

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 319

91ST GENERAL ASSEMBLY

2001

1037S.06T

AN ACT

To repeal sections 160.518, 167.640 and 167.645, RSMo 2000, and to enact in lieu thereof four new sections relating to assessment of students, with an emergency clause.

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

Section A. Sections 160.518, 167.640 and 167.645, RSMo 2000, are repealed and four new sections enacted in lieu thereof, to be known as sections 160.518, 167.640, 167.645 and 167.680, to read as follows:

160.518. 1. Consistent with the provisions contained in section 160.526, the state board of education shall develop 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 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. The statewide assessment 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 assessment system shall only permit the academic performance of students in each

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

school in the state to be tracked against prior academic performance in the same school.

3. The state board of education shall suggest 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 assessment system developed pursuant to subsection 1 of this section, or until said assessment 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, RSMo, 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.

167.640. 1. School districts may adopt a policy with regard to student promotion which may require remediation as a condition of promotion to the next grade level for any student identified by the district as failing to master skills and competencies established for that particular grade level by the district board of education. School districts may also require parents or guardians of such students to commit to conduct home-based tutorial activities with their children or, in the case of

a student with disabilities eligible for services pursuant to sections 162.670 to 162.1000, RSMo, the individual education plan shall determine the nature of parental involvement consistent with the requirements for a free, appropriate public education.

2. Such remediation shall recognize that different students learn differently and shall employ methods designed to help these students achieve at high levels. Such remediation may include, but shall not necessarily be limited to, a mandatory summer school program focused on the areas of deficiency or other such activities conducted by the school district outside of the regular school day. Decisions concerning the instruction of a child who receives special educational services pursuant to sections 162.670 to 162.1000, RSMo, shall be made in accordance with the child's individualized education plan.

3. School districts providing remediation pursuant to this section outside of the traditional school day may count extra hours of instruction in the calculation of average daily attendance as defined in section 163.011, RSMo.

[4. Any student scoring at the lowest level of proficiency, in any subject, at any grade level under the statewide assessment established pursuant to section 160.518, RSMo, shall be required to retake that assessment in the following year. School districts shall evaluate student progress toward proficiency after the initial assessment and report this progress in the aggregate at the building level as a part of the annual report issued to patrons of the district pursuant to section 160.522, RSMo.

5. The state board of education shall establish by administrative rule a method for determining effectiveness of the remediation to students identified pursuant to subsection 4 of this section. Such rule shall make allowances for students who have recently entered the school district. School districts are required to report only the scores of students meeting the district's attendance policy and no report shall disclose student achievement data in such a manner that would personally identify any student.

6. The state board of education, beginning in the 2001-02 school year, shall include the data reported pursuant to subsection 4 of this section as an element in identifying academically deficient schools pursuant to section 160.538, RSMo, and in the school accreditation process pursuant to section 161.092, RSMo.]

167.645. [No public school student shall be promoted to a higher grade level unless that student has a reading ability level at or above one grade level below the student's grade level; except that the provisions of this subsection shall not apply to students receiving special education services pursuant to sections 162.670 to 162.999, RSMo.] **1. For purposes of this section, the following terms mean:**

(1) "Reading assessment", a recognized method of judging a student's reading ability, with results expressed as reading at a particular grade level. The term reading assessment shall include, but is not limited to, standard checklists designed for use as

a student reads out loud, paper-and-pencil tests promulgated by nationally recognized organizations and other recognized methods of determining a student's reading accuracy, expression, fluency and comprehension in order to make a determination of the student's grade-level reading ability. Assessments which do not give a grade-level result may be used in combination with other assessments to reach a grade-level determination. Districts are encouraged but not required to select assessment methods identified pursuant to section 167.346. Districts are also encouraged to use multiple methods of assessment;

(2) "Summer school", for reading instruction purposes, a minimum of forty hours of reading instruction and practice. A school district may arrange the hours and days of instruction to coordinate with its regular program of summer school.

2. For purposes of this section, methods of reading assessment shall be determined by each school district. Unless a student has been determined in the current school year to be reading at grade level or above, each school district shall administer a reading assessment or set of assessments to each student within forty-five days of the end of the third-grade year, except that the provisions of this subsection shall not apply to students receiving special education services under an individualized education plan pursuant to sections 162.670 to 162.999, RSMo, to students receiving services pursuant to Section 504 of the Rehabilitation Act of 1973 whose services plan includes an element addressing reading or to students determined to have limited English proficiency or to students who have been determined, prior to the beginning of any school year, to have a cognitive ability insufficient to meet the reading requirement set out in this section, provided that districts shall provide reading improvement plans for students determined to have such insufficient cognitive ability. The assessment required by this subsection shall also be required for students who enter a school district in grades fourth, fifth or sixth unless such student has been determined in the current school year to be reading at grade level or above.

3. Beginning with school year 2002-2003, for each student whose third-grade reading assessment determines that such student is reading below second-grade level, the school district shall design a reading improvement plan for the student's fourth-grade year. Such reading improvement plan shall include, at a minimum, thirty hours of additional reading instruction or practice outside the regular school day during the fourth-grade year. The school district shall determine the method of reading instruction necessary to enforce this subsection. The school district may also require the student to attend summer school for reading instruction as a condition of promotion to fourth grade. The department of elementary and secondary education may, from funds appropriated for the purpose, reimburse school districts for additional instructional

personnel costs incurred in the implementation and execution of the thirty hours of additional reading instruction minus the revenue generated by the school district through the foundation formula for the additional reading instruction average daily attendance.

4. Each student for whom a reading improvement plan has been designed pursuant to subsection 3 of this section shall be given another reading assessment, to be administered within forty-five days of the end of such student's fourth-grade year. If such student is determined to be reading below third-grade level, the student shall be required to attend summer school to receive reading instruction. At the end of such summer school instruction, such student shall be given another reading assessment. If such student is determined to be reading below third-grade level, the district shall notify the student's parents or guardians, and the student shall not be promoted to fifth grade. No student shall be denied promotion more than once solely for inability to meet the reading standards set out in this section.

5. The process described in subsections 3 and 4 of this section shall be repeated as necessary through the end of the sixth grade, with the target grade level rising accordingly. Mandatory retention in grade shall not apply to grades subsequent to fourth grade.

6. The mandatory process of additional reading instruction pursuant to this section shall cease at the end of the sixth grade. The permanent record of students who are determined to be reading below the fifth-grade level at the end of sixth grade shall carry a notation advising that such student has not met minimal reading standards. The notation shall stay on the student's record until such time as the district determines that a student has met minimal reading standards.

7. Each school district shall be required to offer summer school reading instruction to any student with a reading improvement plan. Districts may fulfill the requirement of this section through cooperative arrangements with neighboring districts; provided that such districts shall timely make all payments provided pursuant to such cooperative agreements.

8. A school district may adopt a policy that requires retention in grade of any student who has been determined to require summer school instruction in reading and who does not fulfill the summer school attendance requirement.

9. Nothing in this section shall preclude a school district from retaining any student in grade when a determination is made in accordance with district policy that retention is in the best interests of the student.

10. The state board of education shall not incorporate information about the number of students receiving additional instruction pursuant to this section into any

element of any standard of the Missouri school improvement program or its successor accreditation program; provided, however, each district shall make available, upon the request of any parent, patron, or media outlet within the district, the number and percentage of students receiving remediation pursuant to this section. The information shall be presented in a way that does not permit personal identification of any student or educational personnel.

11. Each school district shall make a systematic effort to inform parents of the methods and materials used to teach reading in kindergarten through fourth grade, in terms understandable to a layperson and shall similarly inform parents of students for whom a reading improvement plan is required pursuant to this section.

167.680. 1. There is hereby established within the department of elementary and secondary education the "After-School Retreat Reading and Assessment Grant Program". Beginning with the 2002-2003 school year, the program shall award grants to schools on a competitive grant basis. School districts may develop after-school reading and assessment programs and submit proposals to the department, pursuant to criteria established by the department for grant approval and on forms promulgated by the department for grant applications. Copies of the criteria established pursuant to this section shall be provided by the department to all school districts in this state. In awarding such grants, the department shall grant preference to school districts with a higher percentage of at-risk students, as the department may determine. In addition, the criteria for grant approval by the department may include, but shall not be limited to:

(1) The development of programs which are educational in nature, with emphasis in reading and student assessment thereof as opposed to day-care oriented programs; or

(2) Other criteria as the department may deem appropriate.

2. Subject to appropriation, beginning with the 2002-2003 school year, the department shall award grants to school districts for the development and implementation of after-school retreat programs consistent with this section. In the event that the appropriations or other moneys available for such grants are less than the amount necessary to fully fund all approved grants for the 2002-2003 school year or any subsequent school year, the moneys shall be distributed to approved schools on a pro rata basis.

3. There is hereby created in the state treasury the "After-School Retreat Reading and Assessment Grant Program Fund". The fund shall be administered by the department. The fund shall consist of moneys appropriated annually by the general assembly from general revenue to such fund, any moneys paid into the state treasury

and required by law to be credited to such fund and any gifts, bequests or donations to such fund. The fund shall be kept separate and apart from all other moneys in the state treasury and shall be paid out by the state treasurer pursuant to chapter 33, RSMo. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund at the end of the biennium shall not be transferred to the credit of the general revenue fund. All interest and moneys earned on the fund shall be credited to the fund.

4. No rule or portion of a rule promulgated pursuant to this section shall take effect unless such rule has been promulgated pursuant to chapter 536, RSMo.

Section B. Because immediate action is necessary to preserve the reading ability of the elementary school students of Missouri, the repeal and reenactment of sections 160.518, 167.640 and 167.645 and the enactment of section 167.680 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 160.518, 167.640 and 167.645 and the enactment of section 167.680 of this act shall be in full force and effect on July 1, 2001, or upon its passage and approval, whichever later occurs.

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Bill

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