds established under sections 288.290 and 288.300, RSMo, received due to the American Recovery and Reinvestment Act of 2009 as enacted by the 111th United States Congress, which are intended to assist states in budget stabilization. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investment shall be credited to the fund.**

**30.1014. There is hereby created in the state treasury the "Federal Stimulus Fund", which, notwithstanding any law to the contrary, shall consist of all moneys received under**

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.

3 the American Recovery and Reinvestment Act of 2009 as enacted by the 111th United  
4 States Congress, which are intended to assist states in budget stabilization. The state  
5 treasurer shall be custodian of the fund and may approve disbursements from the fund in  
6 accordance with sections 30.170 and 30.180. Notwithstanding the provisions of section  
7 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the  
8 biennium shall not revert to the credit of the general revenue fund. The state treasurer  
9 shall invest moneys in the fund in the same manner as other funds are invested. Any  
10 interest and moneys earned on such investment shall be credited to the fund.

37.530. The general assembly shall allocate fifty percent of the funds deposited into  
2 the Federal Stimulus Fund created under section 30.1014, RSMo, to the school building  
3 renovation fund, established under section 166.300, RSMo, to fund public school  
4 renovation projects in accordance with the provisions of sections 166.300 to 166.387,  
5 RSMo.

166.300. 1. As used in [this section] sections 166.300 to 166.397, the following [words  
2 and phrases] terms shall mean:

3 (1) ["Capital improvement projects", expenditures for lands or existing buildings,  
4 improvements of grounds, construction of buildings, additions to buildings, remodeling of  
5 buildings and initial equipment purchases;

6 (2) "Department", the department of elementary and secondary education;

7 (2) "Renovation", the modernization or modification of any existing building that  
8 will enhance the ability of such building to achieve its educational purposes, including but  
9 not limited to renovation expenditures for health and safety issues, educational purposes,  
10 architectural and engineering services, tests and inspection of lands or buildings,  
11 renovation of existing buildings, and technology connectivity;

12 (3) "School [facility] building", a structure dedicated primarily to housing teachers and  
13 students in the instructional process, but shall not include [buildings] athletic facilities and  
14 facilities dedicated primarily to administrative and support functions within the school or the  
15 school district.

16 2. There is hereby created a [revolving] fund to be known as the "School Building  
17 [Revolving] Renovation Fund". All moneys in the school building revolving fund shall be  
18 transferred to the credit of the school building renovation fund. All forfeitures of assets  
19 transferred pursuant to section 166.131, all gifts and bequests to such fund, and such moneys as  
20 may be appropriated to the fund shall be deposited into the school building [revolving]  
21 renovation fund[; except that no more than four hundred forty million dollars, in the aggregate,  
22 shall be transferred to the fund]. The fund shall be administered by the department in the  
23 manner described in, and for the purposes described in, sections 166.300 to 166.397.

24 Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the  
25 fund shall not be transferred to general revenue at the end of the biennium. All interest  
26 and moneys of any kind earned on the fund shall be credited to the fund.

27 **3. All moneys initially deposited into the school building renovation fund due to the**  
28 **passage of the American Recovery and Reinvestment Act of 2009 shall be immediately**  
29 **distributed to each public school district in the state for public school renovation projects**  
30 **with the amounts distributed to be based on each district's pupil count for the previous**  
31 **school year. Within sixty days of receiving such moneys, each school district shall submit**  
32 **a plan to the department which includes a detailed proposal of specific allowed capital**  
33 **improvement projects to which moneys will be put. All moneys received by a district under**  
34 **this section shall be used within one year from receipt, and any moneys remaining at the**  
35 **end of the one-year period shall be returned to the school building renovation fund for**  
36 **allocation to school districts under the provisions of subsections 4 to 13 of this section.**  
37 **Upon expiration of the one-year period, each school district shall submit a final report to**  
38 **the department detailing the renovations made and shall include with this report a certified**  
39 **statement by the school district's auditor that all funds received under the provisions of**  
40 **this subsection were expended in accordance with program requirements.**

41 **4. After a fund balance has been established [by prior years' deposits and interest] due**  
42 **to moneys from the American Recovery and Reinvestment Act of 2009 that were deposited**  
43 **in the school building renovation fund, distributed to school districts, but ultimately not**  
44 **used by districts within the one-year time period required under subsection 3 of this**  
45 **section, school districts may submit applications for [lease purchases] matching grants from**  
46 **the [revolving] fund for [specific] allowed capital improvement projects consistent with rules**  
47 **and regulations of the state board of education and [subsection 3 of] this section[, except that] .**

48 **5. No school district may be permitted to [enter into a lease purchase] receive matching**  
49 **funds from the school building [revolving] renovation fund without first submitting a**  
50 **long-range capital improvements plan. Such plan shall include a detailed proposal of the**  
51 **specific allowed capital improvement projects to which grant moneys will be put, and shall**  
52 **include the specific manner in which the school district will provide for its matching**  
53 **portion, as such matching portion is calculated under section 166.391. Such plan shall also**  
54 **calculate the estimated amount of the state's portion of the matching funds, provided that**  
55 **the department shall not provide a match of funds for any costs of a project in excess of the**  
56 **maximum per-pupil amounts described in section 166.392. Anticipated district**  
57 **expenditures on projects may exceed the maximum per-pupil amount, but in such cases the**  
58 **state portion of matching funds shall be calculated solely on the maximum per-pupil**

59 **amount stated in section 166.392. The department shall review and approve such plans**  
60 **prior to issuing matching grants.**

61 [3.] **6.** To be eligible for [a lease purchase authorized by this section:

62 (1)] **matching funds under sections 166.300 to 166.397** a school district shall meet the  
63 minimum criteria for state aid and for increases in state aid established pursuant to section  
64 163.021, RSMo[;

65 (2) A school district shall provide a program which is accredited by the state board of  
66 education for grades kindergarten through twelve or for grades kindergarten through eight; and

67 (3) A school district shall have an equalized, assessed valuation per eligible pupil for the  
68 preceding year which is less than the statewide average equalized, assessed valuation per eligible  
69 pupil for the preceding year; and

70 (4) A school district shall have a bonded indebtedness which is no less than ninety  
71 percent of the constitutional limitation on indebtedness pursuant to section 26(b) of article VI  
72 of the Constitution of Missouri.

73 4. Lease purchase applications shall be funded, as funds allow, first for all applications  
74 pursuant to subdivision (1) of this subsection and then for applications pursuant to subdivision  
75 (2) of this subsection and then for applications pursuant to subdivision (3) of this subsection, and  
76 for funding of applications pursuant to a particular subdivision, applications shall be funded in  
77 the order that the applications are received by the department. If two or more applications are  
78 received on the same day, the district with the lowest appraised valuation per pupil shall be given  
79 priority. Ranking of the applications for offering of lease purchases shall be done in the  
80 following order:

81 (1) Districts with capital replacement costs in excess of insurance proceeds due to facility  
82 destruction caused by fire or natural disaster shall be ranked on the basis of percentage of  
83 bonding capacity;

84 (2) Districts with a cumulative percentage growth in fall membership for the third  
85 through the fifth preceding years in excess of twelve percent and which have a bonded  
86 indebtedness which is no less than ninety percent of the constitutional limitation on indebtedness  
87 pursuant to section 26(b) of article VI of the Constitution of Missouri; and

88 (3) Districts with an equalized assessed valuation per pupil which is less than the  
89 statewide average equalized assessed valuation per pupil and which have a bonded indebtedness  
90 which is no less than ninety percent of the constitutional limitation on indebtedness pursuant to  
91 section 26(b) of article VI of the Constitution of Missouri].

92 **7. (1) The department shall develop minimum state school building standards that**  
93 **may be used as criteria to determine if a district qualifies for a renovation project. The**

94 **minimum state school building standards shall be met by any renovation project in order**  
95 **to qualify for matching grant approval by the department.**

96 **(2) Any project funded with the proceeds from the Federal Stimulus Fund**  
97 **established under section 30.1014, RSMo, shall comply with all federal criteria set forth in**  
98 **the American Recovery and Reinvestment Act of 2009 as enacted by the 111th United**  
99 **States Congress and all federal regulations and guidelines related thereto.**

100 **8. Matching grant applications for renovations shall be funded, as funds allow, first**  
101 **for all applications under subdivision (1) of subsection 9 of this section, then, with the**  
102 **remaining renovation funds, eighty percent of the funds shall be used on applications**  
103 **under subdivision (2) of subsection 9 of this section, and twenty percent of the funds shall**  
104 **be used on applications under subdivision (3) of subsection 9 of this section. If, at the**  
105 **conclusion of the application period, there are funds available from either the allocation**  
106 **to subdivision (2) or (3) of subsection 9 of this section, and if there is a greater need than**  
107 **can be met by transferring the remainder of the unused allocation to the allocation of the**  
108 **other subdivision, then the department may transfer funds to the allocation of the**  
109 **subdivision with the greater need.**

110 **9. For purposes of this subsection, the age of the original building for which the**  
111 **renovation grant is being sought shall be considered the age of the entire school building**  
112 **in question, regardless of subsequent renovations prior to the grant application. Ranking**  
113 **of the applications for offering of matching grants for renovation shall be done in the**  
114 **following order:**

115 **(1) Districts with renovation costs in excess of insurance proceeds due to school**  
116 **building destruction caused by natural or man-made disaster. Applications in this**  
117 **subdivision shall be funded in the order the applications are received by the department.**  
118 **If two or more applications are received on the same day, the district with the lowest**  
119 **assessed valuation per pupil shall be given priority;**

120 **(2) School facilities that are thirty-five years old or older, ranked from oldest to**  
121 **newest. If two or more buildings are the same age, the applications shall be funded in the**  
122 **order that the applications are received by the department. If two or more applications**  
123 **are received on the same day, the district with the lowest assessed valuation per pupil shall**  
124 **be given priority; and**

125 **(3) Buildings that are less than thirty-five years of age shall be ranked according**  
126 **to need, with the criteria for need developed by the department.**

127

128 **If a school district can demonstrate that a building that is fifty years old or older should**  
129 **be replaced instead of renovated, the replacement may be approved by the department**

130 **with funding from renovation projects for buildings thirty-five years of age or older under**  
131 **subdivision (2) of this subsection. In order to approve a building replacement in lieu of**  
132 **renovation, the department may consider health and safety issues, a comparison of**  
133 **replacement or renovation costs, future energy savings, or other criteria developed by the**  
134 **department. It shall be the school district's responsibility to present information to the**  
135 **department, on department developed forms or format, to demonstrate the need for the**  
136 **building replacement.**

137 **10. Each district that:**

138 **(1) Receives approval of its grant application under the provisions of this section;**

139 **(2) Is eligible under the provisions of this section; and**

140 **(3) Qualifies, under the funding priorities and availabilities of this section, for**  
141 **funding;**

142

143 **shall receive notification from the department within thirty days of its approval, and the**  
144 **district shall obtain its portion of the matching funds mandated by section 166.391 within**  
145 **one year of the date of its receipt of the notification. Upon obtaining the required matching**  
146 **funds, the district shall submit notification to the department, for approval by the**  
147 **department on forms created by the department. Such notification shall be given within**  
148 **thirty days of obtaining the funds, or as soon as possible prior to the end of the one-year**  
149 **period, whichever occurs first. In the event the district fails to obtain all of its portion of**  
150 **the matching funds within the one-year period, the district shall forfeit its right to any state**  
151 **matching funds for the school year immediately following such failure, but the district shall**  
152 **not be prohibited from resubmitting its application for the school year following such**  
153 **occurrence. Any district receiving a renovation matching grant shall not be eligible for**  
154 **another matching grant in any year unless all applications qualify under this section for**  
155 **that year from districts which have not yet received a grant under this section are funded.**

156 **[5.] 11. When school building replacement or renovation is caused by [fire or] natural**  
157 **or man-made disaster, the requirement for a school district to have a long-range capital**  
158 **improvements plan, as required by subsection 4 of this section, may be waived by the [state**  
159 **board of education] department.**

160 **[6. Each school district participating in a lease purchase from the school building**  
161 **revolving fund shall repay such lease purchase in no more than ten annual payments made on or**  
162 **before June thirtieth of each year. The first such payment shall be due and payable on June**  
163 **thirtieth of the first full fiscal year following receipt of lease purchase proceeds. Lease purchase**  
164 **repayments shall be immediately deposited to the school building revolving fund by the**  
165 **department. Interest charged to the school district shall not exceed three percent.**

166           7. Any school district which fails to obligate the full amount of a loan from the school  
167 building revolving fund for the allowable lease purchase must return the unobligated amount plus  
168 interest earned to the department no later than June thirtieth of the second full fiscal year after  
169 receipt of loan proceeds.

170           8. If a school district fails to make an annual payment to the school building revolving  
171 fund after notice of nonpayment by the department, members of the board of education and the  
172 school district's superintendent shall have violated section 162.091, RSMo, and the attorney  
173 general of the state of Missouri shall be notified by the state board of education to begin  
174 prosecution procedures.

175           9. All property purchased pursuant to a lease purchase from the school building  
176 revolving fund shall remain the property of the state until such time as the lease purchase has  
177 been fully repaid pursuant to this section. If a school district does not make an annual payment  
178 to the school building revolving fund after notice of nonpayment by the department, the state  
179 board of education may, if the delinquency exceeds one hundred eighty days, take possession of  
180 the property. As a part of the lease purchase agreement, the school district shall agree to assume  
181 all costs, obligations and liabilities for or arising out of establishment, operation and maintenance  
182 of the lease purchase property. Other provisions of law to the contrary notwithstanding, neither  
183 the state nor any state agency shall have any obligation for such costs, obligations or liabilities  
184 unless and until the state board of education takes possession of the property pursuant to this  
185 subsection upon a school district's failure to make annual payments as required in the lease  
186 purchase agreement.

187           10. Any unobligated cash balance in the school building revolving fund as of the  
188 effective date of this act, shall be transferred to aid the public schools of this state pursuant to  
189 section 163.031, RSMo. Any and all deposits made to the school building revolving fund after  
190 August 28, 2003, shall be immediately transferred to the state school moneys fund, pursuant to  
191 section 166.051.]

192           **12. The department shall be responsible for the publication of grant applications**  
193 **that incorporate the criteria of this section and any additional criteria in accordance with**  
194 **this section that the department deems appropriate. Such applications shall be first**  
195 **published within sixty days of the effective date of this section, so that the initial**  
196 **applications for such grants may be acted upon for the 2009-2010 school year.**

197           **13. State funds provided under this section shall not be used for lease purchases.**  
              **166.391. For the purpose of calculating the matching portion for which a school**  
2 **district is responsible under section 166.300, each school district in this state shall be**  
3 **assigned a local matching percentage under this section. All school districts in the state**  
4 **shall be rank-ordered from lowest to highest based upon the district's equalized, assessed**

5 valuation per-eligible pupil for the second preceding school year. Each district shall be  
6 assigned a unique percentage on a sliding scale which assigns a local match percentage of  
7 fifty percent to the lowest ranked district and a local match percentage of seventy-five  
8 percent to the highest ranked district and assigns a unique percentage to all remaining  
9 districts by assigning to districts percentages which are uniformly spaced across the  
10 interval from fifty percent to seventy-five percent and based upon the rank ordering.

166.392. 1. For renovation project grant applications under section 166.300, the  
2 department shall match funds with the applicant district up to the following maximum per-  
3 pupil state match amounts for total renovation cost:

4 (1) Five thousand six hundred dollars per high school student to be housed in the  
5 renovated school facility or facilities;

6 (2) Four thousand nine hundred dollars per middle school student to be housed in  
7 the renovated school facility or facilities;

8 (3) Four thousand two hundred dollars per elementary school student to be housed  
9 in the renovated school facility or facilities.

10 2. The department shall annually adjust the per-pupil apportionment in this section  
11 to reflect construction cost changes. For this purpose, the department may adopt the use  
12 of the Consumer Price Index for all Urban Consumers for the United States or its successor  
13 index, as defined and officially recorded by the United States Department of Labor or its  
14 successor entity or may adopt any other schedule of annual adjustment to accurately  
15 reflect such cost changes.

166.393. Moneys in the school building renovation fund shall be distributed  
2 between the first and fifteenth day of July most immediately following the date on which  
3 the department receives notification from an approved school district that such district has  
4 obtained its portion of the required matching funds under section 166.300. The state board  
5 of education shall certify the amounts to be distributed to the several school districts to the  
6 commissioner of administration who shall issue the warrants therefor. The funds shall be  
7 placed to the credit of the capital projects fund by the receiving school district in the  
8 amount approved under sections 166.300 to 166.392. Such moneys shall be used by such  
9 district solely for the capital construction or renovation project for which grant approval  
10 was awarded and shall not be used to retire debt.

166.394. 1. If any completed allowed project costs more than the estimated final  
2 cost submitted to the department by the district, then the district shall be responsible for  
3 all such additional cost.

4 2. If any completed allowed project costs less than the estimated final cost  
5 submitted to the department by the district, then the district shall return the department's

6 percentage of such excess funds, and the department shall deposit such funds in the school  
7 building renovation fund established in section 166.300.

8         **3.** Upon completion of any project for which funds were granted under sections  
9 **166.300 to 166.397**, the school district shall submit a final report to the department. The  
10 department may require an audit of these reports or other district records to ensure that  
11 all funds received under sections **166.300 to 166.397** are expended in accordance with  
12 program requirements.

13         **4.** If the department, after the review of expenditures or audit has been conducted  
14 under this section, determines that a school district failed to expend funds in accordance  
15 with this chapter, the department shall notify the school district of the amount that must  
16 be repaid to the department within sixty days. If the school district fails to make the  
17 required payment within sixty days, the department shall notify the school board and the  
18 school district in writing that an amount equal to the unused amount received by the school  
19 district shall be withdrawn from such school district's total amount of state aid calculated  
20 under chapter 163, RSMo, for certain subsequent school years, according to a withholding  
21 schedule developed by the department for such district.

**166.395.** The use of state matching grant moneys by a school district shall not make  
2 the department or this state liable for any tort, breach of contract, or any other action for  
3 damages caused by a school district arising from an approved new construction or  
4 renovation project by the district, including, but not limited to, contracts between the  
5 school district and its construction contractors, construction managers, architects, or  
6 engineers.

**166.396. 1.** All title to all property acquired, constructed, or improved with grant  
2 moneys under sections **166.300 to 166.397** shall be held by the school district to which the  
3 department grants such moneys.

4         **2.** The applicant school district shall comply with all laws and rules pertaining to  
5 the construction, reconstruction, or alteration of, or addition to, school buildings.

**166.397.** The department of elementary and secondary education shall promulgate  
2 such rules and forms as are necessary for the operation of sections **166.300 to 166.397**. Any  
3 rule or portion of a rule, as that term is defined in section **536.010**, RSMo, that is created  
4 under the authority delegated in this section shall become effective only if it complies with  
5 and is subject to all of the provisions of chapter **536**, RSMo, and, if applicable, section  
6 **536.028**, RSMo. This section and chapter **536**, RSMo, are nonseverable and if any of the  
7 powers vested with the general assembly under chapter **536**, RSMo, to review, to delay the  
8 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,

9 **then the grant of rulemaking authority and any rule proposed or adopted after August 28,**  
10 **2009, shall be invalid and void.**

**Section 1. The state treasurer is hereby authorized to create funds as necessary to**  
2 **avoid conflict with provisions of federal law prohibiting commingling of certain funds**  
3 **derived from the American Recovery and Reinvestment Act of 2009, as enacted by the**  
4 **111th United States Congress.**

Section B. The provisions of this act are deemed necessary for the immediate  
2 preservation of the public health, peace, welfare and safety, and is hereby declared to be an  
3 emergency within the meaning of the constitution, and section A of this act shall be in full force  
4 and effect upon its passage and approval.

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