

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2091-01
Bill No.: HB 1102
Subject: Education, Elementary and Secondary: Elementary and Secondary Education
Department
Type: Original
Date: May 5, 2009

Bill Summary: This proposal contains measures aimed at preventing school failure.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(\$69,018 to Unknown)	(\$82,140 to Unknown)	(\$84,605 to Unknown)
Total Estimated Net Effect on General Revenue Fund	(\$69,018 to Unknown)	(\$82,140 to Unknown)	(\$84,605 to Unknown)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 13 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
State School Moneys Fund*	\$0	\$0	\$0
Schools First Elementary and Secondary Education Improvement Fund	(Unknown - Up to \$108,600,000)	(Unknown - Up to \$108,600,000)	(Unknown - Up to \$108,600,000)
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown - Up to \$108,600,000)	(Unknown - Up to \$108,600,000)	(Unknown - Up to \$108,600,000)

* Offsetting Transfers In and Cost

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	1 FTE	1 FTE	1 FTE

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Local Government	\$10,000,000 to Unknown	\$10,000,000 to Unknown	\$10,000,000 to Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Administrative Hearing Commission** anticipate this proposed legislation will not significantly alter its caseload.

According to officials from the **Office of Secretary of State (SOS)**, many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the proposal. 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 \$2,500.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** state this proposal does not change the amount of gaming monies coming into the state treasury, but it will impact the state budget. The proposal allocates funding from the Schools First Elementary and Secondary Education Improvement Fund. The Fiscal Year 2010 Governor's Budget includes \$108.6 million from the existing Schools First Elementary and Secondary Education Improvement Fund.

ASSUMPTION (continued)

§160.011, 160.539 - School flex program

Officials from the **Department of Elementary and Secondary Education (DESE)** state that as a result §160.011(9), an individual student's average daily attendance may increase, which is positive for the student, causing an increase to the state in the school foundation formula cost. The increased cost to the foundation formula cannot be estimated.

DESE assumes that §160.539.4 requires DESE to collect additional data from school districts. The additional cost to school districts and the department is likely to exceed \$100,000.

DESE assumes they will need one .5 Supervisor for the School Flex Program.

Oversight assumes that in other proposals from this session relating to the School Flex Program additional personal services were not requested by DESE. If additional personnel are required after the program is up and running, DESE can request personal services through the budget process.

Oversight assumes the data required is already available and costs to capture it could be absorbed with existing resources.

§160.535 - Underperforming schools

DESE officials assume that the requirement in §160.535.6 requires that a district with one or more chronically failing buildings must provide summer school programming in specified curricular areas to students in those buildings will likely increase summer school average daily attendance and, subsequently, increase the cost to the state to the school foundation formula. This increased cost cannot be estimated.

§160.536, 160.537 - School revitalization

§160.536.2 states that in order to recruit and retain talented certificated employees, the commissioner of education shall make funds available to permit the superintendent during the period of remediation to increase the salary of any certificated employee assigned to a chronically failing building.

§160.536.3 states that qualified principals recruited and working in chronically failing schools shall receive performance-based increases in compensation for increases in student achievement provides performance-based increases to certain principals.

ASSUMPTION (continued)

Officials from **DESE** assume there is no reference that such funds would be made available from a specific appropriation by the general assembly. The commissioner has no funds to make available. Therefore, fulfilling this section will require a specific appropriation. The cost is unknown but could be several hundred thousand dollars or even millions.

DESE assumes §160.537 requires the establishment a grant program. DESE has no funds from which to establish such a grant program. For such a grant program to be established the general assembly will have to provide an appropriation. The cost is unknown but could easily exceed \$1 million.

The proposal requires that DESE provide one Director for the revitalization program.

Oversight has, for fiscal note purposes only, adjusted the salary and benefits of the director to correspond with the range for the starting salary posted by DESE for a similar position.

In addition to the position of director, DESE has requested additional personal services associated with the proposal. Until it has been determined how many school buildings qualify for the programs outlined in this proposal, **Oversight** assumes the position required in the proposal will be sufficient to handle the duties outlined in the proposed legislation. If a significant number of school buildings qualify for the program, additional personal services can be requested through the budget process.

§163.011 - Removes funds placed in the Schools First Elementary and Secondary Education Improvement Fund from the calculation of the "State Adequacy Target"

DESE did not provide information regarding the possible impact of this section on the foundation formula.

§163.031 - Eliminates the summer school penalty beginning with the 2009-2010 school year

In response to HCS for SS for SB 291 (FN 1475-05), officials from the **Department of Elementary and Secondary Education (DESE)**, this section of the proposed legislation would not increase the cost of the school basic foundation formula. It would reduce a decrease, or penalty, a district might have because of summer school average daily attendance (ADA) decreasing below that of the 2005 summer school level.

ASSUMPTION (continued)

§163.044 - Additional small schools appropriation

DESE assumes this section is an increased cost not to exceed \$10 million. The funding source is identified in §313.778 as the Schools First Elementary and Secondary Education Improvement Fund.

§167.031- Compulsory attendance

This section changes the compulsory attendance age from sixteen years of age for school graduation, except that the compulsory attendance age remains seventeen years of age in a metropolitan school district. The requirement for graduation in this proposal is that the student must have successfully completed sixteen credits towards high school graduation.

DESE did not indicate what effect this section could have on the calculation of the foundation formula.

§167.710 - Eighth grade student performance

This section requires certain students to complete a 120-hour summer school course. **DESE** assumes such a requirement may increase summer school average daily attendance and, subsequently, increase the cost to the state to the school foundation formula. This increased cost cannot be estimated.

§313.778 - Schools First Elementary and Secondary Education Improvement Fund

Officials from **DESE** assume this section requires the money remaining in the Schools First Fund after money is set aside for §163.044.2 to be distributed to all districts on an average daily attendance basis. This appears to eliminate the ability of the general assembly to use the Schools First Fund to fund increases in the state school foundation formula and will necessitate the general assembly allocate general revenue for the increases to the foundation formula.

Officials from the **Francis Howell School District (FHSD)** stated it would be difficult to calculate a fiscal note on the proposed legislation. FHSD Officials assumed the possibility of it ever impacting FHSD school is very remote. FHSD already offers many of the programs referenced in the proposal.

Officials from the **Sikeston School District** responded; however, they did not provide an ASSUMPTION (continued)

estimate of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE			
<u>Cost - Department of Elementary and Secondary Education (DESE) - Increased school aid (\$160.011, 160.535, 167.710)</u>	(Unknown)	(Unknown)	(Unknown)
<u>Cost - DESE - Salary increases for certain principals and certificated employees (\$160.536)</u>	(Unknown)	(Unknown)	(Unknown)
<u>Cost - DESE - Grant program for failing schools (\$160.537)</u>	(Unknown - Could exceed \$1,000,000)	(Unknown - Could exceed \$1,000,000)	(Unknown - Could exceed \$1,000,000)
<u>Cost - DESE - Director of School Vitalization (1 FTE) (\$160.536)</u>			
Salary	(\$42,754)	(\$52,844)	(\$54,430)
Fringe Benefits	(\$20,791)	(\$25,698)	(\$26,469)
Equipment and Expense	<u>(\$5,473)</u>	<u>(\$3,598)</u>	<u>(\$3,706)</u>
Total Administrative Costs	<u>(\$69,018)</u>	<u>(\$82,140)</u>	<u>(\$84,605)</u>
Net FTE Change - DESE	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$69,018 to Unknown)</u>	<u>(\$82,140 to Unknown)</u>	<u>(\$84,605 to Unknown)</u>
Estimated Net FTE effect on General Revenue	1 FTE	1 FTE	1 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
SCHOOLS FIRST ELEMENTARY AND SECONDARY EDUCATION IMPROVEMENT FUND			
<u>Transfer Out - To small school districts</u> (§163.044)	(\$10,000,000)	(\$10,000,000)	(\$10,000,000)
<u>Transfer Out - To Teachers Fund</u> (§313.778)	(Unknown - Up to \$98,600,000)	(Unknown - Up to \$98,600,000)	(Unknown - Up to \$98,600,000)
ESTIMATED NET EFFECT ON SCHOOLS FIRST ELEMENTARY AND SECONDARY EDUCATION IMPROVEMENT FUND	<u>(Unknown - Up</u> <u>to</u> <u>\$108,600,000)</u>	<u>(Unknown - Up</u> <u>to</u> <u>\$108,600,000)</u>	<u>(Unknown - Up</u> <u>to</u> <u>\$108,600,000)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
STATE SCHOOL MONEYS FUND			
<u>Transfer In</u> - Increased state aid (\$160.011, 160.535, 167.710)	Unknown	Unknown	Unknown
<u>Cost</u> - Increase in average daily attendance (\$160.011)	(Unknown)	(Unknown)	(Unknown)
<u>Cost</u> - Increase in summer school average daily attendance (\$160.535)	(Unknown)	(Unknown)	(Unknown)
<u>Cost</u> - Increase in summer school average daily attendance (\$167.710)	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	\$0	\$0	\$0

<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
LOCAL POLITICAL SUBDIVISIONS			
<u>Income</u> - School Districts - Increased state aid (§160.011, 160.535, 167.710)	Unknown	Unknown	Unknown
<u>Income</u> - School District Teachers' Fund (§163.405, 313.778)	Unknown - Up to \$98,600,000	Unknown - Up to \$98,600,000	Unknown - Up to \$98,600,000
<u>Income</u> - School Districts - Specific funding for small school districts (§163.044)	\$10,000,000	\$10,000,000	\$10,000,000
<u>Income</u> - School Districts - Salary increases for certain principals and certificated employees (§160.536)	Unknown	Unknown	Unknown
<u>Income</u> - School Districts - Grants for failing schools (§160.537)	Unknown - Could exceed \$1,000,000	Unknown - Could exceed \$1,000,000	Unknown - Could exceed \$1,000,000
<u>Cost</u> - Expenditures from School District Teachers' Fund (§163.405, 313.778)	(Unknown - Up to \$98,600,000)	(Unknown - Up to \$98,600,000)	(Unknown - Up to \$98,600,000)
<u>Cost</u> - School Districts - Disbursement of salary increases for certain principals and certificated employees (§160.536)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>\$10,000,000 to Unknown</u>	<u>\$10,000,000 to Unknown</u>	<u>\$10,000,000 to Unknown</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

§160.535 - UNDERPERFORMING SCHOOLS

By July 1, 2010, the State Board of Education must establish a process for designating a school building as chronically failing if it has underperformed for two years. Once the building is targeted for intervention, the district must notify contractual employees that a designation of chronically failing may void their contracts. Upon this designation, the superintendent, in consultation with the local board of education, is authorized to immediately dismiss the building principal, who may not serve as an administrator for the next year unless the board finds the principal did not play a significant role in the building's underperformance. The board, with the recommendation of the principal, may terminate the contract of any employee with good cause, as specified in the proposed legislation; and the employee may not displace any employee in another building. Terminated employees will receive five days' notice and may seek review by the board. Either party may appeal. A board may suspend permanent teachers and issue probationary contracts to all certificated employees in a chronically failing building. Certificated employees may seek review of the suspension by the board, and any party may appeal. The Commissioner of Education, or the local board with the commissioner's approval, may appoint an advisory council, the majority of whom must hold advanced degrees in education, to assist in the building's improvement efforts. Districts with chronically failing buildings must provide summer school in core subjects if students apply for it. If a chronically failing building does not receive at least average per-pupil funding from the district for buildings of the same classification and grade level, the district must provide sufficient funding to bring the building up to district average.

§160.536, 160.537 - SCHOOL REVITALIZATION

The Commissioner of Education is required to appoint a director of school revitalization to oversee the activities of the advisory councils. The commissioner must make funds available to allow a superintendent to increase the salary of certificated employees assigned to a chronically failing building, up to 1% for every 10% of the enrollment of the building that is eligible for a free or reduced-price lunch. Principals may also receive performance-based increases in compensation for increased student achievement as established by the Department of Elementary and Secondary Education. The proposal establishes a two-year grant program for school improvement efforts, conditioned upon a district wide professional development plan that addresses the district's needs.

§160.011, 160.539 - SCHOOL FLEX PROGRAM

The School Flex Program is established to allow eligible students to attend school a minimum of

ASSUMPTION (continued)

two instructional hours per day while pursuing either higher education or a job aligned with a career academic plan and be counted in state aid calculations. DESE will report annually to the Joint Committee on Education of the flex program's effectiveness.

MISCELLANEOUS PROVISIONS:

§167.031 - Changes the compulsory attendance age from sixteen years of age for school graduation, except that the compulsory attendance age remains seventeen years of age in a metropolitan school district. The requirement for graduation in this proposal is that the student must have successfully completed sixteen credits towards high school graduation;

§167.710 - Requires any eighth grade student who fails a core curriculum course for two or more quarters to pass a 120-hour summer school class in that course or repeat the eighth grade;

§163.011, 163.405 - Directs the additional gaming funds generated from the repeal of the loss limits with the passage of Proposition A in 2008 out of the state adequacy target calculation for state school aid and distributes the additional funds on a per-pupil basis with no less than 90% to be credited to the teachers' fund and requires 90% of the funds received by a district each year to be spent in that year;

§163.031 - Removes the dollar-for-dollar penalty at the end of the 2008-2009 school year that a school district must pay on any reduction in its summer school attendance from school year 2005-2006 that is in excess of 35%. Currently, the penalty will be in effect through the 2011-2012 school year; and

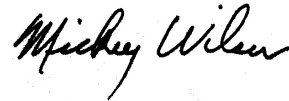
§163.044 - Extends the small school grant to districts with a daily attendance of up to 449 students, on a basis of 99% for an average daily attendance of 351 students decreasing to 1% for 449 students with the additional funding to come from the Proposition A funds.

§163.011, 163.031, 163.044, 163,409, and 313.778 have an effective date of July 1, 2009.

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 Secretary of State
 Administrative Rules Division
Office of Administration
 Administrative Hearing Commission
School Districts
 Sikeston
 Francis Howell



Mickey Wilson, CPA
Director
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