

SECOND REGULAR SESSION

# HOUSE BILL NO. 1365

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE GANNON.

4226H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 160.570 and 161.096, RSMo, and to enact in lieu thereof four new sections relating to elementary and secondary education.

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

Section A. Sections 160.570 and 161.096, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 160.570, 160.571, 161.096, and 162.692, to read as follows:

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

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

**The policy shall comply with the requirements of section 160.571.**

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

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

**160.571. 1. This section shall be known and may be cited as the "Student Assessment Bill of Rights".**

**2. As used in this section, the following terms mean:**

**(1) "Adult student", a student of a public school or a public charter school who is eighteen years of age or older or who is emancipated;**

**(2) "Parent", a parent or legal guardian of a student of a public school or public charter school;**

**(3) "Statewide summative assessment", a standardized summative assessment that is identified by the department of elementary and secondary education for administration in all of the school districts and public charter schools of this state.**

**3. A parent or an adult student may annually choose to excuse the student from taking a statewide summative assessment by:**

**(1) Completing a form established by the department of elementary and secondary education as provided by subsection 4 of this section; and**

**(2) Submitting the completed form to the school district for the school that the student attends or the charter school that is a local educational agency that the student attends.**

**4. The department of elementary and secondary education shall establish a form to excuse a student from taking a statewide summative assessment. The form shall have at least the following:**

**(1) An explanation of the right of a parent or an adult student to excuse the student from taking a statewide summative assessment; and**

**(2) An explanation of the purpose and value of statewide summative assessments.**

**5. At the beginning of each school year, each school district and public charter school shall ensure that parents and adult students are provided with a notice about statewide summative assessments. The notice shall be established by the department of elementary and secondary education and shall include information about statewide summative assessments, the time frame when the statewide summative assessments will most likely be administered, and a student's or parent's right to excuse the student from taking the statewide summative assessments. The notice shall be provided during school hours to each student for the student to review or deliver to his or her parent, as appropriate.**

**6. (1) At least thirty days prior to the administration of statewide summative assessments, a school district or public charter school shall send to parents and adult students a notice about the statewide summative assessments. The notice shall be provided**

36 **during school hours to each student for the student to review or deliver to his or her**  
37 **parent, as appropriate. The notice shall include:**

38 **(a) The purpose of the assessments and how the results of the assessments will be**  
39 **used;**

40 **(b) The specific days the statewide summative assessments will be administered;**

41 **(c) The amount of class time required for the statewide summative assessments;**

42 **(d) The learning targets that make up the assessments;**

43 **(e) The difference between good and poor performances on the assessments;**

44 **(f) When results of the assessments will be available to students; and**

45 **(g) Access to the form established as provided under subsection 4 of this section.**

46 **(2) Notwithstanding subdivision (1) of this subsection, the department of**  
47 **elementary and secondary education may waive the notice requirement for a school district**  
48 **or public charter school if a human-created disaster or a natural disaster affects the ability**  
49 **of the school district or public charter school to administer the statewide summative**  
50 **assessments and the statewide summative assessments shall be provided at a later date.**

51 **7. School districts and public charter schools shall provide supervised study time**  
52 **for students excused from the statewide summative assessments as provided by this section.**  
53 **The study time shall be considered instructional time.**

54 **8. This section first applies to statewide summative assessments administered for**  
55 **the 2018-19 school year.**

161.096. 1. The state board of education shall promulgate a rule relating to student data  
2 accessibility, transparency, and accountability relating to the statewide longitudinal data system.  
3 This rule shall mandate that the department of elementary and secondary education do the  
4 following:

5 **(1) Create and make publicly available a data inventory and index of data elements with**  
6 **definitions of individual student data fields in the student data system to include, but not be**  
7 **limited to:**

8 **(a) Any personally identifiable student data required to be reported by state and federal**  
9 **education laws; and**

10 **(b) Any other individual student data which has been proposed for inclusion in the**  
11 **student data system with a statement regarding the purpose or reason for the proposed collection;**

12 **(2) Develop policies to comply with all relevant state and federal privacy laws and**  
13 **policies, including but not limited to the federal Family Educational Rights and Privacy Act**  
14 **(FERPA) and other relevant privacy laws and policies. These policies may be applied**  
15 **differently to students eighteen years of age or older.** These policies shall include, but not  
16 be limited to the following requirements:

17 (a) Access to personally identifiable student data in the statewide longitudinal data  
18 system shall be restricted to:

19 a. The authorized staff of the department of elementary and secondary education and the  
20 contractors working on behalf of the department who require such access to perform their  
21 assigned duties as required by law;

22 b. District administrators, teachers, and school personnel who require such access to  
23 perform their assigned duties;

24 c. Students and their parents for their own data; and

25 d. The authorized staff of other state agencies in this state as required by law and  
26 governed by interagency data sharing agreements;

27 (b) The department of elementary and secondary education shall develop criteria for the  
28 approval of research and data requests from state and local agencies, researchers working on  
29 behalf of the department, and the public;

30 (3) Shall not, unless otherwise provided by law and authorized by policies adopted  
31 pursuant to this section, transfer personally identifiable student data;

32 (4) Develop a detailed data security plan that includes:

33 (a) Guidelines for authorizing access to the student data system and to individual student  
34 data including guidelines for authentication of authorized access;

35 (b) Privacy compliance standards;

36 (c) Privacy and security audits;

37 (d) Breach planning, notification and procedures;

38 (e) Data retention and disposition policies; and

39 (f) Data security policies including electronic, physical, and administrative safeguards,  
40 such as data encryption and training of employees;

41 (5) Ensure routine and ongoing compliance by the department of elementary and  
42 secondary education with FERPA, other relevant privacy laws and policies, and the privacy and  
43 security policies and procedures developed under the authority of this section, including the  
44 performance of compliance audits;

45 (6) Ensure that any contracts that govern databases, assessments, or instructional  
46 supports that include student or redacted data and are outsourced to private vendors include  
47 express provisions that safeguard privacy and security, including provisions that prohibit private  
48 vendors from selling student data or from using student data in furtherance of advertising, with  
49 penalties for noncompliance, except to a local service provider for the limited purpose authorized  
50 by the school or district whose access to student data, if any, is limited to "directory information"  
51 as that term is defined in the federal regulations implementing the federal Family Educational  
52 Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g; and

53 (7) Notify the governor, the president pro tempore of the senate, the speaker of the house  
54 of representatives, and the joint committee on education annually of the following:

55 (a) New student data proposed for inclusion in the state student data system; and

56 (b) Changes to existing data collections required for any reason, including changes to  
57 federal reporting requirements made by the U.S. Department of Education.

58 2. Quantifiable student performance data shall only include performance on locally  
59 developed or locally approved assessments, including but not limited to formative assessments  
60 developed by classroom teachers.

61 3. The department of elementary and secondary education shall not collect nor shall  
62 school districts report the following individual student data:

63 (1) Juvenile court delinquency records;

64 (2) Criminal records;

65 (3) Student biometric information;

66 (4) Student political affiliation; or

67 (5) Student religion.

68 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
69 under the authority delegated in this section shall become effective only if it complies with and  
70 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section  
71 and chapter 536 are nonseverable and if any of the powers vested with the general assembly  
72 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule  
73 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
74 proposed or adopted after August 28, 2014, shall be invalid and void.

75 5. Each violation of any provision of any rule promulgated pursuant to this section by  
76 an organization or entity other than a state agency, a school board, or an institution shall be  
77 punishable by a civil penalty of up to one thousand dollars. A second violation by the same  
78 organization or entity involving the education records and privacy of the same student shall be  
79 punishable by a civil penalty of up to five thousand dollars. Any subsequent violation by the  
80 same organization or entity involving the education records and privacy of the same student shall  
81 be punishable by a civil penalty of up to ten thousand dollars. Each violation involving a  
82 different individual education record or a different individual student shall be considered a  
83 separate violation for purposes of civil penalties.

84 6. The attorney general shall have the authority to enforce compliance with this section  
85 by investigation and subsequent commencement of a civil action, to seek civil penalties for  
86 violations of this section, and to seek appropriate injunctive relief, including but not limited to  
87 a prohibition on obtaining personally identifiable information for an appropriate time period.  
88 In carrying out such investigation and in maintaining such civil action, the attorney general or

89 any deputy or assistant attorney general is authorized to subpoena witnesses, compel their  
90 attendance, examine them under oath, and require that any books, records, documents, papers,  
91 or electronic records relevant to the inquiry be turned over for inspection, examination, or audit.  
92 Subpoenas issued under this subsection may be enforced pursuant to the Missouri rules of civil  
93 procedure.

**162.692. 1. There is hereby established the "Advisory Council on Special  
2 Education" within the department of elementary and secondary education.**

**3 2. The advisory council shall be composed of twelve members who shall be  
4 appointed by the governor or, if subsection 3 of this section applies, by the lieutenant  
5 governor:**

- 6 (1) An individual to serve as the chair of the advisory council;**
- 7 (2) A job coach;**
- 8 (3) A parent of a student who currently receives special educational services;**
- 9 (4) A parent of a high school graduate who received special educational services;**
- 10 (5) A math teacher who provides special educational services to students;**
- 11 (6) A reading teacher who provides special educational services to students;**
- 12 (7) A science teacher who provides special educational services to students;**
- 13 (8) A social studies teacher who provides special educational services to students;**
- 14 (9) A developmental therapist;**
- 15 (10) A representative from the department of elementary and secondary education;**
- 16 (11) An individual with experience in the field of vocational rehabilitation; and**
- 17 (12) A transition coordinator.**

**18 3. If the governor fails to appoint all twelve members within three months of the  
19 effective date of this section, the lieutenant governor shall make any appointments  
20 necessary to complete the selection of the advisory council.**

**21 4. (1) At least one member of the advisory council shall be a resident of a rural area  
22 of the state.**

**23 (2) At least one member of the advisory council shall be a resident of any city not  
24 within a county or any county with a charter form of government and with more than nine  
25 hundred fifty thousand inhabitants.**

**26 (3) At least one member of the advisory council shall be a resident of any county  
27 with a charter form of government and with more than six hundred thousand but fewer  
28 than seven hundred thousand inhabitants.**

**29 5. The advisory council may make all rules it deems necessary to enable it to  
30 conduct its meetings, elect its officers, and set the terms and duties of its officers. The  
31 advisory council may elect from among its members any officers it deems necessary; except**

32 that, the chair of the advisory council shall be selected by the governor or lieutenant  
33 governor at the time of appointment. Members of the advisory council shall serve without  
34 compensation but may be reimbursed for actual expenses necessary to the performance of  
35 their official duties for the advisory council.

36 6. The advisory council shall develop an alternate assessment, as described in  
37 subsection 6 of section 160.518, for high school students that it shall recommend for  
38 adoption by the state board of education. The state board shall consider the  
39 recommendation of the advisory council, as well as the recommendations by the advisory  
40 panel established under subsection 6 of section 160.518, in establishing any alternate  
41 assessment or assessments.

42 7. The advisory council shall develop alternate academic achievement standards  
43 for high school students with the most significant cognitive disabilities that it shall  
44 recommend for adoption by the state board of education. The standards shall focus on  
45 both academic skills and pragmatic capabilities for the transition from secondary  
46 education, such as executive function skills. The state board shall use any procedures  
47 required by state law to adopt the standards.

48 8. (1) For purposes of this subsection, the following terms mean:

49 (a) "Adult student", the same meaning given to the term in section 160.571;

50 (b) "Core subject", mathematics, reading, or science;

51 (c) "Parent", the same meaning given to the term in section 160.571;

52 (d) "Proficiency", mastery of a given concept as demonstrated by a success rate of  
53 greater than eighty percent in completing any given task related to the concept;

54 (e) "Significantly delayed student", a student whose proficiency in any core subject  
55 is more than five years below grade level. The term "significantly delayed student" shall  
56 not include any student receiving special educational services.

57 (2) Any significantly delayed student who is in a grade not lower than the seventh  
58 nor higher than the twelfth grade and who is excused from the statewide summative  
59 assessments as provided in section 160.571 may, if the parent or the adult student consents,  
60 take a modified assessment developed by the advisory council under this subsection and  
61 learn under modified learning standards developed by the advisory council under this  
62 subsection. Each school district shall ensure that the number of students taking the  
63 modified assessment does not exceed five percent of the total number of all students in the  
64 district.

65 (3) The advisory council shall develop a modified assessment and modified learning  
66 standards that it shall recommend for adoption by the state board of education.

67           (4) Each school district shall orally recommend the parent of any significantly  
68 delayed student, before the end of the student's seventh grade school year, to excuse the  
69 student from statewide summative assessments as provided in section 160.571 and consent  
70 to having the student take the modified assessment.

71           9. The chair of the advisory council, with assistance from the members of the  
72 advisory council as requested, shall develop a document designed to educate the members  
73 and solicit initial input. The advisory council shall then convene for a two-day meeting  
74 within one month after the selection of the members in order to draft the alternate  
75 assessment described under subsection 6 of this section, the alternate academic  
76 achievement standards described under subsection 7 of this section, and the modified  
77 assessment and modified learning standards described under subsection 8 of this section.  
78 Members shall be prepared to offer suggestions at the meeting based on their informal  
79 research. Following this initial meeting, the advisory council shall solicit feedback from  
80 the public for two months on its proposed assessments and standards. The advisory  
81 council shall convene for another two-day meeting at the conclusion of the two-month  
82 feedback period in order to review the comments from the public and revise the  
83 assessments and standards based on those comments. Following the revision, the advisory  
84 council shall seek additional feedback from both previous commenters and others for a  
85 second two-month period.

86           10. The advisory council shall present the alternate assessment, alternate academic  
87 achievement standards, modified assessment, modified learning standards, and methods  
88 for measuring and tracking progress in meeting those standards to the state board of  
89 education. The state board of education shall adopt or request modification of the  
90 assessments and standards within one year of receipt from the advisory council.

91           11. The advisory council may present recommendations to the state board of  
92 education at any time regarding the education of students who receive special educational  
93 services.

94           12. The advisory council shall dissolve after presenting the assessments and  
95 standards to the state board of education and making any necessary modifications  
96 requested by the state board of education unless a majority of the members of the advisory  
97 council vote to continue the advisory council.

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