

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE NO. 2 FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1490
97TH GENERAL ASSEMBLY

4476L.16T

2014

AN ACT

To repeal sections 160.514, 160.518, 160.526, 160.820, and 161.092, RSMo, and to enact in lieu thereof eight new sections relating to elementary and secondary education standards.

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

Section A. Sections 160.514, 160.518, 160.526, 160.820, and 161.092, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 160.514, 160.516, 160.518, 160.526, 160.820, 161.092, 161.096, and 161.855, to read as follows:

160.514. 1. By rule and regulation, and consistent with the provisions contained in section 160.526, the state board of education shall adopt no more than seventy-five academic performance standards which establish the knowledge, skills and competencies necessary for students to successfully advance through the public elementary and secondary education system of this state; lead to or qualify a student for high school graduation; prepare students for postsecondary education or the workplace or both; and are necessary in this era to preserve the rights and liberties of the people.

2. [The state board of education shall convene work groups composed of education professionals to develop and recommend academic performance standards. Separate work groups composed of professionals with appropriate expertise shall be convened for each subject area listed in section 160.518. Active classroom teachers shall constitute the majority of each work group. Teachers serving on such work groups shall be selected by professional teachers' organizations of the state. Additional teachers who are not members of such organizations may serve by appointment of the state board of education] **Whenever the state board of education develops, evaluates, modifies, or revises academic performance standards or learning standards, it shall convene work groups composed of education professionals to develop and recommend such academic performance standards or learning standards. Separate work groups composed of education professionals shall be convened for the following subject areas: English language arts; mathematics; science; and history and governments. The subject area of history and governments shall incorporate geography and the history and governments of the United States and the world. For each subject area in which the state board of**

education develops, evaluates, modifies, or revises academic performance standards or learning standards, the state board shall convene two separate work groups, one work group for standards for grades kindergarten through five consisting of sixteen members and a second work group for standards for grades six through twelve consisting of seventeen members. A person may be selected to serve on more than one work group if he or she is qualified. No work group member shall be required to be a member of a professional teacher association. An education professional serving on a work group shall be a Missouri resident for at least three years and have taught in the work group's subject area for at least ten years or have ten years of experience in that subject area, except for the parents appointed by the president pro tempore of the senate and the speaker of the house of representatives. Work group members shall be chosen in such a manner as to represent the geographic diversity of the state.

3. Work group members shall be selected in the following manner:

(1) Two parents of children currently enrolled in grades kindergarten through twelve shall be selected by the president pro tempore of the senate;

(2) Two parents of children currently enrolled in grades kindergarten through twelve shall be selected by the speaker of the house of representatives;

(3) One education professional selected by the state board of education from names submitted to it by the professional teachers' organizations of the state;

(4) One education professional selected by a statewide association of Missouri school boards;

(5) One education professional selected by the state board of education from names submitted to it by a statewide coalition of school administrators;

(6) Two education professionals selected by the president pro tempore of the senate in addition to the members selected under subdivision (1) of this subsection;

(7) Two education professionals selected by the speaker of the house of representatives in addition to the members selected under subdivision (2) of this subsection;

(8) One education professional selected by the governor;

(9) One education professional selected by the lieutenant governor;

(10) One education professional selected by the commissioner of higher education;

(11) One education professional selected by the state board of education from names submitted to it by nationally-recognized career and technical education student organizations operating in Missouri; and

(12) One education professional selected by the state board of education from names submitted to it by the heads of state-approved baccalaureate-level teacher preparation programs located in Missouri.

The state board of education shall also appoint to each work group for grades six through twelve from names submitted to it by a statewide organization for career and technical education one current or retired career and technical education professional who also serves or served as an advisor to any of the nationally recognized career and technical education student organizations identified in subdivision (4) of subsection 2 of section 178.550.

[3.] 4. The state board of education shall hold at least three public hearings whenever it develops, evaluates, modifies, or revises academic performance standards or learning standards. The hearings shall provide an opportunity to receive public testimony, including but not limited to testimony from educators at

all levels in the state, local school boards, parents, representatives from business and industry, labor and community leaders, members of the general assembly, and the general public. The state board of education shall hold the first hearing within thirty days of the work groups being convened. The state board of education shall hold the second hearing approximately six months after it holds the first hearing. The state board of education shall hold the third hearing when the work groups submit the academic performance standards they have developed to the state board. The state board of education shall also solicit comments and feedback on the academic performance standards or learning standards from the joint committee on education and from academic researchers. All comments shall be made publicly available.

5. The state board of education shall develop written curriculum frameworks that may be used by school districts. Such curriculum frameworks shall incorporate the academic performance standards adopted by the state board of education pursuant to subsection 1 of this section. The curriculum frameworks shall provide guidance to school districts but shall not be mandates for local school boards in the adoption or development of written curricula as required by subsection [4] 6 of this section.

[4.] 6. Not later than one year after the development of written curriculum frameworks pursuant to subsection [3] 5 of this section, the board of education of each school district in the state shall adopt or develop a written curriculum designed to ensure that students attain the knowledge, skills and competencies established pursuant to subsection 1 of this section. Local school boards are encouraged to adopt or develop curricula that are rigorous and ambitious and may, but are not required to, use the curriculum frameworks developed pursuant to subsection [3] 5 of this section. Nothing in this section or this act shall prohibit school districts, as determined by local boards of education, to develop or adopt curricula that provide for academic standards in addition to those identified by the state board of education pursuant to subsection 1 of this section.

7. Local school districts and charter schools may adopt their own education standards, in addition to those already adopted by the state, provided the additional standards are in the public domain and do not conflict with the standards adopted by the state board of education.

160.516. 1. Notwithstanding the provisions of section 160.514, the state board of education and the department of elementary and secondary education shall not be authorized to mandate and are expressly prohibited from mandating the curriculum, textbooks, or other instructional materials to be used in public schools. Each local school board shall be responsible for the approval and adoption of curriculum used by the school district. The provisions of this subsection shall not apply to schools and instructional programs administered by the state board of education and the department of elementary and secondary education or to school districts that are classified as unaccredited.

2. The state board of education and the department of elementary and secondary education shall not require districts to use any appendix to the common core state standards.

160.518. 1. Consistent with the provisions contained in section 160.526, the state board of education shall develop, **modify, and revise, as necessary**, a statewide assessment system that provides maximum flexibility for local school districts to determine the degree to which students in the public schools of the state are proficient in the knowledge, skills, and competencies adopted by such board pursuant to [subsection 1 of] section 160.514. The statewide assessment system shall assess problem solving, analytical ability, evaluation, creativity, and application ability in the different content areas and shall be performance-based to identify what students know, as well as what they are able to do, and shall enable teachers to evaluate actual academic performance. The **statewide**

assessment system shall neither promote nor prohibit rote memorization and shall not include existing versions of tests approved for use pursuant to the provisions of section 160.257, nor enhanced versions of such tests. **After the state board of education adopts and implements academic performance standards as required under section 161.855, the state board of education shall develop and adopt a standardized assessment instrument under this section based on the academic performance standards adopted under section 161.855.** The statewide assessment **system** shall measure, where appropriate by grade level, a student's knowledge of academic subjects including, but not limited to, reading skills, writing skills, mathematics skills, world and American history, forms of government, geography and science.

2. The **statewide** assessment system shall only permit the academic performance of students in each school in the state to be tracked against prior academic performance in the same school.

3. The state board of education shall suggest, **but not mandate**, criteria for a school to demonstrate that its students learn the knowledge, skills and competencies at exemplary levels worthy of imitation by students in other schools in the state and nation. Exemplary levels shall be measured by the **statewide** assessment system developed pursuant to subsection 1 of this section, or until said **statewide** assessment **system** is available, by indicators approved for such use by the state board of education. The provisions of other law to the contrary notwithstanding, the commissioner of education may, upon request of the school district, present a plan for the waiver of rules and regulations to any such school, to be known as "Outstanding Schools Waivers", consistent with the provisions of subsection 4 of this section.

4. For any school that meets the criteria established by the state board of education for three successive school years pursuant to the provisions of subsection 3 of this section, by August first following the third such school year, the commissioner of education shall present a plan to the superintendent of the school district in which such school is located for the waiver of rules and regulations to promote flexibility in the operations of the school and to enhance and encourage efficiency in the delivery of instructional services. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257, in the school. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school related to the authority of the state board of education to classify school districts pursuant to subdivision (9) of section 161.092 and such other rules and regulations as determined by the commissioner of education, excepting such waivers shall be confined to the school and not other schools in the district unless such other schools meet the criteria established by the state board of education consistent with subsection 3 of this section and the waivers shall not include the requirements contained in this section and section 160.514. Any waiver provided to any school as outlined in this subsection shall be void on June thirtieth of any school year in which the school fails to meet the criteria established by the state board of education consistent with subsection 3 of this section.

5. The score on any assessment test developed pursuant to this section or this chapter of any student for whom English is a second language shall not be counted until such time as such student has been educated for three full school years in a school in this state, or in any other state, in which English is the primary language.

6. The state board of education shall identify or, if necessary, establish one or more developmentally appropriate alternate assessments for students who receive special educational services, as that term is defined pursuant to section 162.675. In the development of such alternate assessments, the state board shall establish an

advisory panel consisting of a majority of active special education teachers **residing in Missouri** and other education professionals as appropriate to research available assessment options. The advisory panel shall attempt to identify preexisting developmentally appropriate alternate assessments but shall, if necessary, develop alternate assessments and recommend one or more alternate assessments for adoption by the state board. The state board shall consider the recommendations of the advisory council in establishing such alternate assessment or assessments. Any student who receives special educational services, as that term is defined pursuant to section 162.675, shall be assessed by an alternate assessment established pursuant to this subsection upon a determination by the student's individualized education program team that such alternate assessment is more appropriate to assess the student's knowledge, skills and competencies than the assessment developed pursuant to subsection 1 of this section. The alternate assessment shall evaluate the student's independent living skills, which include how effectively the student addresses common life demands and how well the student meets standards for personal independence expected for someone in the student's age group, sociocultural background, and community setting.

7. The state board of education shall also develop recommendations regarding alternate assessments for any military dependent who relocates to Missouri after the commencement of a school term, in order to accommodate such student while ensuring that he or she is proficient in the knowledge, skills, and competencies adopted under section 160.514.

[8. Notwithstanding the provisions of subsections 1 to 7 of this section, no later than June 30, 2006, the state board of education shall administer the following adjustments to the statewide assessment system:

(1) Align the performance standards of the statewide assessment system so that such indicators meet, but do not exceed, the performance standards of the National Assessment of Education Progress (NAEP) exam;

(2) Institute yearly examination of students in the required subject areas where compelled by existing federal standards, as of August 28, 2004; and

(3) Administer any other adjustments that the state board of education deems necessary in order to aid the state in satisfying existing federal requirements, as of August 28, 2004, including, but not limited to, the requirements contained in the federal No Child Left Behind Act. Grade-level expectations shall be considered when the state board of education establishes performance standards.

9. By July 1, 2006, the state board of education shall examine its rules and regulations and revise them to permit waivers of resource and process standards based upon achievement of performance profiles consistent with accreditation status.]

160.526. 1. In establishing, **evaluating, modifying, and revising** the academic **performance standards and learning standards** authorized by [subsection 1 of] section 160.514 and the statewide assessment system authorized by subsection 1 of section 160.518, the state board of education shall consider the work that has been done by other states, recognized regional and national experts, professional education discipline-based associations [and] , other professional education associations, **the work product from the department of higher education's curriculum alignment initiative, or any other work in the public domain.** [Further, in establishing the academic standards and statewide assessment system, the state board of education shall adopt the work that has been done by consortia of other states and, subject to appropriations, may contract with such consortia to implement the provisions of sections 160.514 and 160.518.]

2. The state board of education shall[,] by contract enlist the assistance of such national experts[, as approved by the commission established pursuant to section 160.510,] to receive reports, advice and counsel on a

regular basis pertaining to the validity and reliability of the statewide assessment system. The reports from such experts shall be received by the [commission, which shall make a final determination concerning the reliability and validity of the statewide assessment system] **state board of education**. Within six months prior to implementation of **or modification or revision to** the statewide assessment system, the commissioner of education shall inform the president pro tempore of the senate and the speaker of the house **of representatives** about the procedures to implement, **modify, or revise** the **statewide** assessment system, including a report related to the reliability and validity of the assessment instruments, and the general assembly may, within the next sixty legislative days, veto such implementation, **modification, or revision** by concurrent resolution adopted by majority vote of both the senate and the house of representatives.

3. The commissioner of education shall establish a procedure for the state board of education to regularly receive advice and counsel from professional educators at all levels in the state, district boards of education, parents, representatives from business and industry, **the general assembly**, and labor and community leaders pertaining to the implementation of sections 160.514 and 160.518. **By December 31, 2014, the commissioner of education shall revise this procedure to allow the state board of education to regularly receive advice and counsel from professional educators at all levels in the state, district boards of education, parents, representatives from business and industry, the general assembly, and labor and community leaders whenever the state board develops, evaluates, modifies, or revises academic performance standards, learning standards, or the statewide assessment system under sections 160.514 and 160.518.** The procedure shall include, at a minimum, the appointment of ad hoc committees [and shall be in addition to the advice and counsel obtained from the commission pursuant to section 160.510].

160.820. In order to assist the corporation in achieving the objectives identified in section 160.810, the department of economic development, department of elementary and secondary education, and department of higher education may contract with the corporation for activities consistent with the corporation's purpose, as specified in section 160.805, including but not limited to the employment of any personnel of the corporation, administrative services, and provision of office space. When contracting with the corporation under the provisions of this section, the departments [may directly enter into agreements with the corporation and] shall [not] be bound by the provisions of chapter 34.

161.092. The state board of education shall:

(1) Adopt rules governing its own proceedings and formulate policies for the guidance of the commissioner of education and the department of elementary and secondary education;

(2) Carry out the educational policies of the state relating to public schools that are provided by law and supervise instruction in the public schools;

(3) Direct the investment of all moneys received by the state to be applied to the capital of any permanent fund established for the support of public education within the jurisdiction of the department of elementary and secondary education and see that the funds are applied to the branches of educational interest of the state that by grant, gift, devise or law they were originally intended, and if necessary institute suit for and collect the funds and return them to their legitimate channels;

(4) Cause to be assembled information which will reflect continuously the condition and management of the public schools of the state;

(5) Require of county clerks or treasurers, boards of education or other school officers, recorders and treasurers of cities, towns and villages, copies of all records required to be made by them and all other information in relation to the funds and condition of schools and the management thereof that is deemed necessary;

(6) Provide blanks suitable for use by officials in reporting the information required by the board;

(7) When conditions demand, cause the laws relating to schools to be published in a separate volume, with pertinent notes and comments, for the guidance of those charged with the execution of the laws;

(8) Grant, without fee except as provided in section 168.021, certificates of qualification and licenses to teach in any of the public schools of the state, establish requirements therefor, formulate regulations governing the issuance thereof, and cause the certificates to be revoked for the reasons and in the manner provided in section 168.071;

(9) Classify the public schools of the state, subject to limitations provided by law and subdivision (14) of this section, establish requirements for the schools of each class, and formulate rules governing the inspection and accreditation of schools preparatory to classification, with such requirements taking effect not less than two years from the date of adoption of the proposed rule by the state board of education, provided that this condition shall not apply to any requirement for which a time line for adoption is mandated in either federal or state law. **Such rules shall include a process to allow any district that is accredited without provision that does not meet the state board's promulgated criteria for a classification designation of accredited with distinction to propose alternative criteria to the state board to be classified as accredited with distinction;**

(10) Make an annual report on or before the first Wednesday after the first day of January to the general assembly or, when it is not in session, to the governor for publication and transmission to the general assembly. The report shall be for the last preceding school year, and shall include:

(a) A statement of the number of public schools in the state, the number of pupils attending the schools, their sex, and the branches taught;

(b) A statement of the number of teachers employed, their sex, their professional training, and their average salary;

(c) A statement of the receipts and disbursements of public school funds of every description, their sources, and the purposes for which they were disbursed;

(d) Suggestions for the improvement of public schools; and

(e) Any other information relative to the educational interests of the state that the law requires or the board deems important;

(11) Make an annual report to the general assembly and the governor concerning coordination with other agencies and departments of government that support family literacy programs and other services which influence educational attainment of children of all ages;

(12) Require from the chief officer of each division of the department of elementary and secondary education, on or before the thirty-first day of August of each year, reports containing information the board deems important and desires for publication;

(13) Cause fifty copies of its annual report to be reserved for the use of each division of the state department of elementary and secondary education, and ten copies for preservation in the state library;

(14) Promulgate rules under which the board shall classify the public schools of the state; provided that the appropriate scoring guides, instruments, and procedures used in determining the accreditation status of a district

shall be subject to a public meeting upon notice in a newspaper of general circulation in each of the three most populous cities in the state and also a newspaper that is a certified minority business enterprise or woman-owned business enterprise in each of the two most populous cities in the state, and notice to each district board of education, each superintendent of a school district, and to the speaker of the house of representatives, the president pro tem of the senate, and the members of the joint committee on education, at least fourteen days in advance of the meeting, which shall be conducted by the department of elementary and secondary education not less than ninety days prior to their application in accreditation, with all comments received to be reported to the state board of education;

(15) Have other powers and duties prescribed by law.

161.096. 1. The state board of education shall promulgate a rule relating to student data accessibility, transparency, and accountability relating to the statewide longitudinal data system. This rule shall mandate that the department of elementary and secondary education do the following:

(1) Create and make publicly available a data inventory and index of data elements with definitions of individual student data fields in the student data system to include, but not be limited to:

(a) Any personally identifiable student data required to be reported by state and federal education laws; and

(b) Any other individual student data which has been proposed for inclusion in the student data system with a statement regarding the purpose or reason for the proposed collection;

(2) Develop policies to comply with all relevant state and federal privacy laws and policies, including but not limited to the federal Family Educational Rights and Privacy Act (FERPA) and other relevant privacy laws and policies. These policies shall include, but not be limited to the following requirements:

(a) Access to personally identifiable student data in the statewide longitudinal data system shall be restricted to:

a. The authorized staff of the department of elementary and secondary education and the contractors working on behalf of the department who require such access to perform their assigned duties as required by law;

b. District administrators, teachers, and school personnel who require such access to perform their assigned duties;

c. Students and their parents for their own data; and

d. The authorized staff of other state agencies in this state as required by law and governed by interagency data sharing agreements;

(b) The department of elementary and secondary education shall develop criteria for the approval of research and data requests from state and local agencies, researchers working on behalf of the department, and the public;

(3) Shall not, unless otherwise provided by law and authorized by policies adopted pursuant to this section, transfer personally identifiable student data;

(4) Develop a detailed data security plan that includes:

(a) Guidelines for authorizing access to the student data system and to individual student data including guidelines for authentication of authorized access;

(b) Privacy compliance standards;

- (c) Privacy and security audits;**
- (d) Breach planning, notification and procedures;**
- (e) Data retention and disposition policies; and**

(f) Data security policies including electronic, physical, and administrative safeguards, such as data encryption and training of employees;

(5) Ensure routine and ongoing compliance by the department of elementary and secondary education with FERPA, other relevant privacy laws and policies, and the privacy and security policies and procedures developed under the authority of this section, including the performance of compliance audits;

(6) Ensure that any contracts that govern databases, assessments, or instructional supports that include student or redacted data and are outsourced to private vendors include express provisions that safeguard privacy and security, including provisions that prohibit private vendors from selling student data or from using student data in furtherance of advertising, with penalties for noncompliance, except to a local service provider for the limited purpose authorized by the school or district whose access to student data, if any, is limited to "directory information" as that term is defined in the federal regulations implementing the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; and

(7) Notify the governor, the president pro tempore of the senate, the speaker of the house of representatives, and the joint committee on education annually of the following:

(a) New student data proposed for inclusion in the state student data system; and

(b) Changes to existing data collections required for any reason, including changes to federal reporting requirements made by the U.S. Department of Education.

2. Quantifiable student performance data shall only include performance on locally developed or locally approved assessments, including but not limited to formative assessments developed by classroom teachers.

3. The department of elementary and secondary education shall not collect nor shall school districts report the following individual student data:

- (1) Juvenile court delinquency records;**
- (2) Criminal records;**
- (3) Student biometric information;**
- (4) Student political affiliation; or**
- (5) Student religion.**

4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

5. Each violation of any provision of any rule promulgated pursuant to this section by an organization or entity other than a state agency, a school board, or an institution shall be punishable by a civil penalty of up to one thousand dollars. A second violation by the same organization or entity involving

the education records and privacy of the same student shall be punishable by a civil penalty of up to five thousand dollars. Any subsequent violation by the same organization or entity involving the education records and privacy of the same student shall be punishable by a civil penalty of up to ten thousand dollars. Each violation involving a different individual education record or a different individual student shall be considered a separate violation for purposes of civil penalties.

6. The attorney general shall have the authority to enforce compliance with this section by investigation and subsequent commencement of a civil action, to seek civil penalties for violations of this section, and to seek appropriate injunctive relief, including but not limited to a prohibition on obtaining personally identifiable information for an appropriate time period. In carrying out such investigation and in maintaining such civil action, the attorney general or any deputy or assistant attorney general is authorized to subpoena witnesses, compel their attendance, examine them under oath, and require that any books, records, documents, papers, or electronic records relevant to the inquiry be turned over for inspection, examination, or audit. Subpoenas issued under this subsection may be enforced pursuant to the Missouri rules of civil procedure.

161.855. 1. By October 1, 2014, the state board of education shall convene work groups composed of education professionals to develop and recommend academic performance standards. The work groups shall be composed of individuals as provided in section 160.514. The state board of education and the work groups shall follow the procedures and conduct the public hearings required by section 160.514. The state board of education shall convene separate work groups for the following subject areas: English language arts; mathematics; science; and history and governments. For each of these four subject areas, the state board of education shall convene two separate work groups, one work group for grades kindergarten through five and another work group for grades six through twelve.

2. The work groups shall develop and recommend academic performance standards to the state board of education by October 1, 2015. The work groups shall report on their progress in developing the academic performance standards to the president pro tempore of the senate and the speaker of the house of representatives on a monthly basis.

3. The state board of education shall adopt and implement academic performance standards beginning in the 2016-2017 school year. The state board of education shall align the statewide assessment system to the academic performance standards as needed.

4. The department of elementary and secondary education shall pilot assessments from the Smarter Balanced Assessment Consortium during the 2014-2015 school year. Notwithstanding any rules adopted by the state board of education or the department of elementary and secondary education in place at the effective date of this section, for the 2014-2015 school year, and at any time the state board of education or the department of elementary and secondary education implements a new statewide assessment system, develops new academic performance standards, or makes changes to the Missouri School Improvement Program, the first year of such statewide assessment system and performance indicators shall be utilized as a pilot year for the purposes of calculating a district's annual performance report under the Missouri school improvement program. The results of a statewide pilot shall not be used to lower a public school district's accreditation or for a teacher's evaluation.

5. Any person performing work for a school district or charter school for which teacher certification or administrator certification is regularly required under the laws relating to the certification of teachers or administrators shall be an employee of the school district or charter school. All evaluations of any such person shall be maintained in the teacher's or administrator's personnel file and shall not be shared with any state or federal agency.

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