

HCS#2 SS SB 291 -- EDUCATION

SPONSOR: Shields (Wallace)

COMMITTEE ACTION: Voted "do pass" by the Committee on Rules by a vote of 7 to 5.

This substitute changes the laws regarding education. In its main provisions, the substitute:

(1) Permits an additional general election day in November 2009 for school districts to utilize the bonding provisions of the American Recovery and Reinvestment Act of 2009, commonly known as the federal economic stimulus act (Section 115.121, RSMo);

(2) Allows schools to utilize a flexible schedule to allow certain eleventh and twelfth grade students to attend school and work for credit under a flex school plan tailored to the individual student. At the option of the district, flexibility for a week with less than five school days while maintaining the required 1,044 hours of attendance is allowed. The mandatory school attendance requirement is revised from attaining 16 years of age to attaining 16 credits toward high school graduation (Sections 160.011, 160.041, 160.539, 167.031, 171.029, and 171.031);

(3) Requires the Joint Committee on Education to study the issue of open enrollment and submit a report of its findings and any recommendations by December 31, 2009, to the General Assembly (Section 160.254);

(4) Prohibits any school discipline policy which confines an unattended student in a locked space, except when awaiting law enforcement personnel. By July 1, 2011, school districts must adopt written policies to address the use of restrictive behavioral interventions, which are specified in the substitute (Section 160.263);

(5) Establishes the Missouri Senior Cadet Program to provide opportunities for twelfth graders in public school to mentor kindergarten through eighth grade students. Twelfth graders who donate 10 hours per week during the academic year will receive one elective credit that may be used to fulfill graduation requirements. If a student attends a public college or university located in Missouri, the state will provide a reimbursement for three credit hours per semester for up to four years (Section 160.375);

(6) Requires the sponsor of a charter school receiving sponsorship funding to expend no less than 90% of its sponsorship

funds in support of its charter school sponsorship program or as a direct investment in the sponsored school, have fair procedures and rigorous criteria for its application process, grant charters only to developers who show capacity for operating a quality charter school, negotiate charter school contracts that clearly articulate the rights and responsibilities of each party, conduct contract oversight, and implement a transparent and rigorous process to make merit-based renewal decisions. Currently, a charter school sponsor is allowed to revoke a charter if the charter school commits certain acts. The substitute requires the charter school sponsor to revoke a charter or take other appropriate remedial action if the charter school commits certain acts. Charter schools may maintain an insurance policy in the amount of \$500,000 or more to provide coverage in the event of employee theft. The joint committee must undertake a study comparing the performance of charter school students with a group of district students representing an equivalent demographic and geographic population and the charter school's impact on the district's constituents. The elements of the student performance assessment are specified. A review of best teaching practices in the charter schools will be part of the study (Sections 160.400, 160.405, and 160.410);

(7) Removes the inclusion of the gaming revenues from the repeal of the loss limits, effective July 1, 2009, from the definition of "state adequacy target." Beginning on July 1, 2010, revenue generated from the passage of Proposition A in 2008 will be deposited into the Classroom Trust Fund. The 5% limit on increases in state funding from the recalculation of current operating expenditures is removed effective July 1, 2010. The definition of "special education pupil count" is revised to include students with service plans. The declining enrollment summer school penalty is repealed. Beginning in the 2010-2011 school year and thereafter, all proceeds a school district receives from the Classroom Trust Fund in excess of the amount it received in the 2009-2010 school year must be placed in the school district's teachers' and incidental funds. The Schools First Elementary and Secondary Education Improvement Fund is repealed (Sections 160.534, 163.011, 163.031, 163.043, 313.775, 313.778, and 313.822);

(8) Allows the Governor to establish the P-20 Council as a private not-for-profit corporation to coordinate the preparation of students for entering the workforce. The council's board of directors will consist of 13 members, including the Director of the Department of Economic Development, the commissioners of Education and Higher Education, the chairpersons of the Coordinating Board for Higher Education and the Coordinating Board for Early Childhood, the President of the State Board of Education, and seven members appointed by the Governor. The

powers and duties of the council include receiving and borrowing money; studying the potential for a state-coordinated economic and educational policy; identifying obstacles which make state support of certain programs difficult; and exploring ways to better align academic content. Provisions requiring certain officials to meet and discuss ways to create a more efficient and effective education system semiannually are repealed (Sections 160.800 - 160.820);

(9) Creates the Persistence to Graduation Fund for use by the Department of Elementary and Secondary Education for grants to implement dropout prevention strategies. The department must establish a procedure for school districts to apply for a grant. A grant for a term of one to five years must be available to a school district having at least 60% of its students eligible for a free or reduced-price lunch. The department must give preference to school districts proposing a holistic approach to dropout prevention. The department may stop payments to a district if it determines that the district is misusing funds or if the district's program is deemed ineffectual, upon 30 days' notice (Section 160.950);

(10) Requires the state board to provide seven days' written notice of board meetings to members. The number of members needed to request a meeting of the board is reduced from four to three. Any business before the board must be made available by free electronic record at least seven business days before the meeting. All records must be available by free electronic media within 48 hours after a meeting. Any materials prepared for board members must be delivered to the members at least five days before the meeting. The Commissioner of Education is required to study and evaluate the progress of public schools in achieving instructional goals and to make these findings available by free public electronic media. Certain information about students 16 years of age and older who drop out of school must be reported to the State Literacy Hotline Office. Records and reports based upon the school reports must be made available by free electronic record on the department's web site on the first business day of each month without the identifying information on individual students (Sections 161.072, 161.122, and 167.275);

(11) Requires public schools to develop teaching standards by June 30, 2010. The standards must include student participation, use of various forms of assessment, communication skills, instructional knowledge, and professional behavior (Section 161.390);

(12) Establishes the Volunteer and Parents Incentive Program to reimburse parents or volunteers who donate time at certain schools. Eligible individuals must donate time at a school in an

unaccredited or provisionally accredited district or at a district that has at least 50% at-risk students. For every 100 hours donated, the department will provide a reimbursement for three credit hours at a public institution of higher learning located in Missouri, not to exceed \$500 every two years (Section 161.800);

(13) Establishes a bill of rights for the parents of children with individualized education programs and requires the department to publish a guide in clear concise language that includes, but is not limited to, the parents' rights to participate in meetings, to obtain copies of records, to have an advocate present, and to receive a nonexclusive list of services to which a child may be entitled (Section 161.850);

(14) Allows the state board to appoint additional members to any special administrative board appointed under Section 162.081 regarding lapsed school districts. The state board may set a final term with an end date of June 30 for any member whose successor will be elected by the district's voters on the municipal election day immediately prior to the expiration of the final term of office. Otherwise qualified appointed special board members are allowed to run for an elected seat on the board. If the state board replaces the chair of the special board, the members of the special board are authorized to appoint and sign a contract for a superintendent of schools. The state board may also set a date for the school district to return to local governance and continue operation as a district as authorized by law (Section 162.083);

(15) Allows school districts to maintain permanent records in a digital or electronic format. School districts must follow the manufacturer's guidelines for the use of the media, including the manufacturer-suggested period of time for use and storage (Section 162.204);

(16) Allows the Blue Springs School District to commission a peace officer under specified conditions (Section 162.215);

(17) Specifies that a 45-minute difference per trip in travel time for students will be a consideration when a board of arbitration decides a disputed school district boundary change election and removes the consideration of a school's accreditation status (Section 162.431);

(18) Requires a vacancy on the school board of the Kansas City School District to be filled by a special election instead of by an appointment by the board members. A special election will be held if a vacancy occurs more than six months prior to the next general municipal election. The state board is responsible for

ordering a special election when a vacancy occurs. If a vacancy occurs less than six months prior to the next general municipal election, the vacancy will be filled at the next general municipal election (Section 162.492);

(19) Establishes the Missouri Preschool Plus Grant Program as a pilot program within the Missouri Preschool Project, serving up to 1,250 students and administered by the department in collaboration with the Coordinating Board for Early Childhood. Unaccredited school districts and non-sectarian community-based organizations in these school districts may receive three-year renewable grants. At least 50% of the placements must be offered through non-sectarian community-based organizations. The department must make a good faith effort to collect long-term student performance data for students who attend non-public schools. The department will accept applications in a competitive bid process to begin implementing the program in the 2010-2011 school year. The program will be funded through general appropriations and not through money from the Gaming Commission Fund (Section 162.1168);

(20) Specifies that school districts offering virtual courses to resident-enrolled students will receive state school funding for those students. School districts may offer virtual courses through technologies specified in the substitute and develop a virtual program for any grade level. Charter schools may also offer virtual courses for students enrolled in the charter school and receive state funding. Private, parochial, or homeschooled students residing within a school district offering virtual school courses may enroll to participate in virtual school courses. Attendance of a student enrolled in a virtual class will equal, upon course completion, 94% of the hours of attendance for the class delivered in the non-virtual program. Course completion will be calculated in two 50% increments, and state funding will be distributed in two increments at an amount equal to 47% of hours of attendance possible for the course delivered in the non-virtual program of the school. Special school districts must count any student's completion of a virtual course or program in the same manner as the completion of any other course or program. School districts and charter schools must ensure that courses purchased from outside vendors are aligned with the Show-Me curriculum standards and comply with state requirements for teacher certification. A school district or charter school offering virtual courses or developing virtual courses or a virtual program must ensure that they comply with various standards as specified in the substitute. A school district or charter school may contract with multiple providers as long as the providers meet the criteria for virtual courses or virtual programs under these provisions (Section 162.1250);

(21) Requires the department to recalculate the state school aid for the Riverview Gardens School District due to the district setting its levy in the capital projects fund instead of the incidental fund in calendar year 2005. The department must calculate the amount the district would have received in state aid for fiscal years 2007 - 2010 which will be divided and distributed in equal amounts in fiscal years 2010 - 2013 (Section 163.095);

(22) Establishes the Foster Care Education Bill of Rights requiring each school district to designate a staff person to act as an educational liaison for foster care children. The liaison will facilitate proper placement and expedite record requests and submissions. Foster care pupils have the right to remain enrolled in their school of origin or to return to a previous school. Districts must accept credit for work satisfactorily completed; and if a pupil under the jurisdiction of the juvenile court completes graduation requirements, the school district of record must issue a diploma. Students must not be penalized for absences resulting from required court appearances or court-related activities. Districts must offer access to the pupil's records to child-placement agencies within the limits of federal law. Children in foster care or children placed in a licensed residential care facility are entitled to a full six-hour school day unless the school district determines fewer hours are needed. The Commissioner of Education will act as an ombudsman who will make the final determination (Sections 167.018, 167.019, and 210.1050);

(23) Adds children who reside in a children's hospital for more than three days to the list of children for whom a school district or special school district is responsible for making payments for services to a serving school district (Section 167.126);

(24) Establishes physical education standards for elementary schools as of the 2010-2011 school year that include moderate physical activity for an average of 30 minutes per day. Middle school students may, at the school's discretion, participate for at least 225 minutes per week. Elementary schools must provide one 20-minute recess period which may be incorporated into the lunch period. Students with disabilities will participate to the extent appropriate. Schools are allowed to meet the requirements by additional physical education instruction or other activities approved by the school district under the direction of a certificated teacher, administrator, or other employee under the supervision of a certificated teacher or administrator (Section 167.720);

(25) Establishes teacher certification solely for instruction in

the subject matters of banking or financial responsibility for individuals who have a bachelor's or higher degree, suitable professional experience, and a passing score for the designated exit examination. The certificate holder is exempt from the Teacher Tenure Act. If employed less than full-time, he or she must complete professional development in proportion to his or her time spent teaching in the classroom (Section 168.021);

(26) Makes the background check for teachers and other school personnel who have contact with students valid for one year and transferrable from one school district to another, even if there is a change in the type of certification a teacher holds (Section 168.133);

(27) Establishes the Teacher Choice Compensation Package for the St. Louis City School District to allow for performance-based salary stipends upon the decision of a teacher. The Teacher Choice Compensation Fund is created to which the General Assembly must annually appropriate \$5 million. Teachers must give up their right to a permanent appointment for the duration of their employment with the school district to participate in the package. If a participating teacher chooses to leave the program, he or she may not resume permanent teacher status with the district. Stipends will be offered in increments of \$5,000, up to \$15,000, but must not exceed 50% of the teacher's base salary. If funds are insufficient, the department may prorate payments. The package will be open to every person employed by the St. Louis City School District regardless of certification status if the other requirements are satisfied. Stipends will be prorated for part-time employees and will be forfeited for any teacher dismissed for cause. Beginning with the 2010-2011 school year, teachers may be eligible based on student scores on a value-added test instrument, evaluations by principals or other administrators, evaluations by parents, and evaluations by students. The department must develop or identify model instruments for use by school districts or a district may use or develop its own instruments. The department must develop the criteria for determining eligibility for stipend increments. Test scores will be given more weight than evaluations. The level of scores required must take into account classroom demographics (Sections 168.221, 168.745, 168.747, 168.749, and 168.750);

(28) Specifies that persons hired for noncertificated positions in St. Louis public schools after August 28, 2009, will not be eligible for tenure. Currently, noncertificated employees achieve tenure after one year of service (Section 168.251);

(29) Specifies that equipment and educational materials necessary for supplemental educational services will not be

deemed incentives for the purposes of complying with the department's rules for supplemental educational services providers. The department must not prohibit providers of supplemental and educational services from allowing a student to retain equipment, such as a computer, when the student successfully completes the supplemental and educational services (Section 170.400);

(30) Allows a school board to enter into an agreement with the county or any municipality wholly or partially located in the school district to construct, repair, or finance sites, buildings, and equipment for the district's educational purposes. Options for districts to obtain ownership of the facilities, including joint ventures, are specified (Section 177.088);

(31) Allows schools to make up half of the remaining school days lost or canceled due to inclement weather in excess of the first six up to a total of 10 full make-up days (Section 171.033); and

(32) Requires the joint committee to undertake a study on governance issues in the Kansas City school district in the 2009 interim of the General Assembly (Section 1).

The provisions regarding the Missouri Senior Cadet Program, the Volunteer and Parents Incentive Program, and the Missouri Preschool Plus Grant Program will expire six years from the effective date.

The provisions regarding the repeal of the Schools First Elementary and Secondary Education Improvement Fund become effective July 1, 2010.

The provisions regarding the additional election day in November 2009, the definition of "state adequacy target," the Classroom Trust Fund, the elimination of the summer school penalty, and the audit of the Gaming Proceeds Fund become effective July 1, 2009, or upon passage and approval, whichever occurs later.

FISCAL NOTE: Estimated Income on General Revenue Fund of \$55,642,967 up to \$86,502,317 in FY 2010, \$54,028,076 up to \$84,887,426 in FY 2011, and \$47,999,441 up to \$78,858,791 in FY 2012. No impact on Other State Funds in FY 2010, FY 2011, and FY 2012.

PROPOSERS: Supporters say that the bill originated when some schools inquired about eligibility for state aid if they offered their own virtual courses and programs. Some funding sections were added in the Senate substitute to address technical problems resulting from Proposition A. Citizens in school districts in Howell Valley requested new provisions to provide flexibility for



their situation that is not as extreme as complete consolidation while still addressing duplicated services.

Testifying for the bill were Senator Shields; Missouri Charter Public Schools Association; Kevin Drollinger, Epworth Children Family Services; Kaplan Virtual Education; Missouri Coalition of Children's Agencies; Partnership for Children; Children's Education Council of Missouri; Marilyn Toalson; Jennifer Good; Brady Still; Missouri National Education Association; Missouri State Teachers Association; Missouri Education Reform Council; Missouri School Boards Association; Connections Academy; David Kuschel, Cooperating School Districts of Greater St. Louis; Cooperating School Districts of Greater Kansas City; Gifted Association of Missouri; Joseph Rothgeb; Jim Thompson; Traci Wiley; Kay Garrett; and Jimmy E. Thompson.

OPPONENTS: Those who oppose the bill say that the St. Louis public schools have had incentive pay as a policy and negotiated with the teachers for several years, but it was only implemented for one year due to funding. The options offered by the Senate substitute for Howell Valley keep the issue open and make it difficult to plan. No consolidation questions have been placed on the ballot, so the existing methods have not been used.

Testifying against the bill were Byron Clemens, St. Louis Missouri Federation of Teachers; John Burkhead and Casus Baird, Howell Valley R-I; Jeffrey Chappell, Dora R-III; Jerry Premer, Melonie Bunn, and Kimberly Turner, Richards R-V; Kris Norman; Missouri Association for Rural Education; Donald Brotherton; Jay Jackson; Shannon Kimbrough; Ray Murphy; Kay McMurtrey; Heather Sexton; David Stewart; Joyce Stewart; Steve Stewart; Michael Wallace; and Cynthia Wright and Peggy Wright, Fairview R-II.

OTHERS: Others testifying on the bill say the issues of open enrollment and school start dates are troublesome and the physical education, parents' bill of rights, and use of seclusion room provisions need further revision. The St. Louis public schools have already addressed the issue of deed restrictions. While the rules of the Missouri State High School Activities Association require a student to take three credits a semester to qualify for participation on school teams, it does not specifically ban homeschooled students.

Testifying on the bill were Penney Rector, School Administrators Coalition; Special Administrative Board of the Transitional School District of the City of St. Louis; and Missouri State High School Activities Association.