

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1040
92ND GENERAL ASSEMBLY

Reported from the Committee on Education, January 5, 2004, with recommendation that the House Committee Substitute for House Bill No. 1040 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

3701L.02C

AN ACT

To repeal sections 160.518, 160.570, 162.261, 171.031, and 210.145, RSMo, and to enact in lieu thereof seven new sections relating to education accountability, with an emergency clause for a certain section.

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

Section A. Sections 160.518, 160.570, 162.261, 171.031, and 210.145, RSMo, are
2 repealed and seven new sections enacted in lieu thereof, to be known as sections 160.518,
3 160.570, 161.089, 161.209, 162.261, 171.031, and 210.145, to read as follows:

160.518. 1. Consistent with the provisions contained in section 160.526, the state board
2 of education shall develop a statewide assessment system that provides maximum flexibility for
3 local school districts to determine the degree to which students in the public schools of the state
4 are proficient in the knowledge, skills, and competencies adopted by such board pursuant to
5 subsection 1 of section 160.514. The statewide assessment system shall assess problem solving,
6 analytical ability, evaluation, creativity, and application ability in the different content areas and
7 shall be performance-based to identify what students know, as well as what they are able to do,
8 and shall enable teachers to evaluate actual academic performance. The assessment system shall
9 neither promote nor prohibit rote memorization and shall not include existing versions of tests
10 approved for use pursuant to the provisions of section 160.257, nor enhanced versions of such
11 tests. The statewide assessment shall measure, where appropriate by grade level, a student's
12 knowledge of academic subjects including, but not limited to, reading skills, writing skills,
13 mathematics skills, world and American history, forms of government, geography and science.

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

14 2. The assessment system shall only permit the academic performance of students in each
15 school in the state to be tracked against prior academic performance in the same school.

16 3. The state board of education shall suggest criteria for a school to demonstrate that its
17 students learn the knowledge, skills and competencies at exemplary levels worthy of imitation
18 by students in other schools in the state and nation. "Exemplary levels" shall be measured by the
19 assessment system developed pursuant to subsection 1 of this section, or until said assessment
20 is available, by indicators approved for such use by the state board of education. The provisions
21 of other law to the contrary notwithstanding, the commissioner of education may, upon request
22 of the school district, present a plan for the waiver of rules and regulations to any such school,
23 to be known as "Outstanding Schools Waivers", consistent with the provisions of subsection 4
24 of this section.

25 4. For any school that meets the criteria established by the state board of education for
26 three successive school years pursuant to the provisions of subsection 3 of this section, by
27 August first following the third such school year, the commissioner of education shall present
28 a plan to the superintendent of the school district in which such school is located for the waiver
29 of rules and regulations to promote flexibility in the operations of the school and to enhance and
30 encourage efficiency in the delivery of instructional services. The provisions of other law to the
31 contrary notwithstanding, the plan presented to the superintendent shall provide a summary
32 waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257, in the
33 school. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail
34 a means for the waiver of requirements otherwise imposed on the school related to the authority
35 of the state board of education to classify school districts pursuant to subdivision (9) of section
36 161.092, RSMo, and such other rules and regulations as determined by the commissioner of
37 education, excepting such waivers shall be confined to the school and not other schools in the
38 district unless such other schools meet the criteria established by the state board of education
39 consistent with subsection 3 of this section and the waivers shall not include the requirements
40 contained in this section and section 160.514. Any waiver provided to any school as outlined
41 in this subsection shall be void on June thirtieth of any school year in which the school fails to
42 meet the criteria established by the state board of education consistent with subsection 3 of this
43 section.

44 5. The score on any assessment test developed pursuant to this section or this chapter of
45 any student for whom English is a second language shall not be counted until such time as such
46 student has been educated for three full school years in a school in this state, or in any other state,
47 in which English is the primary language.

48 6. The state board of education shall identify or, if necessary, establish one or more
49 developmentally appropriate alternate assessments for students who receive special educational

50 services, as that term is defined pursuant to section 162.675, RSMo. In the development of such
51 alternate assessments, the state board shall establish an advisory panel consisting of a majority
52 of active special education teachers and other education professionals as appropriate to research
53 available assessment options. The advisory panel shall attempt to identify preexisting
54 developmentally appropriate alternate assessments but shall, if necessary, develop alternate
55 assessments and recommend one or more alternate assessments for adoption by the state board.
56 The state board shall consider the recommendations of the advisory council in establishing such
57 alternate assessment or assessments. Any student who receives special educational services, as
58 that term is defined pursuant to section 162.675, RSMo, shall be assessed by an alternate
59 assessment established pursuant to this subsection upon a determination by the student's
60 individualized education program team that such alternate assessment is more appropriate to
61 assess the student's knowledge, skills and competencies than the assessment developed pursuant
62 to subsection 1 of this section. The alternate assessment shall evaluate the student's independent
63 living skills, which include how effectively the student addresses common life demands and how
64 well the student meets standards for personal independence expected for someone in the student's
65 age group, sociocultural background, and community setting.

66 **7. Notwithstanding the provisions of subsections 1 to 6 of this section, no later than**
67 **June 30, 2006, the state board of education shall administer the following adjustments to**
68 **the statewide assessment system:**

69 **(1) Align the performance standards of the statewide assessment system so that**
70 **such indicators meet, but do not exceed, the performance standards of National Assessment**
71 **of Educational Progress (NAEP) exam;**

72 **(2) Institute yearly examination of students in the required subject areas where**
73 **compelled by federal standards; and**

74 **(3) Administer any other adjustments that the state board of education deems**
75 **necessary in order to aid the state in satisfying federal requirements, including, but not**
76 **limited to, the federal "No Child Left Behind Act".**

77 **8. By July 1, 2006, the state board of education shall examine its rules and**
78 **regulations and revise them to permit waivers of resource and process standards based**
79 **upon achievement of performance profiles consistent with accreditation status.**

160.570. 1. Nothing in this section or section 105.1209, RSMo, shall be construed to
2 affect or limit any state agency's authority regarding professional registration, licensing or
3 issuance of professional certificates, nor shall this section be construed to limit or affect the
4 authority of the state board of education to examine applicants and issue high school equivalency
5 certificates[; except that].

6 **2. The school board of each school district shall establish a written policy on student**

7 participation in statewide assessments. The policy shall be provided to each student and the
8 parent, guardian or other person responsible for every student under eighteen years of age at the
9 beginning of each school year and a copy of the policy shall be maintained in the district office
10 and shall be available for viewing by the public during business hours of the district office. [The
11 policy] **A school board** may establish a [system of rewards and punishments] **policy** designed
12 to encourage students to give their best efforts on each portion of any statewide assessment
13 established pursuant to section 160.518, RSMo, **which may include but is not limited to**
14 **incentives or supplementary work as a consequence of performance.**

15 **3.** In no case shall the state board of education or any other state agency establish any
16 single test or group of tests as a condition or requirement for high school graduation or as a
17 requirement for a state-approved diploma.

161.089. 1. The Missouri school improvement program or successor accreditation
2 **program shall not use a scoring rubric on performance that requires a score for Parents**
3 **as Teachers; except that, if on review deficiencies are noted, such deficiencies shall be listed**
4 **as an area of concern.**

5 **2. The scoring rubric for advanced placement courses in the Missouri school**
6 **improvement program or successor accreditation program shall recognize the difficulty**
7 **of providing such courses in districts that have a sparse population. The department of**
8 **elementary and secondary education shall develop such a rubric, taking into account**
9 **population density in districts and localized teacher shortages in academic specializations,**
10 **and differentially rewarding districts for accomplishing delivery of such courses through**
11 **electronic media under such circumstances.**

161.209. The department of elementary and secondary education has an affirmative
2 **duty to seek comment on its rules, regulations, and policies after their final approval or**
3 **implementation. The department shall undertake such review on existing rules,**
4 **regulations, and policies on an ad hoc, periodic basis with a priority given to such rules,**
5 **regulations, and policies that could successfully be revised without affecting student**
6 **achievement to accommodate periods when there is no increase in the appropriation for**
7 **basic state aid funding pursuant to section 163.031, RSMo, from one fiscal year to the next**
8 **or when withholdings of appropriated funds result in a situation equivalent to no increase**
9 **in such appropriation.**

162.261. 1. The government and control of a seven-director school district, other than
2 an urban district, is vested in a board of education of seven members, who hold their office for
3 three years, except as provided in section 162.241, and until their successors are duly elected and
4 qualified. Any vacancy occurring in the board shall be filled by the remaining members of the
5 board; except that if there are more than two vacancies at any one time, the county commission

6 upon receiving written notice of the vacancies shall fill the vacancies by appointment. The
7 person appointed shall hold office until the next municipal election, when a director shall be
8 elected for the unexpired term.

9 2. No seven-director, urban, or metropolitan school district board of education shall hire
10 a spouse of any member of such board for a vacant or newly created position unless the position
11 has been advertised pursuant to board policy and the superintendent of schools submits a written
12 recommendation for the employment of the spouse to the board of education. The names of all
13 applicants as well as the name of the applicant hired for the position are to be included in the
14 board minutes.

15 **3. The provisions of article VII, section 6 of the Missouri Constitution apply to**
16 **school districts.**

171.031. 1. Each school board shall prepare annually a calendar for the school term,
2 specifying the opening date and providing a minimum term of at least one hundred seventy-four
3 days and one thousand forty-four hours of actual pupil attendance.

4 2. No school day shall be longer than seven hours except for vocational schools which
5 may adopt an eight-hour day in a metropolitan school district and a school district in a first class
6 county adjacent to a city not within a county.

7 **3. School districts that serve the same student population, including but not limited**
8 **to districts that do not have high schools and districts in the same county or an adjacent**
9 **county that have high schools, shall make a good-faith effort to coordinate school calendars**
10 **so that school start and end dates and student holidays are consistent whenever possible.**
11 **Districts that coordinate their schedules shall be recognized each year by the commissioner**
12 **of education for setting an example of cooperative endeavor.**

210.145. 1. The division shall establish and maintain an information system operating
2 at all times, capable of receiving and maintaining reports. This information system shall have
3 the ability to receive reports over a single, statewide toll-free number. Such information system
4 shall maintain the results of all investigations, family assessments and services, and other
5 relevant information.

6 2. Upon receipt of a report, the division shall immediately communicate such report to
7 its appropriate local office and any relevant information as may be contained in the information
8 system. The local division staff shall determine, through the use of protocols developed by the
9 division, whether an investigation or the family assessment and services approach should be used
10 to respond to the allegation. The protocols developed by the division shall give priority to
11 ensuring the well-being and safety of the child.

12 3. The local office shall contact the appropriate law enforcement agency immediately
13 upon receipt of a report which division personnel determine merits an investigation, or, which,

14 if true, would constitute a suspected violation of any of the following: section 565.020, 565.021,
15 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age,
16 section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or
17 other crime under chapter 566, RSMo, if the victim is a child less than eighteen years of age and
18 the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a
19 child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060,
20 568.080, or 568.090, RSMo, section 573.025, **573.035**, 573.037 or [573.045] **573.040**, RSMo,
21 or an attempt to commit any such crimes. The local office shall provide such agency with a
22 detailed description of the report received. In such cases the local division office shall request
23 the assistance of the local law enforcement agency in all aspects of the investigation of the
24 complaint. The appropriate law enforcement agency shall either assist the division in the
25 investigation or provide the division, within twenty-four hours, an explanation in writing
26 detailing the reasons why it is unable to assist.

27 4. The local office of the division shall cause an investigation or family assessment and
28 services approach to be initiated immediately or no later than within twenty-four hours of receipt
29 of the report from the division, except in cases where the sole basis for the report is educational
30 neglect. If the report indicates that educational neglect is the only complaint and there is no
31 suspicion of other neglect or abuse, the investigation shall be initiated within seventy-two hours
32 of receipt of the report. If the report indicates the child is in danger of serious physical harm or
33 threat to life, an investigation shall include direct observation of the subject child within
34 twenty-four hours of the receipt of the report. Local law enforcement shall take all necessary
35 steps to facilitate such direct observation. If the parents of the child are not the alleged abusers,
36 a parent of the child must be notified prior to the child being interviewed by the division. **If the**
37 **abuse is alleged to have occurred in a school or child care facility**, the division shall not meet
38 with the child [at the child's school or child-care facility] **in the same school building or child**
39 **care facility building where the abuse of such child is alleged to have occurred**. When the
40 child is reported absent from the residence, the location and the well-being of the child shall be
41 verified.

42 5. The director of the division shall name at least one chief investigator for each local
43 division office, who shall direct the division response on any case involving a second or
44 subsequent incident regarding the same subject child or perpetrator. The duties of a chief
45 investigator shall include verification of direct observation of the subject child by the division
46 and shall ensure information regarding the status of an investigation is provided to the public
47 school district liaison. The public school district liaison shall develop protocol in conjunction
48 with the chief investigator to ensure information regarding an investigation is shared with
49 appropriate school personnel. The superintendent of each school district shall designate a

50 specific person or persons to act as the public school district liaison. Should the subject child
51 attend a nonpublic school the chief investigator shall notify the school principal of the
52 investigation. Upon notification of an investigation, all information received by the public
53 school district liaison or the school shall be subject to the provisions of the federal Family
54 Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34
55 C.F.R., Part 99.

56 6. The investigation shall include but not be limited to the nature, extent, and cause of
57 the abuse or neglect; the identity and age of the person responsible for the abuse or neglect; the
58 names and conditions of other children in the home, if any; the home environment and the
59 relationship of the subject child to the parents or other persons responsible for the child's care;
60 any indication of incidents of physical violence against any other household or family member;
61 and other pertinent data.

62 7. When a report has been made by a person required to report under section 210.115,
63 the division shall contact the person who made such report within forty-eight hours of the receipt
64 of the report in order to ensure that full information has been received and to obtain any
65 additional information or medical records, or both, that may be pertinent.

66 8. Upon completion of the investigation, if the division suspects that the report was made
67 maliciously or for the purpose of harassment, the division shall refer the report and any evidence
68 of malice or harassment to the local prosecuting or circuit attorney.

69 9. Multidisciplinary teams shall be used whenever conducting the investigation as
70 determined by the division in conjunction with local law enforcement. Multidisciplinary teams
71 shall be used in providing protective or preventive social services, including the services of law
72 enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and
73 other agencies, both public and private.

74 10. If the appropriate local division personnel determine after an investigation has begun
75 that completing an investigation is not appropriate, the division shall conduct a family
76 assessment and services approach. The division shall provide written notification to local law
77 enforcement prior to terminating any investigative process. The reason for the termination of
78 the investigative process shall be documented in the record of the division and the written
79 notification submitted to local law enforcement. Such notification shall not preclude nor prevent
80 any investigation by law enforcement.

81 11. If the appropriate local division personnel determines to use a family assessment and
82 services approach, the division shall:

83 (1) Assess any service needs of the family. The assessment of risk and service needs
84 shall be based on information gathered from the family and other sources;

85 (2) Provide services which are voluntary and time-limited unless it is determined by the

86 division based on the assessment of risk that there will be a high risk of abuse or neglect if the
87 family refuses to accept the services. The division shall identify services for families where it
88 is determined that the child is at high risk of future abuse or neglect. The division shall
89 thoroughly document in the record its attempt to provide voluntary services and the reasons these
90 services are important to reduce the risk of future abuse or neglect to the child. If the family
91 continues to refuse voluntary services or the child needs to be protected, the division may
92 commence an investigation;

93 (3) Commence an immediate investigation if at any time during the family assessment
94 and services approach the division determines that an investigation, as delineated in sections
95 210.109 to 210.183, is required. The division staff who have conducted the assessment may
96 remain involved in the provision of services to the child and family;

97 (4) Document at the time the case is closed, the outcome of the family assessment and
98 services approach, any service provided and the removal of risk to the child, if it existed.

99 12. Within thirty days of an oral report of abuse or neglect, the local office shall update
100 the information in the information system. The information system shall contain, at a minimum,
101 the determination made by the division as a result of the investigation, identifying information
102 on the subjects of the report, those responsible for the care of the subject child and other relevant
103 dispositional information. The division shall complete all investigations within thirty days,
104 unless good cause for the failure to complete the investigation is documented in the information
105 system. If the investigation is not completed within thirty days, the information system shall be
106 updated at regular intervals and upon the completion of the investigation. The information in
107 the information system shall be updated to reflect any subsequent findings, including any
108 changes to the findings based on an administrative or judicial hearing on the matter.

109 13. A person required to report under section 210.115 to the division shall be informed
110 by the division of his right to obtain information concerning the disposition of his or her report.
111 Such person shall receive, from the local office, if requested, information on the general
112 disposition of his or her report. A person required to report to the division pursuant to section
113 210.115 may receive, if requested, findings and information concerning the case. Such release
114 of information shall be at the discretion of the director based upon a review of the mandated
115 reporter's ability to assist in protecting the child or the potential harm to the child or other
116 children within the family. The local office shall respond to the request within forty-five days.
117 The findings shall be made available to the mandated reporter within five days of the outcome
118 of the investigation.

119 14. In any judicial proceeding involving the custody of a child the fact that a report may
120 have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However,
121 nothing in this subsection shall prohibit the introduction of evidence from independent sources

122 to support the allegations that may have caused a report to have been made.

123 15. In any judicial proceeding involving the custody of a child where the court
124 determines that the child is in need of services pursuant to subdivision (d) of subsection 1 of
125 section 211.031, RSMo, and has taken jurisdiction, the child's parent, guardian or custodian shall
126 not be entered into the registry.

127 16. The division of family services is hereby granted the authority to promulgate rules
128 and regulations pursuant to the provisions of section 207.021, RSMo, and chapter 536, RSMo,
129 to carry out the provisions of sections 210.109 to 210.183.

130 17. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
131 is created under the authority delegated in this section shall become effective only if it complies
132 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
133 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
134 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
135 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the
136 grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be
137 invalid and void.

 Section B. Because immediate action is necessary to adequately protect children being
2 interviewed by the state, the repeal and reenactment of section 210.145 of section A of this act
3 is deemed necessary for the immediate preservation of the public health, welfare, peace, and
4 safety, and is hereby declared to be an emergency act within the meaning of the constitution, and
5 the repeal and reenactment of section 210.145 of section A of this act shall be in full force and
6 effect upon its passage and approval.