

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4680-04  
Bill No.: SB 989  
Subject: Education, Elementary and Secondary  
Type: Original  
Date: February 9, 2016

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Bill Summary: This proposal enacts multiple provisions to protect the privacy of student data.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	(\$126,955)	(\$153,869)	(\$155,408)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$126,955)</b>	<b>(\$153,869)</b>	<b>(\$155,408)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
College & University	(Unknown greater than \$100,000)	\$0	\$0
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(Unknown greater than \$100,000)</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 10 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
General Revenue	3 FTE	3 FTE	3 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>3 FTE</b>	<b>3 FTE</b>	<b>3 FTE</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
<b>Local Government</b>	<b>(Unknown greater than \$100,000)</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

**Oversight** was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

In response to similar legislation filed last year, SB 530, officials at the **Department of Higher Education (DHE)** assumed this proposal limits the data the department is allowed to collect and share on the students who attend Missouri's institutions of higher education. For example, Section 160.1503.1 would require the department to have written consent to receive students' ACT/SAT scores - which the department currently receives from the testing agencies - and residency and citizenship statuses - which the department currently receives from the Free Application for Federal Student Aid. In order to continue to grant Bright Flight, Access Missouri and A+ awards, the department would need to revert back to a State Student Financial Aid application. An additional 2 FTE at the Research Associate I level would be needed to manage the influx of applications, verify eligibility, answer questions, and alert recipients of the status of their application.

Section 160.1506.1 requires the publishing of two reports each year detailing the existence and character of any personally identifiable data collected by the department. In order to create and update the report as required, the department would require an additional 1 FTE at the Research Associate I level.

This proposal, in the long-term, would limit the department's ability to receive federal and private grants. However, there is no way to know exactly how much money the department might be unable to receive.

Officials at the **Office of the State Courts Administrator** assume there is no fiscal impact from this proposal.

Officials at the **Missouri Western State University** assume a negative fiscal impact which cannot be determined at this time.

Officials at the **Concordia R-II School District** assume this would require the hiring of a person for a year to go through all the school records to determine what should be kept and what should

ASSUMPTION (continued)

be destroyed. A temporary position would be \$11,000 in the first year and \$4,100 each subsequent year.

Officials at the **Macon County R-IV School District** and the **Wright City R-II School District** each assume minimal costs for annual auditing.

Officials at the **West Plains School District** assume \$10,000 to \$20,000 annually for the cyber security audit.

Officials at the **East Newton, Malta Bend, New Haven** and the **Seymour R-II** school districts each assume there is no fiscal impact from this proposal to their district.

**Oversight** notes this prohibits the collection of certain student data without the student's parents permission. Oversight assumes the school districts, colleges and universities will need to review their databases and vendor IT contracts to ensure that inappropriate data is not collected.

Oversight assumes this would result in one-time costs of Unknown greater than \$100,000 for community colleges, school districts, and colleges and universities.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
<b>GENERAL REVENUE</b>			
<u>Cost - DHE</u>			
Personal Service	(\$83,520)	(\$101,226)	(\$102,239)
Fringe Benefits	(\$43,435)	(\$52,643)	(\$53,169)
<u>FTE Cost - DHE</u>	<u>(\$126,955)</u>	<u>(\$153,869)</u>	<u>(\$155,408)</u>
FTE Change	3 FTE	3 FTE	3 FTE
 <b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	 <b><u>(\$126,955)</u></b>	 <b><u>(\$153,869)</u></b>	 <b><u>(\$155,408)</u></b>
 Estimated Net FTE Change on General Revenue	 3 FTE	 3 FTE	 3 FTE
 <b>COLLEGE AND UNIVERSITY FUNDS</b>			
 <u>Cost - Colleges and Universities - one- time computer costs</u>	 (Unknown greater than <u>\$100,000</u> )	 <u>\$0</u>	 <u>\$0</u>
 <b>ESTIMATED NET EFFECT ON COLLEGE AND UNIVERSITY FUNDS</b>	 <b>(Unknown greater than <u>\$100,000</u>)</b>	 <b><u>\$0</u></b>	 <b><u>\$0</u></b>
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2017 (10 Mo.)	FY 2018	FY 2019
<b>SCHOOL DISTRICT FUNDS</b>			
 <u>Cost - Community Colleges and School Districts - one-time computer costs</u>	 (Unknown greater than <u>\$100,000</u> )	 <u>\$0</u>	 <u>\$0</u>
 <b>ESTIMATED NET EFFECT ON SCHOOL DISTRICT FUNDS</b>	 <b>(Unknown greater than <u>\$100,000</u>)</b>	 <b><u>\$0</u></b>	 <b><u>\$0</u></b>

### FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

### FISCAL DESCRIPTION

This act enacts multiple provisions to protect the privacy of student data.

State agencies, as defined in the act, are limited in the student data they may collect without written consent. The data they may collect without the written consent of parents for any student under the age of eighteen or any eligible student is limited to certain types of data, as described in the act.

State agencies are prohibited from collecting any of the following information from parents, eligible students, or through data sharing agreements with any other entity: certain medical and health information; certain student or family workforce information; student biometric records; certain data collected via affective computing; data collected from predictive modeling; and information about student or family religious affiliation. (§160.1503)

No funds, regardless of source, can be spent on the construction, enhancement, or expansion of any data system that does not comply with these limitations or that is designed to track students beyond their K-12 or postsecondary education careers, or that compiles personal non-academic information. (§160.1503)

This act prohibits state agencies from pursuing or accepting any grant that would require the collecting or reporting of any type of data that violates these prohibitions. (§160.1503)

This act prohibits the Department of Elementary and Secondary Education and the State Board of Education from developing or approving policies that require the disclosure of student or family income data, including completion of federal financial aid applications, as a condition of attendance or graduation from any education program. (§160.1503)

By June 30 annually, state agencies shall publicly disclose on their websites the existence and character of any personally identifiable information from education records maintained by them, and shall notify the chairs of the Senate Education Committee, House Elementary and Secondary Education Committee, and the Joint Committee on Education of such information. They must annually notify parents, eligible students, and teachers of this website posting.

The disclosure and notifications must include multiple explanations, including the legal authority authorizing the establishment of a data repository, the principal purpose for which the

FISCAL DESCRIPTION (continued)

information is intended to be used, categories of records and individuals maintained in the repository, expected disclosure of records, policies and practices that must be followed, the title and business address of the individual responsible for the data repository, and the procedures whereby parents or eligible students may be notified of records pertaining to them in the repository, as described in the act.

State agencies must only use aggregate data in published reports. (§160.1506)

School districts and charter schools are prohibited from adopting or administering any state or national student assessment that collects psychological or behavioral data, as described in the act. (§160.1509)

State agencies, school boards, and education institutions offering grades pre-kindergarten through twelve cannot administer any student survey, assessment, analysis, evaluation, or similar instrument that solicits certain personal information about the student or student's family, as described in the act. (§160.1512)

Access to student education records in the Department of Elementary and Secondary Education's Missouri Student Information System (MOSIS) must be restricted to the authorized representatives of the Department of Elementary and Secondary Education, any state agency, or education institution who require access to it. An authorized representative must be an employee of the Department, state agency, or education institution and be under its direct control. Personally identifiable student or teacher data cannot be disclosed without the written consent of the parents or eligible students. (§160.1515)

Written consent is required for the release of personally identifiable student or teacher information to a party conducting studies. Outside parties conducting studies must meet the requirements for contractors, as described in the act. In addition, state agencies, school boards, and institutions must not disclose personally identifiable information from education records without written consent to an outside party, unless the outside party meets the criteria established in the act. (§160.1515)

If a security breach or unauthorized disclosure of personally identifiable student data occurs, the state agency responsible for the data must immediately notify any individual whose personally identifiable student data may have been affected of the breach or disclosure, report it to the Family Policy Compliance Office of the U.S. Department of Education, and investigate the causes and consequences of the breach or disclosure. (§160.1518)

FISCAL DESCRIPTION (continued)

Personally identifiable information by any state agency in education records cannot be disclosed to any party for commercial use. Cloud computing service providers that provide services for a state agency are prohibited from using information from education records or information relating to a student or created by a student through the use of a cloud computing service for any purpose other than providing the cloud computing service for education purposes and maintaining the integrity of the service. Examples of prohibited purposes for processing of information are listed in the act.

Any cloud computing service provider that enters into a service agreement with a state agency must certify in writing that it will comply with data use requirements and that the state agency maintains ownership of all student data. The agreement must also provide that the cloud computing service provider will be responsible for all damages associated with a data breach.

All student data stored by a cloud computing service provider must be stored within the boundaries of the United States. (§160.1521)

Student data cannot be used for predictive modeling, as defined in the act, for detecting behaviors, beliefs, or value systems, or predicting or forecasting student outcomes. (§160.1524)

This act prohibits video monitoring in classrooms unless the local school board approves it after public hearings and the written consent of the teacher, eligible students, and the parents of all students in the classroom. (§160.1527)

This act prohibits the disclosure of personally identifiable information from education records to any non-education government agency, including the Missouri Department of Labor and Industrial Relations, or to any party for the purpose of workforce development or economic planning. Data linkages or sharing of data with other states without expressed permission of the individuals affected are prohibited. (§160.1530)

Personally identifiable information from education records cannot be disclosed to any government agency or other entity outside Missouri except to an institution attended by a student who has transferred out of state, to an out-of-state program in which a student voluntarily participates and a data transfer is required, or for migrant students for federal reporting purposes. (§160.1533)

Personally identifiable information from education records cannot be disclosed to any federal agency unless certain conditions are satisfied as described in the act. (§160.1536)



FISCAL DESCRIPTION (continued)

State agencies, school boards, and education institutions are prohibited from disclosing student or teacher information to any assessment consortium of which Missouri is a member or any company with which Missouri contracts for development or administration of any assessment. However, these entities may disclose such information if it is transmitted in non-individual record format, it is limited to information directly related to the assessment, and no psychological or behavioral information is included as part of the test scores. (§160.1539)

Education institutions must destroy and remove from their student databases all education records of a student within five years of the student's graduation or withdrawal from the district. An institution may retain records showing the student's data of attendance, diploma or degree earned, and contact information. For any student who withdraws before graduation, the institution must, within one year, destroy and remove all records of the student except those showing dates of attendance. Destruction must comply with the standards of data destruction identified in the National Institute of Standards and Technology (NIST) special publication 800-88. (§160.1542)

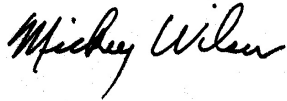
Each violation of any provision of this act by an organization or entity other than a state agency, a school board, or an institution shall be punishable by civil penalties as described in the act. (§160.1545)

The Attorney General is granted authority to enforce compliance with this act by investigation and subsequent commencement of a civil action, to seek civil penalties for violations, and to seek injunctive relief. (§160.1545)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Higher Education  
Concordia R-II School District  
East Newton School District  
Macon County R-IV School District  
Malta Bend School District  
Missouri Western State University  
New Haven School District  
Office of the State Courts Administrator  
Seymour R-II School District  
West Plains School District  
Wright City R-II School District



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