

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 1080

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS NODLER, FOSTER, KINDER, YECKEL, CALLAHAN, CHILDERS, KLINDT,
WHEELER, CHAMPION, GIBBONS, BLAND, VOGEL, CAUTHORN, RUSSELL, SCOTT, GRIESHEIMER,
MATHEWSON, SHIELDS, STEELMAN, CLEMENS, DAYS, LOUDON, COLEMAN,
BRAY, BARTLE, KENNEDY AND GROSS.

Read 1st time January 15, 2004, and ordered printed.

Read 2nd time January 20, 2004, and referred to the Committee on Education.

Reported from the Committee February 5, 2004, with recommendation that the bill do pass.

Taken up for Perfection February 17, 2004. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

3588S.03P

AN ACT

To repeal sections 160.518, 160.538 and 160.720, RSMo, and to enact in lieu thereof two new sections relating to education accountability standards.

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

Section A. Sections 160.518, 160.538 and 160.720, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 160.518 and 160.720, to read as follows: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

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

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 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.

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, RSMo. In the development of such alternate assessments, the state board shall establish an advisory panel consisting of a majority of active special education teachers 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, RSMo, 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. Notwithstanding the provisions of subsections 1 to 6 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 Educational Progress (NAEP) exam;

(2) Institute yearly examination of students in the required subject areas where compelled by existing federal standards, as of the effective date of this section; and

(3) Administer any other adjustments that the state board of education deems necessary in order to aid the state in conforming to existing federal standards, as of the effective date of this section, including, but not limited to, the requirements contained in the federal "No Child Left Behind Act".

160.720. 1. The department of elementary and secondary education shall identify as a priority school any school building or attendance center that fails to meet acceptable standards of student achievement established by the state board of education and based upon factors which shall include, but not be limited to, student assessments, graduation rate, drop-out rate, school attendance rate, graduate placement in college, vocational or technical school, or high-wage employment and incidence of school violence.

2. The board of education of any district that contains a priority school shall

submit a comprehensive school improvement plan that provides for the following:

(1) Identification of the areas of academic deficiency in student performance on the statewide assessment established pursuant to section 160.518 by disaggregating scores based upon school, grade, academic content area and student demographic subgroups, which shall include, but shall not be limited to, race, ethnicity, disability status, migrant status, limited English proficiency, and economic disadvantage;

(2) Implementation of research-based strategies to assist the priority school in addressing the areas of deficiency;

(3) Alignment of the priority school's curriculum to address deficiencies in student achievement;

(4) Reallocation of district resources to address the areas of academic deficiency, which shall include focusing available funding on professional development in the areas of deficiency; and

(5) Listing of all school buildings and attendance centers declared to be priority schools in the district's annual school accountability report distributed pursuant to section 160.522.

3. The state board of education may appoint a team to conduct an educational audit of any priority school to determine the factors that have contributed to the lack of student achievement and shall give audit priority to schools based upon failure to meet standards of student achievement as established pursuant to this section.

(1) An audit team shall include an experienced teacher and an experienced administrator from successful school districts of comparable size and per pupil funding. The size of the audit team shall be based upon the size of the school to be audited;

(2) The audit team shall report its findings to the state board of education and the local board of education;

(3) The state board may require all or part of those findings to be addressed in the comprehensive school improvement plan required pursuant to this section.

4. Comprehensive school improvement plans shall be evaluated based upon standards established pursuant to subsection 2 of this section and upon the following timelines:

(1) The comprehensive school improvement plan shall be submitted to the department of elementary and secondary education on or before August fifteenth following any school year in which a school district building meets the criteria established under subsection 1 of this section;

(2) The department of elementary and secondary education shall review and

identify areas of concern in the plan within sixty days of receipt; and

(3) Changes to the plan shall be forwarded to the department of elementary and secondary education within sixty days of notice to the district of the areas of concern.

5. The department of elementary and secondary education shall withhold funds authorized in section 163.031, RSMo, from any school district that fails to submit a comprehensive school improvement plan based upon the standards and timelines established in this section. Withheld funds shall be released upon submission of a comprehensive school improvement plan that meets the established requirements.

6. Designation as a priority school and the effectiveness of the school district in implementing the comprehensive school improvement plan required under this section shall be considered by the state board of education in the school district's accreditation granted pursuant to section 161.092, RSMo.

7. No rule or portion of a rule promulgated under this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

[160.538. 1. By July 1, 1996, the state board of education shall develop a procedure and criteria for determining that a school in a school district is "academically deficient". In making such a determination for any school, the state board of education shall consider the results for the school from the assessment system developed pursuant to the provisions of section 160.518 together with the results from the education audit performed under subsection 2 of this section.

2. (1) Prior to a decision that a school is academically deficient, the state board of education shall appoint an audit team of at least ten persons to conduct an education audit of the school to determine the factors that have contributed to the lack of student achievement at the school as measured by the district assessment system and make a finding as to whether the school is academically deficient. The specific standards and implementation of the education audit shall be pursuant to rules adopted by the state board of education.

(2) The audit team shall report its findings to the state board. If the audit team finds that the school is academically deficient, then the state board shall declare the school to be academically deficient.

(3) Following a decision that a school is academically deficient, the state board of education shall, within sixty days, appoint a management team of at least ten persons to conduct any necessary investigations and make any recommendations the team believes are appropriate for the administration and management of the school necessary to promote student achievement and any additional resources which are required. Funds shall be provided, upon appropriation, under subsection 2 of section

160.530 for the operation of the audit and management teams and resources needed in the district.

(4) In the appointment of the audit and management teams, the state board of education shall appoint such persons so that at least fifty percent of the team is composed of active classroom teachers at the elementary, middle or secondary level grades. Teachers who have retired within five years of the appointment may be included in the classroom teacher component of the team. Further, no more than two persons of said team may be employees of the department of elementary and secondary education. At least one member of the team shall be a public school superintendent from another district.

(5) The management team shall report its findings and recommendations to the state board within sixty school days. The commissioner of education shall, subject to availability of resources, provide resources to the district as recommended by the management team. The management team report may also include recommendations for one or more of the following:

- (a) Conduct a recall election for each member of the district school board;
- (b) Suspend indefinite contracts for certificated staff in the school and a one-year maximum length for new or renewal of contracts for the superintendent or the principal of the school;
- (c) Require that the district develop a plan for the recruitment and retention of high quality teachers and administrators within the district; or
- (d) Appoint a school accountability council to monitor one or more school buildings in the district.

(6) The education audit team shall reevaluate the school two years after the filing of the management team report. No recall election, suspension of indefinite contract or maximum contract length limit may be imposed unless the audit team determines that the school is still academically deficient.

(7) The commissioner of education shall, upon such recommendation by the management team and upon approval by the state board of education, but only in the case where the education audit team finds the school academically deficient in its reevaluation audit under subdivision (6) of this subsection, order an election in the district to be held for the purpose of conducting a recall election of all members of the district school board. The recall election shall be held on the next available election day thereafter as provided under section 115.123, RSMo, and shall be conducted pursuant to chapter 115, RSMo, except as otherwise provided herein.

3. (1) A district school board member of a district which contains a school declared academically deficient may be removed by the voters in a recall election. Such election shall be held upon the submission of a petition signed by

voters of the district equal in number to at least twenty-five percent of the number of persons voting at the last preceding election to elect a district board member. The petition shall be filed with the election authority and the secretary of the district board of education, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements therein made are true as he believes and that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

(2) Within ten days from the date of filing such petition the election authority shall examine and ascertain whether said petition is signed by the requisite number of voters; and he shall attach to the petition his certificate, showing the result of the examination. If the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The election authority shall, within ten days after such amendment, make like examination of the amended petition and, if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the election authority shall submit the same to the district board without delay. If the petition shall be found to be sufficient, the district board shall order the question to be submitted to the voters of the district.

(3) If a majority of the voters vote in favor of retaining the member, he shall remain in office and shall not be subject to another recall election during his term of office except as provided in subsection 2 of this section. If a majority of voters vote to remove the member, his successor shall be chosen as provided in section 162.261, RSMo.

4. Under subdivision (5) of subsection 2 of this section, a district board of education may suspend indefinite contracts and issue probationary contracts to all certificated staff in a school declared academically deficient. However, no such indefinite contract for any person may be suspended without providing the person an opportunity for a due process hearing, conducted according to the provisions of chapter 536, RSMo, and only after the school board demonstrates that the performance of the person's duties contributed to the school meeting the criteria for being declared academically deficient. The district board of any school which is declared academically deficient shall not issue new contracts or renew contracts to either the superintendent or the principal of the academically deficient school for a period of longer than one year. The provisions of other law to the contrary notwithstanding,

a probationary teacher in a school declared academically deficient shall not be granted an indefinite contract until one year after such school is no longer determined to be academically deficient, and the probationary teacher meets all other requirements for permanent status required by law.

5. (1) If the management team so recommends pursuant to subdivision (5) of subsection 2 of this section, a district board of education may appoint a school accountability council for one or more buildings within the district.

(2) The school accountability council may monitor implementation of an instructional resource reallocation plan within the areas of deficiency identified by the state board of education.

(3) The school accountability council shall consist of seven members, with no fewer than four members being the parent or guardian of a student currently enrolled in the school building.

(4) If the district board of education fails to appoint a school accountability council pursuant to this subsection, then the state board of education may appoint the council.

6. An instructional resource reallocation plan for any school building shall provide for the focusing of any discretionary local, state or federal funds available to the school on the areas of academic deficiency. The instructional resource reallocation plan shall address:

(1) Instruction in math and reading/communication arts if performance by students in those areas under the assessment system developed pursuant to section 160.518 is such that the percentage of the subject school's students scoring at step 1 of the assessment scale is at least twice the percentage of students statewide scoring at step 1 of the assessment scale;

(2) Professional development to improve instruction in the areas of academic deficiency or in areas where the number of certificated staff teaching one or more classes outside of their area of certification results in ten percent or more of the students within the school building being taught by teachers outside their areas of certification;

(3) Special education and related services and the level of integration of children with disabilities within the regular education curriculum where the percentage of students eligible to receive services under the Individuals with Disabilities Education Act and scoring at step 1 of the assessment scale of the assessment system developed pursuant to section 160.518 is at least twice the percentage of students statewide who are eligible to receive services under the Individuals with Disabilities Education Act and who score at step 1 of the assessment scale;

(4) Any waivers required for implementation of the plan to be requested on behalf of the district from the state board of education.

7. The school accountability council shall report annually to the state board of education with regard to the implementation of the instructional resources reallocation plan until such time as the academic deficiencies are addressed.

8. Notwithstanding any other provision of law to the contrary, any district which has one or more buildings declared academically deficient shall provide summer school programming to any student making application in those areas identified as an area of concern by the school audit team pursuant to subsection 2 of this section.

9. (1) Subject to appropriation, the state board of education may establish a program of financial aid for prospective teachers to assist schools identified as academically deficient.

(2) This program may include tuition reimbursement for current teachers and student loan forgiveness for new teachers employed within the district based upon their term of service in the district.

(3) Financial aid shall be provided in those areas of instruction where certificated staff are teaching one or more classes outside of their area of certification.]

[160.720. 1. The department of elementary and secondary education shall identify for recognition by the governor schools demonstrating high student achievement to be designated as performance schools. In addition, the department of elementary and secondary education shall identify those waivers of administrative rule authorized under state law appropriate for the recognized school district or school. The department of elementary and secondary education shall endeavor to identify waivers of administrative rule that result in a meaningful reduction in administrative burden on the districts recognized in this section.

2. The department of elementary and secondary education shall identify priority school districts and priority schools based upon the following criteria:

(1) School attendance centers declared academically deficient by the state board of education as authorized by section 160.538;

(2) School districts declared unaccredited or provisionally accredited by the state board of education pursuant to section 161.092, RSMo; or

(3) School districts or school attendance centers that do not meet any of the accreditation standards on student performance established by the state board of education based upon the statewide assessment system authorized pursuant to section 160.518.

3. The board of education of any priority school district or priority school shall submit, as a part of a comprehensive school improvement plan, an accountability

compliance statement that shall:

(1) Identify and analyze areas of deficiency in student performance by school, grade and academic content area;

(2) Provide a comprehensive strategy for addressing these areas of deficiency;

(3) Assure disclosure of these areas of deficiency in the school accountability report card required pursuant to section 160.522;

(4) Permit a metropolitan district that is implementing a program of academic improvement in a school or schools identified pursuant to a settlement agreement for a desegregation lawsuit to submit the elements of the accountability compliance statement required in subdivisions (1) to (3) of this subsection for review for possible waiver solely in regard to the schools identified for academic improvement pursuant to the settlement agreement; provided, however, that the department of elementary and secondary education shall meet with any district covered by the provisions of this subdivision prior to the district submitting any element of an accountability compliance statement, so that the department may identify elements of the settlement agreement academic improvement plan that are substantially similar to the requirements contained in this section, and the department shall advise such district if, based on its review, any further plan or reporting of such plans or elements is required; and

(5) Require school boards of each district to annually review the school discipline provisions contained in section 160.261, and sections 167.023, 167.026, 167.117, 167.161 to 167.171 and 167.335, RSMo, and ensure that the district's discipline policies are consistent with the above listed sections.

4. The comprehensive strategy for addressing areas of deficiency required pursuant to this section shall address the following areas:

(1) Align curriculum to address areas of deficiency in student achievement;

(2) Develop, for any student who is not receiving special education services under an individualized education plan pursuant to sections 162.670 to 162.699, RSMo, who is performing at a level not determined or at the lowest level of proficiency in any subject area under the statewide assessment established pursuant to section 160.518, an individual performance plan in that subject area which shall:

(a) Be developed by the teacher or teachers in consultation with the child's parent, guardian, or other adult responsible for the student's education;

(b) Outline responsibilities for the student, parent, guardian, or other adult responsible for the student's education, teachers, and administrators in implementing the plan. Such plans shall not require the level of documentation and procedural complexities of an individualized education plan pursuant to sections 162.670 to 162.699, RSMo, but shall contain sufficient detail for all parties to understand their

responsibilities in the implementation of the student's performance plan;

(c) State that the student's parent, guardian, or other adult responsible for the student's education shall act in good faith to implement the student performance plan and make reasonable efforts to meet with the teacher when requested or required by the plan; and

(d) Require those students performing at a level not determined or at the lowest level of proficiency in any subject area under the statewide assessment established pursuant to section 160.518 to be provided with additional instruction time and for students in grade nine to eleven to retake the assessment;

(3) Focus state and local professional development funds on the areas of greatest academic need, including a statement relating to accessing the resources and services of the regional professional development center and support from state professional development funds;

(4) Create programs to improve teacher and administrator effectiveness;

(5) Establish school accountability councils consistent with the procedures stated in subsection 5 of section 160.538 or align any existing parent advisory council with the requirements of subsection 5 of section 160.538;

(6) Develop a resource reallocation plan for the district; and

(7) Consider the need to implement strategies pursuant to this subsection for feeder schools of any priority school.

5. The school district shall include in any program for improvement of teacher and administrator effectiveness in an accountability compliance statement policies that will:

(1) Require school administrators and teachers, including teachers who are provisionally or temporarily certified, to participate in one of the following programs of professional development:

(a) A mentoring program meeting standards established by the state board of education or supervised by an individual previously designated by the department of elementary and secondary education as a regional resource teacher;

(b) Successful completion of a training program for certification as a scorer under the statewide assessment program authorized pursuant to section 160.518; or

(c) Enrollment and making adequate progress towards national board certification;

(2) Provide one additional year of intensive professional development assistance to teachers and administrators who do not complete or make adequate progress in the professional development activities described in subdivision (1) of this subsection;

(3) Exempt from the professional development requirements accountability

compliance statement as provided in subdivision (1) of this subsection any individual who:

(a) Holds qualifying scores in the appropriate professional assessment as determined by the state board of education or who elects to take and receive a qualifying score of that assessment;

(b) Holds national board certification;

(c) Is certified as a scorer under the statewide assessment program;

(d) Is designated by the department of elementary and secondary education as a regional resource teacher;

(e) Serves as a mentor teacher for one school year in a program meeting standards adopted by the state board of education; or

(f) Successfully completes an appropriate administrator academy program offered pursuant to section 168.407, RSMo.

6. Any resource reallocation plan shall include at least one of the following elements:

(1) Reduce class size in areas of academic concern;

(2) Establish full-day kindergarten or preschool programs;

(3) Establish after-school, tutoring and other programs offering extended time for learning;

(4) Employ regional resource teachers designated by the department of elementary and secondary education or national board-certified teachers, along with appropriate salary enhancements for such teachers;

(5) Establish programs of teacher home visitation to encourage parental support of student learning; and

(6) Create "school within a school" programs to achieve smaller learning communities within priority schools.

7. The state board of education shall establish by administrative rule standards to evaluate accountability compliance statements, based upon the following criteria:

(1) An accountability compliance statement shall be submitted to the department of elementary and secondary education on or before August fifteenth following any school year in which a school district meets the criteria established under subsection 2 of this section;

(2) The department of elementary and secondary education shall review and identify areas of deficiency in the plan within thirty days of receipt; and

(3) Changes to the plan shall be forwarded to the department of elementary and secondary education within thirty days of notice to the district of the areas of deficiency.

8. The department of elementary and secondary education shall withhold funds to be paid to the school district, as authorized in section 163.031, RSMo, until such time as the district submits an accountability compliance statement meeting the standards authorized pursuant to this section within the time lines established herein.

9. The department of elementary and secondary education shall develop within three years of the adoption of this section a program of administrator mentoring focusing on the need of priority schools and priority school districts and meeting standards established by the state board of education.

10. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

11. In any school year in which the school funding formula has a proration factor on line 1(b) of less than 0.9, the provisions of subsections 2 to 9 of this section relating to priority schools and priority school districts shall not be enforced. For any school year in which funding of the school aid formula at the level stated in this subsection appears to be in doubt after all appropriations bills are truly agreed and finally passed, the house budget chair and the senate appropriations chair shall send a joint letter to the commissioner of education by August fifteenth, notifying the department of elementary and secondary education of the likelihood that funding would be below the limit stated in this subsection and requesting that the department not enforce subsections 2 to 9 of this section unless and until the department's calculations for the first "live" school aid payment of the school year show that the formula will have a proration factor on line 1(b) of no less than 0.9.]

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