

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4519H.01I
Bill No.: HB 2189
Subject: Education, Elementary and Secondary; Department of Elementary and Secondary Education
Type: Original
Date: February 28, 2022

Bill Summary: This proposal modifies and creates provisions regarding the use of certain training, instructional, and curricular materials in public schools and charter schools.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|--|--|---|---|
| FUND AFFECTED | FY 2023 | FY 2024 | FY 2025 |
| General Revenue | (\$5,665,886 Up to \$6,392,354) | (\$608,028 to Could exceed (\$1,249,595) | (\$614,097 to Could exceed (\$1,262,064) |
| Total Estimated Net Effect on General Revenue | (\$5,665,886 Up to \$6,392,354) | (\$608,028 to Could exceed (\$1,249,595) | (\$614,097 to Could exceed (\$1,262,064) |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2023 | FY 2024 | FY 2025 |
| | | | |
| 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 2023 | FY 2024 | FY 2025 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|---------------------|---------------------|---------------------|
| FUND AFFECTED | FY 2023 | FY 2024 | FY 2025 |
| General Revenue | Up to 17 FTE | Up to 17 FTE | Up to 17 FTE |
| | | | |
| Total Estimated Net Effect on FTE | Up to 17 FTE | Up to 17 FTE | Up to 17 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 2023 | FY 2024 | FY 2025 |
| | | | |
| Local Government | \$0 or (Unknown) | \$0 or (Unknown) | \$0 or (Unknown) |

FISCAL ANALYSIS

ASSUMPTION

Section 160.516 - School Boards to approve curriculum

Oversight assumes there could be costs for school boards to review, approve and adopt curriculum materials. Additionally, Oversight assumes there could be costs for school districts to collect and display five years of proficiency data on the district's website.

Section 161.023 - Professional Development and Instructional Programs

Officials from **Department of Elementary and Secondary Education (DESE)** state section 161.023 requires them 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 the department of elementary and secondary education, 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.

DESE estimates an OA-ITSD cost of \$2,000,000 to develop, program, and maintain the information required by this section. DESE will use the staff identified for Section 161.852 to support this work.

Oversight assumes there could be costs for DESE to make all administrator, teacher and staff professional development and instructional programs paid for with state funds available to the public and to make program offerings open for public attendance.

Oversight will show the costs to develop and program the information required in the section as a one-time cost and will show the annual maintenance costs as unknown.

Section 161.852 - Transparency and Accountability Portal

Officials from **Department of Elementary and Secondary Education (DESE)** state this section requires 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, textbooks, multimedia components, and other resources 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 similarly constructed.

Department of Elementary and Secondary Education Transparency and Accountability

One (1) Coordinator of Transparency and Accountability - \$62,232

One (1) Data Systems Administrator - \$62,232

Two (2) Directors of Transparency and Accountability - \$102,576

One (2) Transparency and Accountability Analyst - \$80,496

One (1) Administrative Assistant - \$27,960

Ten (10) Regional Program Specialists - \$314,400

In response to a similar proposal, HCS for HBs 1995 & 1474 (2022), **DESE** stated the 10 regional programs specialists would work with school districts to make sure they are uploading all the required information.

Oversight is uncertain if this proposal requires to DESE to ensure compliance by school districts. Therefore, Oversight will show a range of \$0 (ensuring compliance not required) up to the cost estimated by DESE for the 10 Regional Program Specialists FTE depending on the level DESE is engaged in ensuring compliance.

Per **DESE**, OA-ITSD costs could be up to \$3,000,000 to develop, program, and maintain a statewide database that would house the information required to be included in this database.

Oversight will show the costs to develop a statewide database as a one-time cost and will show the annual maintenance costs as unknown.

Section 170.360 - Training and Curriculum

Oversight assumes there could be costs to school districts for to collect and display all training materials and curriculum materials related to nondiscrimination, diversity, equity, inclusion, race, ethnicity, sex, or bias. Oversight assumes there could be costs for staff time and training as well.

Additionally, **Oversight** assumes there could be costs for legal services, civil penalties and attorney's fees if a district violates the provisions of this section.

Responses regarding the proposed legislation as a whole

Officials from the **Office of 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 has presented this fiscal note on the best current information that we have. Upon the receipt of agency 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.

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 | FY 2024 | FY 2025 |
|---|---|---|---|
| GENERAL REVENUE | | | |
| | | | |
| <u>Costs</u> - to develop, program and maintain information related to professional development and instructional programs - §161.023 - p.3 | (\$2,000,000) | (Unknown) | (Unknown) |
| | | | |
| <u>Costs</u> - DESE - §161.852 - p.3-4 | | | |
| Personnel Service | (\$335,496) | (\$338,851) | (\$342,239) |
| Fringe Benefits | (\$209,951) | (\$211,170) | (\$212,402) |
| Expense & Equipment | <u>(\$120,439)</u> | <u>(\$58,007)</u> | <u>(\$59,456)</u> |
| <u>Total Costs</u> | (\$665,886) | (\$608,028) | (\$614,097) |
| FTE Change | 7 FTE | 7 FTE | 7 FTE |
| | | | |
| <u>Costs</u> - DESE - §161.852 - p.3-4 | 0 or... | 0 or... | 0 or... |
| Personnel Service | (\$314,400) | (\$317,544) | (\$320,719) |
| Fringe Benefits | (\$240,013) | (\$241,155) | (\$242,309) |
| Expense & Equipment | <u>(\$172,055)</u> | <u>(\$82,867)</u> | <u>(\$84,938)</u> |
| <u>Total Costs</u> - 10 Regional Specialists | (\$726,468) | (\$641,566) | (\$647,966) |
| FTE Change | 0 or 10 FTE | 0 or 10 FTE | 0 or 10 FTE |
| | | | |
| <u>Costs</u> - DESE/ITSD - transparency and accountability portal - §161.852 - p.3-4 | <u>(\$3,000,000)</u> | <u>(Unknown)</u> | <u>(Unknown)</u> |
| | | | |
| ESTIMATED NET EFFECT ON GENERAL REVENUE | (\$5,665,886 Up to <u>\$6,392,354</u>) | (\$608,028 to Could exceed <u>(\$1,249,595)</u>) | (\$614,097 to Could exceed <u>(\$1,262,064)</u>) |
| | | | |
| Estimated Net FTE Change on General Revenue | Up to 17 FTE | Up to 17 FTE | Up to 17 FTE |

| <u>FISCAL IMPACT – Local Government</u> | FY 2023 | FY 2024 | FY 2025 |
|--|-----------------------------|-----------------------------|-----------------------------|
| SCHOOL DISTRICTS & CHARTER SCHOOLS | | | |
| <u>Costs</u> - for School Boards to approve curriculum used by the school district - §160.516 - p.3 | \$0 or (Unknown) | \$0 or (Unknown) | \$0 or (Unknown) |
| <u>Costs</u> - for the collection and display of proficiency data - §160.516.4 - p.3 | \$0 or (Unknown) | \$0 or (Unknown) | \$0 or (Unknown) |
| <u>Costs</u> - costs for collection and display of certain training and instructional material as well as staff time and training - §170.360 - p.4 | \$0 or (Unknown) | \$0 or (Unknown) | \$0 or (Unknown) |
| <u>Costs</u> - for legal costs, civil penalties and attorney's fees - §170.360.7 - p.4 | \$0 or (Unknown) | \$0 or (Unknown) | \$0 or (Unknown) |
| ESTIMATED NET EFFECT ON SCHOOL DISTRICTS & CHARTER SCHOOLS | \$0 or (Unknown) | \$0 or (Unknown) | \$0 or (Unknown) |

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This bill modifies and creates provisions regarding curricula and programs taught in public schools.

This bill prohibits the State Board of Education and the Department of Elementary and Secondary Education (DESE) from promoting the curriculum to be used in public schools. Each local school board shall be required to approve and adopt the curriculum used by the school district at least six months prior to implementation. Each school board shall adopt policies and procedures to ensure the approved curriculum is properly implemented in the classroom. The bill details requirements for the choice of academic class offerings and curriculum materials. At least five years of data showing percentages of students by grade level and proficiency based on state assessment scores shall be posted in the same section as the curricula on the district's website (Section 160.516, RSMo).

All professional development and instructional materials offered to schools that are paid for with state funds, whether offered by DESE or another party shall be fully transparent and available to the public as outlined in the bill. Program materials shall be available to the public at no charge on DESE's website and program offerings shall be open for public attendance.

The bill details the posting and retention requirements for program offerings. For programs offered by third parties, DESE shall maintain data and information on its website as outlined in the bill (Section 161.023).

This bill creates the "Missouri Education Transparency and Accountability Portal". The portal shall be an Internet-based tool creating transparency in Missouri's public education system and providing citizens access to every school district's curriculum, source materials, and professional development materials. The portal shall consist of an easy-to-search database including certain information as outlined in the bill. The Commissioner of Education shall establish a form that school districts shall complete with the information required by the bill (Section 161.852).

The bill modifies provisions regarding courses on American history to provide that courses on American literature shall be given so students gain an understanding of our government institutions. Such courses on American history and literature shall promote an overall positive and comprehensive history and understanding of the United States (Section 170.011).

Under this bill, school districts and charter schools shall publish on their websites all training materials used for staff and faculty training, all instructional materials, and all curricular materials related to nondiscrimination, diversity, equity, inclusion, race, ethnicity, sex, or bias, including certain information as described in the bill related to instructional materials and curricular materials.

Such materials shall be displayed within seven days after the use of such materials in training or instruction and shall remain displayed for at least two years. No school district shall permit teachers or administrators to require coursework to include, or a grade or credit to be awarded, for a student's participation in certain political or social advocacy efforts described in the bill.

No school district or charter school shall compel a teacher, administrator, or student to affirm, adopt, or adhere to any belief or concept that racism, sexism, or certain immutable traits are fundamental or blameworthy, as further described in the bill.

No school district shall use public funds to contract, hire, or otherwise engage certain persons to speak on or compel support for such concepts or beliefs, except that such person may be engaged to advocate for such concepts or beliefs if the school district makes clear that it does not support such concepts or beliefs and allows students and employees to opt out from participating.

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 promote such beliefs or concepts.

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.

Suit for alleged violations of the bill may be brought by DESE, the Attorney General, local prosecuting attorney, local county counselor, local circuit attorney, or a local resident. Such suit shall be brought in the circuit court for the city or county in which the alleged violator is located. Upon a finding of a violation, injunctive relief shall be issued to correct such violations. Knowing violations shall result in a civil penalty of up to \$1,000, and purposeful violations shall result in a civil penalty of up to \$10,000 in addition to attorney's fees and costs.

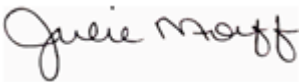
School districts and charter schools may bring suit in the local circuit court at their own expense, or may seek a formal opinion from the Attorney General, to ascertain the propriety of actions and decisions that may violate this bill. Such determination may include a review of proposed uses of school resources or particular materials (Section 170.360).

This bill contains an emergency clause.

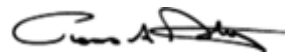
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Elementary and Secondary Education
Missouri Office of Prosecution Services
Office of the State Courts Administrator
Office of the Secretary of State
Joint Committee on Administrative Rules



Julie Morff
Director
February 28, 2022



Ross Strobe
Assistant Director
February 28, 2022