

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1064S.06C
 Bill No.: SCS for SB Nos. 4, 42, & 89
 Subject: Department of Elementary and Secondary Education; Education, Elementary and Secondary; Teachers;
 Type: Original
 Date: January 30, 2023

Bill Summary: This proposal modifies provisions regarding transparency in public schools and creates the Parents' Bill of Rights Act of 2023.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue*/**	(Unknown, Less than \$40,109,070 to Could exceed \$216,317,400)	(Unknown, Less than \$11,725,874 to Could exceed \$11,935,387)	(Unknown, Less than \$11,752,658 to Could exceed \$11,965,737)
Total Estimated Net Effect on General Revenue	(Unknown, Less than \$40,109,070 to Could exceed \$216,317,400)	(Unknown, Less than \$11,725,874 to Could exceed \$11,935,387)	(Unknown, Less than \$11,752,658 to Could exceed \$11,965,737)

*Oversight notes, if a school district fails to comply with this proposal, DESE is to withhold a proportion of the state aid payments to the district. Oversight is uncertain how many school districts would be non-compliant; therefore, Oversight assumes the net impact to General Revenue could be less than the costs estimated for other provisions in this proposal.

**The large potential fiscal impact in FY 2024 stems mostly from a possible large percentage of ALL teachers earning the \$3,000 bonus for completing the patriotic and civics training program

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue	5 FTE up to 7 FTE	5 FTE up to 7 FTE	5 FTE up to 7 FTE
Total Estimated Net Effect on FTE	5 FTE up to 7 FTE	5 FTE up to 7 FTE	5 FTE up to 7 FTE

- 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.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	(Unknown, Could be substantial)	(Unknown, Could be substantial)	(Unknown, Could be substantial)

FISCAL ANALYSIS

ASSUMPTION

Section 160.516 - Curriculum Review

Oversight assumes there could be costs for school districts to collect and display five years of proficiency data on the district's website.

Oversight will show an unknown cost to school districts/school boards to implement this provision.

Section 161.841 - Parents' Bill of Rights Act

Oversight did not receive any responses from school districts related to the fiscal impact of this proposal.

Oversight assumes there could be costs for staff time to meet requests for information on curriculum, instructional material, contracts and funding. Additionally, Oversight assumes there could be training costs and administrative costs related to notifications and printing. Oversight is uncertain if these costs could be absorbed by school districts. Therefore, Oversight will show a range of impact of \$0 (no additional costs or costs can be absorbed) to unknown costs.

Section 161.852 - Transparency and Accountability Portal

Officials from **Department of Elementary and Secondary Education (DESE)** state this section requires the DESE to create the "Missouri Education Transparency and Accountability Portal", an internet-based tool to be a searchable database of every public-school district's curriculum, source materials, and professional development materials.

DESE assumes that curriculum and source materials would include, but not be limited to, textbooks, lectures, readings, multimedia components, and other resources used in a class. The collection, categorization, organization, and display of this information would require significant investment in the programming, storage, and maintenance of the portal. DESE will need to stand up an entirely new platform and dedicate full time employee support for the day-to-day operations of the portal. An entirely new section, as described below, would be responsible for a majority of these duties. For the purposes of this fiscal note the Department will use the Food and Nutrition Services section as a model for the new section as DESE believes it would be similarly constructed.

Department of Elementary and Secondary Education Transparency and Accountability Portal

One (1) Coordinator of Transparency and Accountability - \$62,232
One (1) Data Systems Administrator - \$62,232
One (1) up to Two (2) Directors of Transparency and Accountability - up to \$85,480
One (1) up to two (2) Transparency and Accountability Analyst - up to \$67,080
One (1) Administrative Assistant - \$27,960

This section also requires DESE to maintain a database of all administrator, teacher, and staff professional development and instructional programs offered to schools that are paid for with state funds, whether offered directly by DESE, another state agency, or by a third-party contractor. All programs must also be open to the public and recorded and accessible to the public free of charge. Adult Education Providers at the local level: “collection and publish of all PD materials, bios of speakers, assessment results, biometric data, instructional materials will cause a burden to service providers, these materials change frequently; programs may request more grant funding to cover staff costs required to maintain this information.”

OA-ITSD costs are included to develop, program, and maintain a statewide database that would house the information required to be included in this database. DESE has budgeted the full amount in year one, however costs may carry over into FY 2025 depending upon scheduling of the project.

Officials from the **Office of Administration – Information Technology** state it is assumed that every new IT project/system will be bid out because all ITSD resources are at full capacity. This project would have to be prioritized by DESE to be worked among DESE's other projects. ITSD assumes this would require a new application/portal, Missouri Education Transparency and Accountability Portal. The data fed into this system would be from districts, and must have processes in place for collection/reporting. While the proposal does state a few interfaces in this new portal, there's potentially a lot of data needed to be in the portal for viewing that is not gathered today in Annual Performance Reports (APRs) and such existing data collection processes. ITSD estimates the project would take 27,000 hours at a contract rate of \$95 for a total cost of \$2,565,000 in FY 2024 with on-going support costs of \$525,825 in FY 2025 and \$538,971 in FY 2026.

Modifications to MOSIS would also be required. ITSD estimates the project would take 10,800 hours at a contract rate of \$95 for a total cost of \$1,026,000 in FY 2024 with on-going support costs of \$210,330 in FY 2025 and \$215,588 in FY 2026.

Oversight notes the combined IT costs for one new application development and modifications to MOSIS are estimated at \$3,591,000 in FY 2024 with on-going support costs of \$736,155 in FY 2025 and \$754,559 in FY 2026.

In response to the previous version, officials from **Parkway C-2 School District**, stated they estimate adding an additional 2 FTE employees (finance department analysts) to collect information, upload and update the Accountability Portal. This cost is estimated at \$150,000 annually.

Oversight notes if 10% of school districts needed to hire a secretary or administrative assistant, the cost is estimated at \$1,872,000 (52 districts X an average salary of \$36,000 per MERIC-OEWS Data). Oversight will show an unknown cost that could be substantial for school districts to implement this provision.

Section 170.355 - Discussion of Certain Concepts and Beliefs in Public School

Officials from **DESE** state subsections 11 and 12 of section 170.355 require the State Board of Education to conduct an adversarial hearing.

Based on this proposed language, the Office of Governmental Affairs estimates costs of less than \$100,000. These costs which will be dependent on the number of hearings and appeals the State Board receives. DESE has estimated 10 hearings per year. Costs are including but are not limited to hearing officer time for hearing and drafting recommendations for the State Board; administrative assistant time to schedule hearings, provide notice to parties and any settlement negotiations; and court reporter costs.

- For cost explanation purposes, the average cost for a teacher discipline hearing is \$566.55/hearing:
- Average of 3 hours of hearing officer time x average of \$58.08/hour
- Average of 7 hours administrative assistant time x \$31.08/hour
- Average of \$174.75 in court reporter costs/hearing.

For a total cost of \$5,666 per year.

In response to the previous version, officials from the **Office of the State Treasurer** and the **Office of Administration - Administrative Hearing Commission** each assumed the proposal would 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.

Oversight notes the total foundation formula payments for school districts is estimated at \$3,561,737,794 for FY 2024 per the DESE Budget Request for FY 2024.

Oversight notes, if a school is in violation of this section, DESE is to withhold a percentage of the school district's state aid. Oversight will show a potential loss to school districts who fail to comply and a gain in revenue for General Revenue. Oversight is uncertain how many school districts would be non-compliant but notes a proportion of many school districts' state aid could exceed the \$250,000 threshold.

Oversight assumes there could be costs for school districts for staff training or curriculum and compliance with the other requirements of this proposal.

In addition, **Oversight** assumes, if the state board of education agrees that a violation of this section has occurred, the parent shall have an amount equal to the state adequacy target (\$6,375) deposited into an account established under section 166.400 to 166.456 (MOST 529) to be paid by the school district in which the teacher is employed. Oversight will show a potential loss to school districts that are required to pay into a MOST 529 account.

Section 170.370 - Patriotic and Civics Training Program for Teachers

Officials from **DESE** state providing teachers who participate in the Patriotic and Civics Training Program a payment at \$3,000 per teacher would cost a minimum of \$210,000,000 (70,000 teachers x \$3,000). The bill language does not specify what grades/teachers would be included in this training. DESE assumes that all teachers grade K-12 would be eligible with a total of approximately 70,000 teachers. DESE assumes that not all teachers would participate in year one and new teachers would be eligible as well, so have broken the cost down to 23,334 teachers per year for an annual cost of \$70,002,000.

Oversight assumes this proposal offers a one-time bonus of \$3,000 for teachers to participate in the program. Oversight notes the following costs based on differing levels of participation:

Percentage of Participation	Number of Participants	Costs
1% of Teacher's Participation	720	\$2,160,000
5% of Teacher's Participation	3,599	\$10,797,000
10% of Teacher's Participation	7,198	\$21,594,000

Oversight notes there are 2,393 school buildings in Missouri. Oversight assumes if there were 5 teachers per building that may teach civics or be allowed to apply for the training, the estimated cost would be \$35,895,000 ($2,393 * 5 = 11,965$; $11,965 * \$3,000 = \$35,895,000$).

Oversight is uncertain how many teachers would participate on an annual on-going basis but assumes the participation level could be high given the financial incentive (and not being restricted to teachers of certain topics). Oversight will show a range of impact of \$35,895,000 (5 teachers per school building) to the estimate provided by DESE of \$215,943,000 (total teacher population) in the first year and a cost that could exceed \$10,500,000 for new teachers entering the field in future years. Oversight assumes the cost could exceed the estimate provided by DESE if the bonus is available to private school teachers.

Officials from **DESE** state the Office of Administration – Information Technology (ITSD) assumed a new application or existing application modification will be required, as something will be needed to track the data the bill requires - training, payments, etc. ITSD estimated the project would take 2,646.00 hours at a contract rate of \$95 for a total cost of \$251,370 with on-going support costs.

Oversight will show the IT costs as estimated by DESE-ITSD.

Rule Promulgation

In response to the previous version, officials from the **Joint Committee on Administrative Rules** assumed this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

In response to the previous version, officials from the **Office of the Secretary of State (SOS)** noted 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.

Proposed Legislation as a Whole

Oversight received a limited number of 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, other 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.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE FUND			
<u>Costs - DESE - §161.852 - Transparency and Accountability Portal</u>			
Personnel Service	(\$203,300 or up to \$279,580)	(\$248,839 or up to \$342,206)	(\$253,816 or up to \$349,050)
Fringe Benefits	(\$140,996 or up to \$195,509)	(\$171,021 or up to \$237,121)	(\$172,883 or up to \$239,682)
Expense & Equipment	(\$21,738 or up to \$101,275)	(\$12,662 or up to \$62,708)	(\$12,916 or up to \$63,962)
<u>Total Costs – DESE</u>	(\$366,034 or up to \$576,364)	(\$432,522 or up to \$642,035)	(\$439,614 or up to \$652,693)
FTE Change	5 FTE up to 7 FTE	5 FTE up to 7 FTE	5 FTE up to 7 FTE
<u>Costs - DESE/ITSD - transparency and accountability portal - §161.852</u>	(\$3,591,000)	(\$736,155)	(\$754,559)
<u>Costs - DESE - to track complaints and hold contested case hearings - §170.355</u>	(\$5,666)	(\$5,666)	(\$5,666)
<u>Revenue Gain - DESE - from funding withheld from school districts and charter schools for non-compliance - §170.355</u>	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Costs - DESE - one-time bonus paid to teachers for completing the training §170.370</u>	(Unknown, \$35,895,000 to Could exceed \$211,893,000)	(Unknown, Could exceed \$10,500,000)	(Unknown, Could exceed \$10,500,000)
<u>Costs - DESE/ITSD costs to develop and maintain a tracking system for the training program - §170.370</u>	(\$251,370)	(\$51,531)	(\$52,819)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(Unknown, Less than \$40,109,070 to Could exceed \$216,317,400)	(Unknown, Less than \$11,725,874 to Could exceed \$11,935,387)	(Unknown, Less than \$11,752,658 to Could exceed \$11,965,737)
Estimated Net FTE Change to the General Revenue Fund	5 FTE up to 7 FTE	5 FTE up to 7 FTE	5 FTE up to 7 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
PUBLIC SCHOOLS			
<u>Costs</u> - School Districts - for the collection and display of proficiency data - §160.516	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Costs</u> - to adopt policies/administrative costs related to parents’ rights - §161.841	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Costs</u> - costs collect information and update the transparency portal - §161.852	(Unknown, Could be substantial)	(Unknown, Could be substantial)	(Unknown, Could be substantial)
<u>Loss</u> - funding withheld for non-compliance §170.355	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Costs</u> - for staff training or curriculum related to certain concepts or beliefs - §170.355	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Costs</u> - School Districts - payments to MOST 529 accounts for violations §170.355	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON PUBLIC SCHOOLS	(Unknown, Could be substantial)	(Unknown, Could be substantial)	(Unknown, Could be substantial)

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This act creates and modifies provisions regarding transparency in elementary and secondary education.

CURRICULUM (Section 160.516)

The act provides that each local school board and charter school governing board shall be required to approve and adopt the curriculum at least two months prior to implementation. Each school board and charter school governing board shall adopt policies to ensure that the approved and adopted curricula are properly implemented in the classroom.

At least five years of data showing percentages of students by grade level, subject, and percentage of students at or above grade level based on state assessment scores shall be posted in the same section as the curricula on the district's or charter school's website and the newly created Missouri Education Transparency and Accountability Portal.

PARENTS' BILL OF RIGHTS ACT OF 2023 (Section 161.841)

This act creates the "Parents' Bill of Rights Act of 2023", which shall be construed to empower parents to enforce rights, as delineated in the act, to access records maintained by schools in which their children are enrolled. No school shall require nondisclosure agreements for a parent's review of curricula, and each school shall allow parents, upon request, to make a copy of curriculum documents or to receive such documents in an electronic format, provided that no request would cause an infringement of copyright protections under the federal Copyright Act of 1976 (17 U.S.C. 101, et seq.), as amended. Where the curricular materials being made available to parents for review are subject to copyright, trademark, or other intellectual property protection, the review process shall include technical and procedural safeguards to ensure that the materials are not able to be widely disseminated to the general public in violation of the intellectual property rights of the publisher and that content validity is not undermined. No school shall collect any biometric data of a minor child without obtaining parental consent, except for biometric data necessary to create and issue appropriate school identification cards. Finally, each school shall notify parents of all reported incidents directly pertaining to their student's safety that result in any criminal charge against a teacher, school employee, or any visitor or guest.

MISSOURI EDUCATION TRANSPARENCY AND ACCOUNTABILITY PORTAL (Section 161.852)

The Commissioner of Education shall establish the Missouri Education Transparency and Accountability Portal to provide citizens with access to every school district's curriculum, textbooks, source materials, and syllabi as provided in the act. The portal shall include the cost associated with speakers and guests used by a school in their professional development activities. The portal shall include names of presenters and distributed materials from all administrator, teacher, and staff professional development and instructional programs offered to public schools, and shall be fully transparent and available to parents of students enrolled at such schools. The portal shall include information about school board members and their terms of office. The portal shall also include an easy-to-search database of certain public school financial transactions. Finally, for programs offered to schools by third-party contractors, the Department of

Elementary and Secondary Education shall maintain data on such programs as described in the act.

DISCUSSION OF CERTAIN CONCEPT AND BELIEFS IN PUBLIC SCHOOLS (Section 170.355)

No school or school employee shall compel teachers to teach, or a student or teacher to personally adopt, adhere to, or profess a position or viewpoint a reasonable person would conclude violates certain public policy expressed in the act including but not limited to: that individuals of any race, ethnicity, color, or national origin are inherently superior or inferior and that individuals, by virtue of their race, ethnicity, color, or national origin, bear collective guilt and are inherently responsible for actions committed in the past by others.

Courses on critical race theory or units of study on critical race theory within a course shall not be offered by any public elementary or secondary school or by any preschool, early childhood education program, or pre-kindergarten program offered by a public school district or charter school.

No school district, public school, or charter school may require a student or employee to attend or participate in a certain training, instruction, or therapy that a reasonable person believes promotes such beliefs or concepts.

This act shall not be construed to prohibit constitutionally protected speech, access to research or study materials, or the discussion or assignment of materials for educational purposes.

Any employee of a school district that discloses a violation of this provision shall be protected from any manner of retaliation as provided by current law.

If a parent learns that a teacher is in violation of the act, and such violation is occurring throughout the school district, the parent may file a complaint with the Department, which shall send the complaint to the State Board of Education. The Board shall hold a contested case hearing between the parent and the school district within 30 days of receiving such complaint. Upon a determination by the Board that a violation is occurring, a penalty as stated in the act shall apply.

If a public school or public charter school knowingly violates any provision of this section, or if an employee of a public school or public charter school knowingly violates any provision of this section, the public school or public charter school where such violation occurred shall be liable to the injured party in an action at law, suit in equity, or other proper proceeding for redress, and subject to a civil penalty of five hundred dollars per occurrence. Any person injured under this section shall have standing to pursue an action in the circuit court of Cole County. The court shall hold a hearing on the motion for temporary restraining order and preliminary injunction within thirty days of service of the petition. In such action, the court may award the pursuing

party, other than the state of Missouri or any political subdivision of the state, reasonable attorney fees and costs.

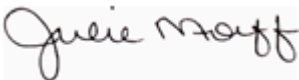
PATRIOTIC AND CIVICS TRAINING PROGRAM (Section 170.370)

The Department of Elementary and Secondary Education shall develop a patriotic and civics training program to prepare teachers to teach the principles of American civics and patriotism. Subject to appropriation, each teacher that completes the training shall receive a one-time bonus of three thousand dollars to be paid by the Department.

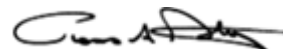
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Elementary and Secondary Education
Office of Administration
 Information Technology
 Administrative Hearing Commission
Office of the State Treasurer
Office of the Secretary of State
Joint Committee on Administrative Rules
Parkway C-2 School District



Julie Morff
Director
January 30, 2023



Ross Strobe
Assistant Director
January 30, 2023