

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3990S.02I  
 Bill No.: SB 740  
 Subject: Education, Elementary and Secondary; Department of Elementary and Secondary Education; Boards, Commissions, Committees, Councils; Teachers  
 Type: Original  
 Date: March 28, 2022

Bill Summary: This proposal modifies and creates provisions regarding elementary and secondary education.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue*	(Unknown) to Unknown	(\$166,602)	(Unknown, Could exceed \$179,804) to Unknown
<b>Total estimated net effect on General Revenue Fund</b>	<b>(Unknown) to Unknown</b>	<b>(\$166,602)</b>	<b>(Unknown, Could exceed \$179,804) to Unknown</b>

\*School districts would be required to share in the proportional cost for general elections (savings (positive unknown) to the state) in odd numbered fiscal years; however, adding school board elections to the November ballot may increase costs of those elections overall (costs (negative unknown, could exceed \$250,000) to the state).

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</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 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
General Revenue	0 FTE	2 FTE	2 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>0 FTE</b>	<b>2 FTE</b>	<b>2 FTE</b>

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
<b>Local Government</b>	<b>(Unknown) to Unknown</b>	<b>(Unknown) to Unknown</b>	<b>(Unknown) to Unknown</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### Sections 160.3100 - 160.3118 - Public Education Transparency Act

Officials from **Department of Elementary and Secondary Education (DESE)** assume this provision will require two (2) supervisor level FTE to review curriculum, websites, and to perform other oversight functions to ensure compliance with these sections.

**Oversight** assumes there could be costs related to curriculum review, staff training, displaying information such as a transaction register, and legal costs for schools districts to comply with the requirements of these provisions.

**Oversight** assumes these provisions become effective August 28, 2023 (FY 2024).

#### Sections 162.082-162.910 - School Board Elections

In response to a similar proposal, HCS HB 2306 (2022), officials from the **Office of the Secretary of State (SOS)** assumed this proposal would move school board elections from April to November each year. In odd-numbered calendar years, this would have no impact on the Secretary of State's Office. However, in even-numbered calendar years (odd-numbered fiscal years), school board elections will now be held on the same day as the statewide general election. As a result, school districts who previously held elections in April will be required to share proportional costs of the November general election.

Proportional costs are calculated by each local election authority based on the number of political subdivisions and their respective amounts of registered voters. The state's proportional share is expected to decrease in all or nearly all jurisdictions, but this may not directly equate to a cost savings as the overall cost of the election may increase. In particular, local jurisdictions may experience increasing costs for publishing election notices in local newspapers, ballot printing/coding due to an increased number of ballot styles, and, as an indirect result, there may also be a need to split polling places or hire additional election judges to help avoid voter confusion at the polls. Therefore, the exact amount of fiscal impact to the State of Missouri (of either costs or savings) is unknown and depends on local election authority decisions.

**Oversight** notes the proportional costs of the November elections could increase in part due to an increase in the number of ballot issues and ballot pages. Due to the proposal shifting the elections from April to November and limiting the elections to even numbered calendar years school districts who previously held elections in April will be required to share proportional costs of the November general election. Therefore, Oversight will show a potential unknown cost

that could exceed \$250,000 and potential unknown savings beginning in November 2024 (FY 2025) and recurring in even numbered calendar years (odd numbered fiscal years).

Officials from the **SOS** also assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could require additional resources.

Officials from the **Kansas City Board of Election** state if this legislation becomes law, the cost of printing will increase \$50,000 per election for the printing a second page to the ballot. Also, training of election judges would be needed at a cost of \$35,000 (1000 judges at \$35 each).

Officials from the **Jackson County Board of Elections, Platte County Board of Elections** and the **St. Louis County Board of Elections** each assume the proposal will have no fiscal impact on their respective organizations.

In response to a similar proposal, HB 2306 (2022), officials from the **Platte County Board of Elections** stated, in addition to known cost increases in odd years, this legislation will introduce more complexity to general elections. There will be more ballot styles, and longer ballots. General elections already have long and complicated ballots. There is a real possibility this would require two page ballots in even years.

In response to a similar proposal, HCS HB 2306 (2022), officials from the **St. Louis County Board of Elections** assumed if this legislation pushes the ballot to two pages, this would cost \$100,000 per election (that has a two-page ballot).

In response to similar legislation, HB 361 from 2021, officials from the **St. Louis County Board of Elections** assumed, because school board elections currently take place in April municipal elections, the Election Board pays more to cover costs to administer the election. If changed to taking place in November elections, this would save the Election Board about \$350,000.

In response to a similar proposal HCS for HB 1424 (2018), officials from the **Kansas City Election Board** assumed there would be a substantial savings in election costs. By moving the

School Board elections to November, entities having elections would share costs and save in excess of \$100,000 or more per year. This election would be more expensive, but costs would be pro-rated among several entities, with everyone paying a smaller share. Another benefit would be a better turnouts, since historically November elections have the highest turnouts. However, not all races can fit on one ballot, therefore more than one ballot may be needed.

In response to a previous version, officials from the **Kansas City Board of Elections** assumed if this legislation were to become law, the November ballot would be a multipage document. Ballot printing costs would increase by \$50,000 and postage by \$15,000. Judges would need to be trained costing \$35,000 (1000 judges times \$35). Legal Notices would increase by \$30,000 due to the larger size. Public notices would need to be placed in all the newspapers in the jurisdiction twice for \$60,000 (\$30,000 times 2).

In response to a similar proposal HCS for HB 1424 (2018), officials from **Buchanan County** assumed, having the school districts run their elections in November, would help alleviate election costs on the county level, but assumed small entities, like fire, water, ambulance districts, the trustee members of villages, etc. would not be able to afford an April election alone without a larger entity there to help divvy up the costs.

**Oversight** assumes, beginning in 2023 (FY 2023), this proposal requires school board elections to be held during the November election of even-number years instead of annual April municipal elections.

Oversight assumes this proposal would result in savings to school districts as this would reduce the number of school board elections. Oversight assumes no school board election shall be held in April 2023 (FY 2023); therefore, Oversight will show an unknown savings occurring in FY 2023.

Oversight notes due to the proposal shifting the elections from April to November and limiting the elections to even numbered calendar years, school board elections costs will only be incurred in odd numbered fiscal years; therefore, the savings generated from elections will occur in even numbered fiscal years. For example, no longer holding the April 2024 school board election will result in savings occurring in FY 2024 as there is no offsetting cost occurring in even numbered fiscal years. Instead the elections will occur in November 2024 (FY 2025) and will be offset by the savings generated from the school board election that would otherwise have been held in April 2024 (FY 2024). Oversight will show an unknown savings beginning in April 2024 (FY 2024) and recurring in even numbered fiscal years.

Oversight notes, as indicated by some of the election authorities, the cost of the November elections could increase in part due to an increase in the number of ballot issues and ballot pages. Oversight will show a potential unknown cost beginning in November 2024 (FY 2025) and recurring in even numbered calendar years (odd numbered fiscal years).

Oversight assumes some local political subdivisions may face increased costs beginning in the April 2023 election (FY 2023) as school districts would no longer share in the proportional cost. Oversight will show a potential unknown cost to some local political subdivisions beginning in FY 2023 and recurring annually for each municipal election held.

Beginning in November of 2024 (FY 2025), Oversight assumes some local political subdivisions may see proportional cost savings as school districts would now share in the cost of the November elections occurring on even numbered calendar years (odd numbered fiscal years). Oversight will show a potential unknown savings to some local political subdivisions beginning in FY 2025 and recurring in odd numbered fiscal years.

#### Sections 167.029 - Face Coverings

**Oversight** does not anticipate a fiscal impact to school districts or charter schools for this provision.

#### Section 167.181 - COVID-19 Immunization & Testing

**Oversight** does not anticipate a fiscal impact to school districts or charter schools for this provision.

#### Section 167.780 - Interscholastic and Intramural Sports

**Oversight** notes transgender student participation in interscholastic sports is regulated by school districts and the Missouri State High School Activities Association (MSHSAA). Per the by-laws of the [MSHSAA](#):

- transgender students undergoing hormonal treatment for gender transition (male to female) may compete on women's teams after completing one calendar year of testosterone suppression treatment.
- transgender students who have commenced treatment with testosterone for gender transition (female to male) are no longer eligible to compete on women's teams.

**Oversight** assumes this proposal requires school districts to assign teams based on the biological sex assigned at birth and prohibits students of the male sex as assigned at birth from competing on teams designated for females.

**Oversight** assumes this proposal could result in additional costs for school districts as it creates a cause of action for students to seek injunctive relief, damages and other relief for violations of these provisions.

In addition, **Oversight** assumes this proposal could result in income as it creates a cause of action for schools that suffer harm as a result of a violation of these provisions.

Responses regarding the proposed legislation as a whole

Officials from the **Department of Health and Senior Services, Office of Administration** and the **Missouri Office of Prosecution Services** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from **Office of the State Courts Administrator (OSCA)** state there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

**Oversight** assumes OSCA is provided with core funding to handle a certain amount of activity each year. Oversight assumes OSCA could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OSCA could request funding through the appropriation process.

Officials from the **Attorney General's Office** did not respond to **Oversight's** request for fiscal impact for this proposal.

**Oversight** did not received any responses from school districts related to the fiscal impact of this proposal. Oversight has presented this fiscal note on the best current information available. Upon the receipt of additional responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

**Oversight** only reflects the responses received from state agencies and political subdivisions; however, school districts were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding

for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (6 Mo.)	FY 2024	FY 2025
<b>GENERAL REVENUE</b>			
<u>Costs</u> - DESE - Public Education Transparency Act - §160.3110 to §160.3118 p. 3			
Personnel Service	\$0	(\$83,560)	(\$101,275)
Fringe Benefits	\$0	(\$51,326)	(\$61,955)
Expense & Equipment	\$0	(\$31,716)	(\$16,574)
<u>Total Costs</u> - DESE	\$0	(\$166,602)	(\$179,804)
FTE Change	0	2 FTE	2 FTE
<u>Cost</u> – SOS - School Board Elections - increase in proportional cost for ballot issues for November Elections p. 3 - 6	\$0 to (Unknown)	\$0	\$0 to (Unknown)
<u>Savings</u> – SOS - School Board Elections - school districts required to share in proportional cost for November election p. 3 - 6	<u>Unknown</u>	<u>\$0</u>	<u>Unknown</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b>(Unknown) to <u>Unknown</u></b>	<b>(\$166.602)</b>	<b>(Unknown, Could exceed \$179,804) to <u>Unknown</u></b>
Estimated Net FTE Change on General Revenue	0 FTE	2 FTE	2 FTE



<u>FISCAL IMPACT – Local Government</u>	FY 2023 (6 Mo.)	FY 2024	FY 2025
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Costs</u> - to implement the requirements of the Public Education Transparency Act - §160.3110 to §160.3118	\$0	(Unknown)	(Unknown)
<u>Cost</u> - School Board Elections - increase in proportional cost for April election to locals other than schools	(Unknown)	(Unknown)	(Unknown)
<u>Cost</u> - School Board Elections - increase in ballot issues for November Elections	\$0 to (Unknown)	\$0	\$0 to (Unknown)
<u>Savings</u> - School Board Elections - decrease in proportional cost for November election to locals including school districts	\$0 to Unknown	\$0	\$0 to Unknown
<u>Savings</u> - School Board Elections - reduced election costs for school districts (annual to biennial)	Unknown	Unknown	Unknown
<u>Costs</u> - legal costs, costs for damages and other relief - §167.780	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Income</u> - relief for harmful caused by violations - §167.780	\$0 or <u>Unknown</u>	\$0 or <u>Unknown</u>	\$0 or <u>Unknown</u>
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b>(Unknown) to <u>Unknown</u></b>	<b>(Unknown) to <u>Unknown</u></b>	<b>(Unknown) to <u>Unknown</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 modifies and creates various provisions relating to elementary and secondary education.

## PUBLIC EDUCATION TRANSPARENCY ACT

This act establishes the "Public Education Transparency Act." Under the act, all professional development materials sponsored by the Department of Elementary and Secondary Education shall be posted on the Department's website prior to use. The Department shall not contract with any vendor for proprietary materials that cannot be viewed by the public.

The State Board of Education shall draft standards for the Missouri School Improvement Program that evaluate local school board compliance with certain provisions regarding instructional materials as provided in the act. The Department and every school shall post on their websites certain statements regarding the curricula and instructional materials used and the professional development and training materials used by the Department or school. Such websites shall also detail procedures for parents to opt students out of formal and informal instruction. Such information shall remain displayed on the website for at least two years. Failure to comply with this provision regarding posting of information on the website shall result in a fine of \$1,000 per day.

Each school district and charter school shall make available to the public on the district or school website certain financial information regarding the district's or school's budgets, expenditures, vendors, and contracts.

The State Board of Education shall require that all academic standards used to design, implement, assess, and evaluate instruction in public schools reflect a non-indoctrination principle, prohibiting imposition of any orthodoxy of a political, religious, or ideological nature. No school shall direct or compel students to personally affirm, adopt, or adhere to statements that ascribe character traits, values, moral or ethical codes, privileges, or beliefs to a race or sex, or to an individual because of the individual's race, sex, ethnicity, religion, color, or national origin. Teachers are not permitted to require a student to engage in political activism as part of the grade for a class. No school shall compel a teacher, administrator, or student to adhere to any belief that violates their freedom of conscience or engage in any activity that violates their freedom of speech.

The State Board of Education shall adopt a Missouri School Improvement Program standard that evaluates school districts for compliance with the Equal Protection Clause of the 14th Amendment to the U.S. Constitution and federal civil rights laws regarding employment.

Placement of students in special education settings shall be done in accordance with federal law and without reference to that student's membership in a group identified by sex, race, ethnicity, religion, skin color, or national origin.

The act sets forth judicial remedies for any violations of this act that may be brought by parents or the Attorney General. (Section 160.3100 to 160.3118).

Sections 160.3100 to 160.3118 contain a severability clause.

Sections 160.3100 to 160.3118 have a delayed effective date of August 28, 2023.

## SCHOOL BOARD ELECTIONS

Currently, school board elections are held at specified election dates as determined by the designation and location of school districts. Beginning in 2024, this act requires school board elections for seven-director school districts, urban school districts, and school districts with subdistricts to be held during the November general election. For all existing school boards not holding an initial election the terms will be staggered and four years in length, as specified in the bill. Any member whose term ends in 2021 or any other odd-number year will serve until the election in the following even-numbered year. (Sections 162.082 to 162.910).

## MANDATORY FACE MASKS OR COVERINGS

No public or charter school shall implement or enforce any student dress requirements that include a mask or face covering mandate. No student shall be required, as a condition of school attendance or participation in school-sponsored extracurricular activities, to wear a mask or face covering. (Section 167.029).

## MANDATORY COVID VACCINE IN SCHOOLS

No student shall be required, as a condition of school attendance or participation in school-sponsored activities, to be immunized against COVID-19. No student shall be required to alternatively undergo COVID-19 diagnostic testing, provided that nothing in this provision shall preclude a school from requiring a student who has been in close contact with a source of COVID-19 to be tested as a condition of attending school or extracurricular activities. (Section 167.181).

## SINGLE-SEX ATHLETICS IN MIDDLE AND HIGH SCHOOLS

Under this act, middle school and high school sports teams which compete against public middle schools and high schools shall be expressly designated as male, female, or coeducational using terms provided in the act.

No athletic team or sport designated for females, women, or girls shall be open to students of the male sex, as assigned at birth.

No governmental entity, licensing or accrediting organization, or athletic association or organization shall take any adverse action, as described in the act, against a school for maintaining separate interscholastic or intramural athletic teams or sports for students of the female sex.

This act establishes a private cause of action for students deprived of an athletic opportunity or who suffers direct or indirect harm as a result of a violation of this act, students subject to

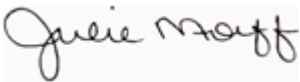
retaliation or other adverse action by a school or athletic association or organization as a result of certain reports of violations of this act, and schools that suffer a direct or indirect harm as a result of a violation of this act. Such civil action may be brought within two years after the harm has occurred. Prevailing plaintiffs shall be awarded monetary damages, reasonable attorneys' fees and costs, and any other relief considered appropriate by the court.

Sections 162.082, 162.083, 162.221, 162.223, 162.241, 162.261, 162.291, 162.301, 162.341, 162.431, 162.459, 162.471, 162.481 162.492, 162.601, 162.821 162.825, 162.865 162.867, and 162.910 have a delayed effective date of January 1, 2023.

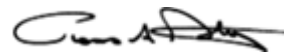
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

#### SOURCES OF INFORMATION

Department of Elementary and Secondary Education  
Department of Health and Senior Services  
Office of Administration  
Missouri Office of Prosecution Services  
Office of the State Courts Administrator  
Office of the Secretary of State  
Joint Committee on Administrative Rules  
Platte County Board of Elections  
St. Louis County Board of Elections  
Kansas City Board of Elections  
Buchanan County  
Jackson County Board of Elections



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March 28, 2022



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