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**Testimony Before the State Board of Education**

**Regarding the Adoption of Academic Standards for the State of Missouri**

October 26, 2015

I have heard it said in an interview of at least one board member that he is not concerned about the how the Common Core State Standards came to Missouri, but, about the content of the standards. I will leave comments about the developmentally inappropriate and academically incomplete content of the Common Core State Standards to others who will address those points. I would like to address the reason why the “how” or the process of adoption should be a centerpiece of your considerations as the standards review process is scheduled to move forward.

On October 7 of this month, Bill and Melinda Gates convened an exclusive, Gates-sponsored conference limited to about 250 education policymakers and politicians to mark their 15 years of investment in public education where he said he remained unhappy with America’s taxpayer funded schools.<sup>1</sup> And therein, is the quintessential reason why you should be focus on the “how” of the Common Core State Standards adoption. The development, deployment, adoption and integration of Common Core State Standards with the structural development of the statewide longitudinal data systems is the agenda of billionaire oligarchs and international corporations who hand pick their agents and influence state boards of education through NASBE, the National Governors Association,

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<sup>1</sup> <http://dailycaller.com/2015/10/08/bill-gates-imposing-common-core-on-america-harder-than-curing-malaria/#ixzz3oQAJb2lQ>

and the Council of Chief State School Officers and the U.S. Department of Education, as documented by the 2010 to 2014 990s, a DoE publication on the structural presence of corporate foundations in the Department, and a list of Bill & Melinda Gates Foundation employees to were appointed to leadership positions in the U.S. Department of Education and the College Board (attached to this testimony) to realize an agenda of their making, not of the making of the taxpayers and students of this state. The “how” of the Common Core State Standards Initiative undermines the rule of law by its exclusivity, that is exclusion of public accountability, at all levels of government that is life blood of our democratic republic -- and *you* are the guardians of that republic.

Not only have Washington, DC insiders violated U.S. Constitution and federal laws, they have trampled state powers and laws using governors, state boards of education and commissioners of education as their tools of implementation. I have attached a table of apparent violations to Missouri’s Constitution, state statutes, and judicial ruling by government personnel in the Department of Education to show how the culture created unelected elitists is manifest in the administration of Missouri’s public education.

Two cases of which you should be particularly concerned are violations to HB 1490 Section 160.526.3 that mandated the Commissioner of Education to establish a procedure by December 31, 2014 for the State Board of Education to receive *regular* input from various stakeholders including parents and the general assembly whenever the state board develops, evaluate, modifies, or revises academic performance standards, learning standards, or the statewide assessment system. I contacted the commissioner directly

about this matter asking for the list of ad hoc committee members, the definition of *regular*, and board minutes verifying that the procedure was explained to you. The communication thread is included in the attached materials.

You should also be concerned about the apparent violations of HB 002 and Judge Green's ruling in *Sauer v Nixon* with respect to SBAC membership committed by Department personnel. A letter to Judge Green describing the language of contract and communications among personnel of DESE and OA are also included in the materials attached to this testimony.

In conclusion, I believe that as members of Missouri's State Board of Education, you are at a crossroads with respect to the implementation of the Common Core State Standards or upholding the rule of law in our democratic republic. You may choose to "stay the course" as urged by Bill Gates at his conference while ignoring the actions of the Department that reports to you, or, you can correct course, and insist on upholding the rule of law and the courts while executing your duties and responsibilities as a State Board of Education. Your choice will affect not only you and the children and families of this state, but, the future of our republic.

I am open for questions.

## History of Apparent Legal Violations Committed by Missouri Government Officials, Appointees, or Department of Education Personnel

**Table 1**

Legal Rationale	Complaint	Evidence	Comment
Constitutional			
<p><b>Article IX Section 1(a). Free public schools – age limit. –</b>  <i>A <u>general diffusion of knowledge and intelligence</u> being essential to the <u>preservation of the rights and liberties of the people</u>, the <u>general assembly</u> shall establish and <u>maintain free public schools for the gratuitous instruction</u> of all persons in the state within ages not in excess of twenty-one years as prescribed by law.</i></p>	<p>Since 2009, Governor Nixon and the Commissioner of Education, and the State Board of Education have engaged in a course of conduct, specifically, a quid pro quo (that is, adoption of the Common Core State Standards Initiative (CCSSI) in exchange for federal grant money) that cedes Missouri’s sovereignty over educational policy within its borders to the U.S. Department of Education working in cooperation with private non-governmental organizations funded by corporate partners that financially benefit from implementation of the standards and tests aligned to them, and by non-profits imposing their education agenda on America’s education settings.</p> <p>The National Governors Association (NGA) acted as a proxy for the U.S. Department of Education as an agent in a quid pro quo, Gov. Nixon unilaterally signed an MOU with the NGA committing Missouri to the paradigm described above; Commissioner Nicastro stated in a memo to the State Board of Education that increasingly, her departments’ budget was funded by federal money, indicating that increasingly the activities of DESE were funded for implementation of federal programs.</p> <p>Nixon failed to honor the checks and balances of government or exercise due diligence when he committed the State of Missouri to the adoption and implementation of a yet-to-be-written set of privately copyrighted English and mathematics standards and assessments aligned to those standards to generate data designed for populating fields in the statewide longitudinal data system, accessible to the federal government.</p>	<p>White House March 2009 announcement of conditionally tying Title I funding to approved academic standards</p> <p>Excerpt Sec. of Ed. Duncan’s Nov. 2010 speech to UNESCO</p> <p>Excerpts from Gates’s 2009 Speech to State Legislators (“unleash market forces)</p> <p>Education Innovator 10/29/09 re: working relationship of DoE &amp; business Foundations</p> <p>Bill &amp; Melinda Gates Foundation affiliates employed in U.S. DoE</p> <p>Governor Nixon’s lone signature on the MOU with the National Governors Association re: the four assurances</p> <p>Federal Register RTTT grant announcement excerpt stipulating applications must be accompanied by State Fiscal Stabilization Fund</p> <p>Sauer v Nixon, Petition, Common Allegations 19-49</p> <p>Excerpt of Nicastro April 4, 2013 e-mail to State Board of Education</p>	<p>The Missouri constitution designates (1) the general assembly of the State as the body that maintains free public schools in Missouri – not the governor and not the federal government. Though talking points from the Washington D.C.-based NGOs and the Department of Education claim that the development of the Common Core State Standards was state-led, U.S. Supreme Court Case <i>Hunter v City of Pittsburgh</i>, <i>state</i> refers to the general assembly, not the state governors or commissioners of a board; (2) the type of education offered in free public schools to be for the general diffusion of knowledge and intelligence, in other words, a liberal arts education -- not to unleash powerful market forces [Gates] or for an undefined “college or career readiness” purportedly measured by assessments that are absent independent, external scrutiny of validity or reliability data; (3) the purpose of education for preservation of the rights and liberties of the <u>people</u> – not development of <u>human capital</u> for the workforce; (4) the <u>goal</u> of public education is gratuitous instruction of a free, self-governing people to exercise their unalienable right to pursue their own happiness – not targeted bands of test scores to qualify students to fill available job slots, or teachers to be employed, or districts to be accredited.</p>

Table 1 (continued)

Legal Rationale	Complaint	Evidence	Comment
<p><b>Article IX Section 2(a). State board of education – . . .</b> The supervision of instruction in the public schools shall be vested in a state board of education, . . .</p>	<p>Under the influence of (1) the governor’s June 26, 2009 commitment to the four assurances in his MOU to the National Governors Association; (2) the governor’s June 30, 2009 State Fiscal Stabilization Funds (SFSF) application; (3) the National Association of State Boards of Education which partners with the NGA and Council of Chief State School Officers (CCSSO) in the Common Core State Standards Initiative; (4) and Missouri’s January 2010 agreement to adopt of the privately copyrighted Common Core State Standards in Missouri’s Race To The Top application prior to the June 2, 2010 release of the final version of the standards – and only one week after that release, on June 15, 2010 the State Board of Education acted without due diligence and subverted the state constitutional by surrendering its authority to supervise instruction in Missouri’s public schools.</p>	<p>Governor Nixon’s lone signature excerpt from SFSF initial application affirming four assurances</p> <p>NASBE 2010 through 2014 990 tax forms’ description of NASBE commitment to implementation of the CCSSI</p> <p>Press release of 2012 NASBE award to Missouri State Board of Education Member Peter Herschend</p> <p>Excerpts from Missouri’s Race to the Top application</p> <p>Press release of the CCSS</p> <p>Minutes of the June 15, 2010 Board of Education meeting.</p>	<p>The State Board of Education is a creature of the state by enactment of the Missouri Constitution which vests supervision of instruction to that creation, and does not give the state board the authority to transfer its powers and duties to entities outside of the state or make the people of Missouri vulnerable to the decisions of private copyright holders, unaccountable to and uncontrolled by the people of Missouri.</p>
<p><b>Article IX Section 2(b). Commissioner of education -- . . . duties . . .</b> The board shall select and appoint a commissioner of education as its chief administrative officer, . . . and removable at its discretion.</p>	<p>The state board of education, while adopting the “Top 10 by 20” campaign goal, did not challenge the commissioner’s rationale for adoption of the CCSSI in MO’s ESEA waiver application. That is, while Missouri’s performance standards were among the top 3 in the country , they were perceived as punishing to districts with low evaluations that would have received passing evaluations in other states with lower standards or less demanding tests. Nor did the board challenge the compromise of its constitutional authority to supervise education in Missouri with the agreement of the MOU with the Smarter Balanced Assessment Consortium (SBAC).</p>	<p>Excerpt from ESEA waiver</p> <p>Statement from Governor Nixon</p> <p>Statement from U.S. Secretary Spellings</p> <p>Missouri’s SBAC MOU</p> <p>Sauer v Nixon, Judgment</p>	<p>By approving the ESEA waiver application, the state board of education agreed to the rationale that, rather than assist those Missouri districts to educate all students to its high standards, the state board decided to adopt a set of fewer, common standards designed for workforce planning, to homogenize expectations of students across states.</p> <p>By approving Missouri’s SBAC MOU, the state board agreed to an illegal compact of states make decisions about Missouri children’s academic performance.</p>

Table 1 (continued)

Legal Rationale	Complaint	Evidence	Comment
<p><b>Article IX Section 2(b)</b> . . . – <b>powers and duties of the state board of education</b>. . . . The board shall . . . heretofore established, with all its powers and duties, and shall have such other <b>powers and duties as may be prescribed by law</b>.</p>	<p>In its affirmation of the four assurances agreed to by Governor Nixon with the NGA, and U.S. Department of Education, the State Board of Education ignored the prescribed process of academic standards development described in SB 380, now expanded in HB 1490. In addition, DESE personnel willfully engaged in activity to manipulate the outcome of the academic standards workgroups constituted in October 2014. Memos from legislators affirming the purpose of HB 1490 and the autonomy of the workgroups were issued to counter those activities</p>	<p>Letter to Joint Education Committee Chair, State Representative David Wood, August 2015</p> <p>Memo from State Representative Kurt Bahr</p> <p>Memo from legislative leadership, Lt. Gov. Peter Kinder's letterhead</p>	<p>The State Board of Education is authorized to consider academic standards developed as per HB 1490 Sec. 161.855.1. Note that the language stating the purpose of the work groups shall be <i>"to develop</i> and recommend academic performance standards." This language is different than language in Sec. 160.514.2 that refers to workgroups constituted at any time after October 2014. Additionally, Representative Bahr's memo states, "HB 1490 states that all standards taken from other sources are in the Public Domain. That means you cannot use copyrighted standards in developing new standards for Missouri. To date, the only copyrighted standards this office is aware of is Common Core."</p>
<p>Amendment 3 (2014)</p> <p>RSMo 168.128 . . . The board of education <b>of each school district</b> shall maintain records . . . for the enforcement of sections <a href="#">168.102</a> to <a href="#">168.130</a>. . . ., <b>the board of education of each school district</b> shall cause a comprehensive, performance-based evaluation . . . The state department of elementary and secondary education shall <b>provide suggested procedures</b> for such an evaluation.</p>	<p>Amendment 3, which included language tying teacher evaluations to student test scores, was rejected by the people of Missouri in November of 2014 when over 76% of over a million voters voted against Amendment 3 . DESE is abusing its relationship to school districts through the MSBA (which was determined by Missouri Attorney General William Webster to be a quasi-governmental organization) to subvert local control of personnel supervision and circumvent the people of Missouri by pressuring districts to comply with poorly conceived requirements of Missouri's 2015 ESEA waiver. Tying teacher evaluations to student test scores is indefensible based on the questionable validity of Value Added Modeling for high stakes decision making and substantive unknown costs to districts. The waiver itself is of questionable validity given that the Secretary of Education has no authority to grant waivers conditional on a quid quo pro.</p>	<p>Excerpt Missouri's 2015 ESEA waiver application</p> <p>BOTA 2010 Letter to U.S. Secretary of Ed. Duncan</p> <p>MSBA memo to school districts</p> <p>Attorney General William Webster's decision (1988) that MSBA is a quasi-government organization</p> <p>2013 Memo from Commissioner Nicastro editing Fiscal Note to modify the impact of teacher evaluation based on student test scores.</p>	<p>Missourians rejected the practice of tying teacher evaluations to student test scores so districts should not be adopting this policy. The Board of Testing and Assessment of the National Science Academy advised Secretary Duncan against the teacher evaluation plan described in his waiver requirements. To date, five lawsuits have been filed around the country in opposition to using student scores for teacher evaluations. Using tests computer adaptive tests which have no demonstrated validity or reliability, and using statistical models that the American Statistical Association says are unsupportable for this purpose tying teacher evaluations to such tests will leave districts open to wrongful dismissal or pay disparity lawsuits.</p>

Table 2

Legal Rationale	Complaint	Evidence	Comment
Statutory			
<b>2013</b>			
<b>HB 002</b>			
HB 002 Section 2.050. To the Department of Elementary and Secondary Education For the purpose of receiving and expending grants, donations, contracts, and payments from private, federal, and other governmental agencies which may become available between sessions of the General Assembly provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to the use of said funds, and further provided that <b><i>no funds shall be used to implement the Common Core Standards</i></b>	Despite prohibitions in May of 2013 against the use of taxpayer dollars for implementing common core state standards, Missouri signed a contract with McGraw Hill in October 2013 for vendor services through 2015 and tests that incorporated items from the Smarter Balanced Assessment Consortium aligned to the Common Core State Standards. That is, DESE contracted for an enforcement mechanism of teaching common core state standards content in Missouri classrooms and continuing other components of the Common Core State Standards Initiative. Contrary to No Child Left Behind requirements that statewide tests administered to students must be valid and reliable for their purpose, Missouri entered the agreement with no technical manual reporting psychometric quality, that is documentation of validity or reliability of the SBAC items. The latest SBAC report to the Department of Education describes the difficulty SBAC experienced in gathering such data.	<p>HB 002 (2013)</p> <p>October 2013 Press Releases from DESE and The Journal announcing award of contract to McGraw Hill</p> <p>Issues and Recommendation for Resolution of the General Assembly Regarding Validity and Reliability of the Smarter Balanced Assessments Scheduled for Missouri in Spring 2015 available at <a href="http://missourieducationwatchdog.com/sbac-tests-show-no-validity-or-reliability/">http://missourieducationwatchdog.com/sbac-tests-show-no-validity-or-reliability/</a></p> <p>No Child Left Behind, language referring to validity and reliability of statewide assessments</p> <p>US DoE-SBAC MOU</p> <p>SBAC Newsletter announcing 2013-2014 Executive Committee Election results</p> <p>SBAC October Executive Committee Meeting Minutes</p> <p>Excerpt from SBAC Year 3 Race to the Top Report to the U.S. Department of Education</p>	DESE personnel flouted the law when contracting with McGraw Hill to incorporate SBAC test items in Missouri's statewide tests. DESE Assessment Coordinator, Michael Muenks, also flouted the law when he participated in SBAC Executive Committee meetings.

Table 2 (continued)

Legal Rationale	Complaint	Evidence	Comment
Section 2.060. To the Department of Elementary and Secondary Education For the Division of Learning Services, provided that no funds are used to support the distribution or sharing of any individually identifiable student data with the federal government with the exception of the reporting requirements of the Migrant Education Program funds in Section 2.090, the Vocational Rehabilitation funds in Section 7 2.140, and the Disability Determination funds in Section 2.145	According to the U.S. Department of Education's Memorandum of Agreement with SBAC describing the conditions of the grant award, SBAC agreed to "... working with the department to develop a strategy to make student-level data that results from the assessment system available on an ongoing basis for research, including for prospective linking, validity, and program improvement studies; . . . . Therefore, Missouri's contracting for computer adaptive testing designed to individualize administration of student tests and collect personally identifiable student data through the login procedure violates HB 002		With the requirements of the SBAC MOU clearly stating that the SBAC grantees must collaborate with the federal department of education, and the SBAC assessment system design must make student level data available for prospective linking, and Family Education Rights and Privacy Act (FERPA) weakened by changes authorized by Secretary of Education Arne Duncan in the January 2012 Federal Register, DESE is out of compliance with HB 002

Table 3.

Legal Rationale	Complaint	Evidence	Comment
Statutory			
<b>2014</b>			
HB 002			
Section 2.060. To the Department of Elementary and Secondary Education . . . <b><i>no funds shall be used to implement or support the Common Core Standards</i></b>	Despite prohibitions on the implementation of Common Core Standards in Missouri, DESE field tested SBAC test items in Missouri classrooms at the expense of student learning time, personnel costs, and district expenses.	HB 002 (2014)	The Missouri Electronic Data Protection, Amendment 9 was on the August 5, 2014, primary election ballot in Missouri as a legislatively referred constitutional amendment, where it was approved by 75% of the voters. The measure added electronic communications and data to the Missouri Constitution's prohibition against unreasonable searches and seizures. With the passage of this amendment, Missouri
Section 2.070. To the Department of Elementary and Secondary Education For the Division of Learning Services, provided that <b><i>no funds are used</i></b>	When DESE personnel executed an MOU with UCLA in September 2014 identifying Michael Meunks as the State Lead and Missouri's representative to the SBAC governing board, it was flouting the law		



Table 3 (continued)

Legal Rationale	Complaint	Evidence	Comment
<i>to support the collection, distribution, or sharing of any individually identifiable student data with the federal government</i> ; with the exception of the reporting requirements of the Migrant Education Program funds in Section 2.105, the Vocational Rehabilitation funds in Section 2.160, and the Disability Determination funds in Section 2.165	prohibiting DESE from using funds to implement or support the Common Core Standards and participate in the design and implementation of an assessment system that would collect identifiable student data and make it available to agencies qualified under FERPA		protects the electronic data of suspected criminals better than it protects the student data gathered through computerized instruction and assessment.

Table 4.

Legal Rationale	Complaint	Evidence	Comment
HB 1490 Section 161.855.1 <b>By October 1, 2014, the state board of education shall convene work groups</b> composed of education professionals <b>to develop</b> and recommend academic performance standards.	DESE resisted efforts of Speaker Jones's staff to organize a plenary session of the work groups to explain the purpose of the workgroups as per Section 161.855; selectively communicated with a segment of work group members;; obstructed the process of academics standards development by contracting with facilitators and equipping them with department-prepared PPT material to shape the discussion of the groups. DESE personnel misrepresented the work groups to the media	Memo of Kurt Bahr to work groups  Memo of legislative leadership to work group members  Letter to State Representative Wood, Chair of the Joint Education Committee	DESE personnel selected language from Sec. 160.514.2 to describe the purpose of the groups as "develops, evaluates, modifies, or revise s academic performance standards or learning standards"; however, that language refers to future cycles of standards review, not the groups convened in October 2014.  DESE personnel discriminated against authorized work group members when it sought money from external sources to contract with facilitators and note takers not authorized by statute to be participate, yet, sought no reimbursements of expenses for Missouri's appointed members.

Table 4 (continued)

Legal Rationale	Complaint	Evidence	Comment
<p>Section 160.526.2</p> <p><b><i>Within six months prior to implementation of or modification or revision to the statewide assessment system, the commissioner of education shall inform the president pro tempore of the senate and the speaker of the house of representatives about the procedures to implement, modify, or revise the statewide assessment system, including a report related to the reliability and validity of the assessment instruments, and the general assembly may, within the next sixty legislative days, veto such implementation, modification, or revision by concurrent resolution adopted by majority vote of both the senate and the house of representatives</i></b></p>	<p>The commissioner of education did not meet the statutory requirement of submitting a report of the SBAC assessments' validity and to the president pro tempore of the senate and the speaker of the house of representatives in 2014. The purpose of the report is to confirm psychometric adequacy of assessments used to protect the public and comply with federal laws, as indicated by the function of a now-discontinued commission mentioned in the statute, and the purpose of an ad hoc committee described in the next section. Instead the commissioner reported SBAC's plans to gather and the required data in the future. To date those data are not available in the venues identified in the RTTT announcement or on the SBAC website. Further, the general assembly must be given an opportunity to vote on the assessment plan within the next sixty legislative days to</p>	<p>Request for Resolution</p> <p>Excerpt from RTTT grant announcement pertinent to the venues where SBAC is required to publish technical adequacy information.</p> <p>Governor Nixon's May 2015 Letter to the General Assembly</p>	<p>Because Missouri exited from SBAC, a new assessment plan is need for administration in 2016. Commissioner Vandeven should have submitted a report of the 2016 assessments' validity and reliability to the president pro tempore of the senate and the speaker of the house by the middle of this month. Opportunity for the general assembly to vote on the assessment plan requires this information for legislative leadership to determine agenda items, and is affirmed in Gov. Nixon's May 8, 2015 letter to the clerk of the house of representatives.</p>
<p>Section 160.526.3</p> <p><b><i>By December 31, 2014, the commissioner of education shall revise this procedure to allow the state board of education to regularly receive advice and counsel from professional educators at all levels in the state, district boards of education, parents, representatives from business and industry, the general assembly, and labor and community leaders whenever the state board develops, evaluates, modifies, or revises academic performance</i></b></p>	<p>A series of communications with Commissioner Vandeven and Dr. Stacey Preis indicate that neither Commissioner Nicastro, Commissioner Vandeven complied with Section 160.526.3 requiring the commissioner to form an ad hoc committee for regular advisement regarding Missouri's learning standards and assessment plan to the state board of education by December 31, 2014. The ad hoc committee should have been constituted to provide input to the board before the 2015 public hearings on the academic standards work groups and before the development of the 2016 assessment plan including the selection of a vendor.</p>	<p>E-mail exchange with Commissioner Vandeven</p> <p>Letter from DESE personnel, Dr. Stacey Pries</p>	<p>The enclosed e-mail thread between Dr. Mary Byrne and Commissioner Vandeven and a letter from Dr. Stacey Pries writing on behalf of Commissioner Vandeven confirm that DESE personnel were contacted about the requirements of HB 1490 Section 160.526.3 with respect to the revised statewide assessment plan for 2016. While acknowledging the communication, the information requested was not provided, indicating that DESE personnel and the State Board of Education are out of compliance with this section and will invalidate any decision to adopt standards in March 2016.</p>

Table 4 (continued)

Legal Rationale	Complaint	Evidence	Comment
<i>standards, learning standards, or the statewide assessment system under sections 160.514 and 160.518. The procedure shall include, at a minimum, the appointment of ad hoc committees</i>			
Section 161.096 <b>The state board of education shall promulgate a rule</b> relating to student data accessibility, transparency, and accountability relating to the statewide longitudinal data system. . . .	Over 1 ½ years since the passage of HB 1490, the State Board of Education has not promulgated a rule as per this section, even as national news of data security breaches at the highest levels of government are reported, and Missouri's State Auditor found a need for increased efforts to protect student data from cyberattacks.	State Auditor press release regarding report of State Education Department's student data security practices	Every day the State Board of Education does not comply with this section, students' risk of identity theft increases. Data theft is an event waiting to happen.

Table 5.

Legal Rationale	Complaint	Evidence	Comment
Statutory			
<b>2015</b>			
HB 002			
Section 2.050. To the Department of Elementary and Secondary Education For the purpose of receiving and expending grants, donations, contracts, and payments from private, federal, and other governmental agencies which may become available . . . provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to the use of said funds and further provided that <b>no funds shall be used to implement or support the Common Core Standards</b>	Since 2013 (See HB 002 2013 and 2014 above) DESE personnel and the State Board of Education have engaged in a course of conduct incompliant with state law that restrains the Department from implementing or supporting the Common Core Standards or participation in the development of the SBAC assessment system.	HB 002 (2015)  Contract C315002001 available at <a href="https://awardedsearch.oe.mo.gov/PublicAccess/!CustomSearchPages/OA_AllPublicDocuments.aspx">https://awardedsearch.oe.mo.gov/PublicAccess/!CustomSearchPages/OA_AllPublicDocuments.aspx</a>  Sauer v Nixon documents identified in the table on page 10 made available upon request	Despite clear language in Missouri's state constitution, statutes, court ruling, and legislators' memos, members of the executive branch including the governor, the state board of education flout restrictions prohibiting the implementation of the Common Core State Standards Initiative

Table 5 (continued)

Legal Rationale	Complaint	Evidence	Comment
<p>Section 2.055. To the Department of Elementary and Secondary Education. For the Division of Learning Services, provided that <b><i>no funds are used to support the collection, distribution, or sharing of any individually identifiable student data with the federal government</i></b>; with the exception of the reporting requirements of the Migrant Education Program funds in Section 2.085, the Vocational Rehabilitation funds in Section 2.135, and the Disability Determination funds in Section 2.140</p> <p>Section 2.070. To the Department of Elementary and Secondary Education For the Performance Based Assessment Program, provided that no funds are used to support the collection, distribution, or sharing of any individually identifiable student data with the federal government; with the exception of the reporting requirements of the Migrant Education Program funds in Section 2.085, the Vocational Rehabilitation funds in Section 2.135, and the Disability Determination funds in Section 2.140, and further provided that <b><i>no funds from this section shall be used for license fees or membership dues for the Smarter Balanced Assessment Consortium</i></b></p>			<p>and DESE personnel have engaged in a pattern of conduct that violates the democratic process for providing a public education to children of Missouri.</p> <p>Should State Board of Education members continue engaging in this pattern of conduct by affirming adoption of the Common Core State Standards, the people of Missouri will take a corrective course of action by whatever means are available.</p>

Table 6.

Legal Rationale	Complaint	Evidence	Comment
Judicial			
<b>2014-2015</b>			
Sauer v Nixon	Despite a restraining order issued November 25, 2015 and a judgment handed down February 24, 2015 by Circuit Judge of Cole County Daniel Green prohibiting Missouri from paying SBAC membership fees, DESE personnel issued a memo to the Missouri Office of Administration instructing a contract with McGraw Hill that included language confirming Missouri's intent to remain a member of SBAC and maintain responsibility of all costs associated with Smarter Balanced membership	<p>Sauer v Nixon  Petition  Restraining order  Judgment  Motion to Dismiss Appeal  Made available upon request</p> <p>Contract C315002001 available at <a href="https://awardedsearch.oa.mo.gov/PublicAccess/!CustomSearchPages/OA_AllPublicDocuments.aspx">https://awardedsearch.oa.mo.gov/PublicAccess/!CustomSearchPages/OA_AllPublicDocuments.aspx</a></p> <p>Letter to Judge Green, Circuit Court Judge of Cole County (October 2015)</p>	<p>DESE and Office of Administration personnel have engaged in a course of conduct showing contempt for the court and for the legislature as described in the above tables.</p> <p>The State Board of Education is ultimately responsible to the court and to the general assembly for activities of the DESE, and will share the consequences if any, to be determined by Judge Green and the general assembly, of those activities.</p>

## Appendix

Evidence listed in Tables 1-6 in order of appearance

[https://www.whitehouse.gov/sites/default/files/rss\\_viewer/education\\_standard\\_factsheet.pdf](https://www.whitehouse.gov/sites/default/files/rss_viewer/education_standard_factsheet.pdf)

### Preparing Students for Success in College and the Workforce

*"We will end what has become a race to the bottom in our schools and instead spur a race to the top by encouraging better standards and assessments... And I'm calling on our nation's governors and state education chiefs to develop standards and assessments that don't simply measure whether students can fill in a bubble on a test, but whether they possess 21st century skills like problem-solving and critical thinking and entrepreneurship and creativity. That is what we'll help them do later this year -- when we finally make No Child Left Behind live up to its name by ensuring not only that teachers and principals get the funding that they need, but that the money is tied to results."*

President Barack Obama  
Remarks to the Hispanic Chamber of Commerce  
March 10, 2009

Last year, the President challenged states to develop standards and assessments that will help America's children rise to the challenge of graduating from high school prepared for college and the workplace.

Today, the President applauds Governors for their efforts to work together in a state-led consortium – managed by the National Governors Association (NGA) and the Chief State School Officers (CCSSO) – to develop and implement new reading and math standards that build toward college- and career-readiness. With many states well positioned to adopt these standards, the Governors initiative is an essential first step in improving the rigor of teaching and learning in America's classrooms.

...

### PROMOTING COLLEGE AND CAREER-READINESS

The President's FY 2011 budget supports the Obama Administration's plan for the reauthorization of the Elementary and Secondary Education Act (ESEA), including a comprehensive and new vision to help states successfully transition to and implement college- and career-ready standards by improving teacher preparation and development, upgrading classroom instruction, and supporting high-quality assessments.

In better aligning the law to support college- and career-ready standards, the Obama Administration will integrate new policies into a re-designed Elementary and Secondary Education Act, which will:

- Require all states to adopt and certify that they have college- and career-ready standards in reading and mathematics, which may include common standards developed by a state-led consortium, as a condition of qualifying for Title I funding.

<http://unesco.usmission.gov/duncan-remarks.html>



## The U.S. and UNESCO's Sectors

**Education**

Natural Sciences

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#### **"The Vision of Education Reform in the United States"**

4 November 2010

The North Star guiding the alignment of our cradle-to-career education agenda is President Obama's goal that America will once again have the highest proportion of college graduates in the world.

That goal can only be achieved by creating a strong cradle-to-career continuum that starts with early childhood learning and extends all the way to college and careers.

...

On K-12 education, our theory of action starts with the four assurances incorporated in last year's economic stimulus bill, the American Recovery and Reinvestment Act. The four assurances got their name from the requirement that each governor in the 50 states had to provide an "assurance" they would pursue reforms in these four areas--in exchange for their share of funds from a Recovery Act program designed to largely

...



<http://www2.ed.gov/programs/statestabilization/stateapps/mo-sub.pdf>

<http://www.gatesfoundation.org/media-center/speeches/2009/07/bill-gates-national-conference-of-state-legislatures-ncsl>

The screenshot shows the Bill & Melinda Gates Foundation website. The header includes the foundation's name and navigation links: WHO WE ARE, WHAT WE DO, HOW WE WORK, and a search bar. The main content area is titled 'PRESS ROOM' and 'SPEECHES'. A sidebar on the left lists 'Press Releases and Statements' and 'Speeches' (with a right arrow). The main text area shows a speech by Bill Gates at the National Conference of State Legislatures, dated July 21, 2009. The speech title and date are circled in red. The text of the speech is underlined in red.

**BILL & MELINDA GATES foundation**

WHO WE ARE WHAT WE DO HOW WE WORK Search

**PRESS ROOM**  
SPEECHES

← BACK

**Bill Gates - National Conference of State Legislatures**

**July 21, 2009**

July 21, 2009  
Prepared Remarks by Bill Gates, co-chair

We need to take two enabling steps: we need longitudinal data systems that track student performance and are linked to the teacher; and we need fewer, clearer, higher standards that are common from state to state. The standards will tell the teachers what their students are supposed to learn, and the data will tell them whether they're learning it. These two changes will open up options we've never had before.

...

When the tests are aligned to the common standards, the curriculum will line up as well—and that will unleash powerful market forces in the service of better teaching. For the first time, there will be a large base of customers eager to buy products that can help every kid learn and every teacher get better. Imagine having the people who create electrifying video games applying their intelligence to online tools that pull kids in and make algebra fun.

<http://www2.ed.gov/news/newsletters/innovator/2009/1029.pdf>

## Archived Information



### The Education Innovator Office of Innovation & Improvement

October 29, 2009

Volume VII, No. 8

#### Feature

#### What's New?

From the U.S.

#### Feature

#### *Shooting for the Moon: A Joint Venture*



*Secretary Duncan addresses members of the Gran Thinkers for Education at their Chicago conference. The gathering's theme, "Make No Small Plans," was in keeping with the Secretary's message.*

At the Department, philanthropic engagement means providing an open door to foundations to become a part of the educational reform conversation at the highest level. Just as teachers, students, administrators, community organizations, and others are considered key stakeholders in this transformative work, foundations are now at the table, too. Because of this, the Department is challenging funders to act differently along with the rest of the education sector. All stakeholders must be innovative in order to rise above the status quo of reform. Secretary Duncan is asking everyone to think and act differently. Not only teachers and students, but universities, parents, unions, school boards, government...and now philanthropists, too.

The Department has truly embraced the foundation community by creating a position within the Office of the Secretary for the Director of Philanthropic Engagement. This dedicated role within the Secretary's Office signals to the philanthropic world that the Department is "open for business."

With respect to broad philanthropic engagement, the Department has two overarching goals that hopefully will not only help change the way that government works with philanthropy, but also help to change the way that the philanthropic sector does business.

If the Department of Education can catalyze a portfolio of investor collaboration tools to allow philanthropy and government to operate from shared platforms to make decisions and investments around shared goals, it will create a much more efficient and effective education sector, which will lead to greater opportunities for children, and easier access to funding for schools and districts.

## U. S. Department of Education & College Board Staff Tied to Bill & Melinda Gates Foundation

### Former Gates Employees on Secretary of Education Duncan's Team

<http://www.edweek.org/media/33transition-c1.pdf>

(1) Duncan's first chief of staff, Margot Rogers, had been a top Gates Foundation official who Duncan worked with when Chicago public schools [obtained](#) two Gates grants totaling \$19.6 million

<http://www.zoominfo.com/p/Margot-Rogers/119699701>;

<http://spectator.org/articles/64578/why-common-core-cracking>

(2) Joanne Weiss, Roger's replacement as of June 2010, came from a major Gates grantee, the New Schools Venture Fund

<http://weissassociates.net/bmgf> and <http://weissassociates.net/about/>

(3) Asst. Sec. for Civil Rights Russlynn Ali has worked at Broad, and the Gates-funded Education Trust

<https://www.linkedin.com/pub/russlynn-ali/7/3b/6bb> ;

(4) Carmel Martin, from the Gates Foundation served as Duncan's assistant secretary for planning, evaluation, and policy development and served as a senior advisor to Sec. Duncan

[http://blogs.edweek.org/edweek/campaign-k-2/2009/03/bethany\\_little\\_to\\_senate\\_educa.html](http://blogs.edweek.org/edweek/campaign-k-2/2009/03/bethany_little_to_senate_educa.html)  
and <https://www.americanprogress.org/about/staff/martin-carmel/bio/>;

(5) James Shelton, a Gates program officer, served first as the Assistant Deputy Secretary for Innovation and Improvement. He worked at both Gates and the New Schools Venture Fund.

<http://www2.ed.gov/news/staff/bios/shelton.html>

### Former Gates Employee on College Board Team

Dr. Stefanie Sanford was hired by the College Board in 2013. Sanford was Director of Policy and Advocacy for the U.S. Program of the Bill and Melinda Gates Foundation, where she led the development and execution of advocacy strategies to support the foundation's College Ready and Post Secondary Success programs.

<http://www.prnewswire.com/news-releases/college-board-names-dr-stefanie-sanford-as-chief-of-policy-advocacy-and-government-relations-182200761.html>

**The Council of Chief State School Officers and  
The National Governors Association Center for Best Practices**

**Common Core Standards  
Memorandum of Agreement**

**Purpose.** This document commits states to a state-led process that will draw on evidence and lead to development and adoption of a common core of state standards (common core) in English language arts and mathematics for grades K-12. These standards will be aligned with college and work expectations, include rigorous content and skills, and be internationally benchmarked. The intent is that these standards will be aligned to state assessment and classroom practice. The second phase of this initiative will be the development of common assessments aligned to the core standards developed through this process.

- **Federal Role.** The parties support a state-led effort and not a federal effort to develop a common core of state standards; there is, however, an appropriate federal role in supporting this state-led effort. In particular, the federal government can provide key financial support for this effort in developing a common core of state standards and in moving toward common assessments, such as through the Race to the Top Fund authorized in the American Recovery and Reinvestment Act of 2009. Further, the federal government can incentivize this effort through a range of tiered incentives, such as providing states with greater flexibility in the use of existing federal funds, supporting a revised state accountability structure, and offering financial support for states to effectively implement the standards. Additionally, the federal government can provide additional long-term financial support for the development of common assessments, teacher and principal professional development, other related common core standards supports, and a research agenda that can help continually improve the common core standards over time. Finally, the federal government can revise and align existing federal education laws with the lessons learned from states' international benchmarking efforts and from federal research.

**Agreement.** The undersigned state leaders agree to the process and structure as described above and attest accordingly by our signature(s) below.

Signatures	
<b>Governor:</b>	
<b>Chief State School Officer:</b>	



Jeremiah W. (Jay)  
Nixon  
2009.06.25 17:35:27  
-05'00'



37804

Federal Register / Vol. 74, No. 144 / Wednesday, July 29, 2009 / Notices

## DEPARTMENT OF EDUCATION

[Docket ID ED-2009-OESE-0006]

RIN 1810-AB07

## Race to the Top Fund

AGENCY: Department of Education.

ACTION: Notice of proposed priorities, requirements, definitions, and selection criteria.

*Catalog of Federal Domestic Assistance (CFDA) Number: 84.395A.*

information that they wish to make publicly available on the Internet.

FOR FURTHER INFORMATION CONTACT: Beth Yeh, U.S. Department of Education, 400 Maryland Avenue, SW., Room 6W219, Washington, DC 20202. Telephone: 202-205-3775 or by e-mail:

racetothetop@ed.gov. Note that we will not accept comments by e-mail.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

encourage and reward States that are creating the conditions for education innovation and reform; implementing ambitious plans in the four education reform areas described in the ARRA; and achieving significant improvement in student outcomes, including making substantial gains in student achievement, closing achievement gaps, improving high school graduation rates, and ensuring student preparation for success in college and careers.

Program Authority: American Recovery

**A. Eligibility Requirements**

**Background:** We are proposing two eligibility requirements for Race to the Top applicants. First, we propose that a State must have an approved application under both Phase 1 and Phase 2 of the State Fiscal Stabilization Fund (Stabilization) program of the ARRA in order to be eligible to receive an award from the Race to the Top competition. Section 14005(d) of the ARRA requires a State that receives funds under the Stabilization program to provide assurances in the same four education reform areas that will be advanced by the Race to the Top grant. We therefore believe that it would be

14AC-CC00477

## IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

FRED N. SAUER,  
 ANNE GASSEL, and  
 GRETCHEN LOGUE,

Plaintiffs,

v.

JEREMIAH W. (JAY) NIXON, in his official  
 capacity as Governor of Missouri,

Serve at:  
 Office of Governor  
 State Capitol, Room 216  
 Jefferson City, Missouri 65101

and

CHRIS L. NICASTRO, in her official capacity  
 as Commissioner of Education,

Serve at:  
 Department of Elementary and Secondary  
 Education  
 205 Jefferson Street  
 Jefferson City, Missouri 65101

and

DEPARTMENT OF ELEMENTARY AND  
 SECONDARY EDUCATION,

Serve at:  
 205 Jefferson Street  
 Jefferson City, Missouri 65101

and

MISSOURI STATE BOARD OF EDUCATION,

Serve at:  
 Department of Elementary and Secondary  
 Education

Cause No. \_\_\_\_\_

Division \_\_\_\_\_

## COMMON ALLEGATIONS

### A. Federal Law Preserves and Protects State Authority over Educational Policy.

19. The Compact Clause of the U.S. Constitution provides that “[n]o state shall, without the consent of Congress ... enter into any agreement or compact with another state.” U.S. Const. art. I, § 10, cl. 3.

20. The Tenth Amendment to the U.S. Constitution provides that “[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.”

21. It has long been recognized that educational policy is an area of core state competence and concern that is not delegated to the federal government under the Constitution and our system of federalism.

22. For nearly fifty years, federal statutes have prohibited the Federal Government—and, in particular, the federal Department of Education—from controlling educational policy, curriculum decisions, or educational-assessment programs in elementary and secondary education.

23. These statutes manifest the explicit intent of Congress that authority and control over the curriculum, programs of instruction, and administration of public schools should rest with the States and local educational agencies, not the federal Government.

24. In 1965, Congress enacted the General Education Provisions Act of 1965, 20 U.S.C. §§ 1221 *et seq.*, which provides:

No provision of any applicable program shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction,

administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

20 U.S.C. § 1232a. This restriction was later made applicable to all programs administered by the federal Department of Education. 20 U.S.C. § 1221(c)(1).

25. Similarly, the Department of Education Organization Act of 1979, 20 U.S.C. §§ 3401 *et seq.*, which established the federal Department of Education, provides:

No provision of a program administered by the Secretary or by any other officer of the Department shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association, or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent authorized by law.

20 U.S.C. § 3403(b).

26. The Department of Education Organization Act reflects Congress's clear intent that States and local governments retain control over education policy and decision making

It is the intention of the Congress in the establishment of the Department to protect the rights of State and local governments and public and private educational institutions in the areas of educational policies and administration of programs and to strengthen and improve the control of such governments and



institutions over their own educational programs and policies. The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States and the local school systems and other instrumentalities of the States.

20 U.S.C. § 3403(a).

27. Echoing these principles, the Elementary and Secondary Education Act of 1965 (“ESEA”), as amended by the No Child Left Behind Act of 2001 (“NCLB”), 20 U.S.C. §§ 6301 *et seq.*, provides that “[n]othing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local education agency, or school’s curriculum, program of instruction, or allocation of State or local resources.” 20 U.S.C. § 7907(a).

28. Moreover, the ESEA prohibits the Department of Education from using funds under the statute “to endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school.” 20 U.S.C. § 7907(b).

29. The ESEA further provides that “no State shall be required to have academic content or student academic achievement standards approved or certified by the Federal Government, in order to receive assistance under this Act.” 20 U.S.C. § 7907(c)(1).

30. In enacting the ESEA, Congress contemplated that decisions regarding “the specific types of programs or projects that will be required in school districts” would be “left to the discretion and judgment of the local public educational agencies.” H.R. Rep. No. 143, 89th Congress, 1st Session, 5 (1965).

31. “The legislative history [of the ESEA], the language of the Act, and the regulations clearly reveal the intent of Congress to place plenary responsibility in local and state agencies for the formulation of suitable programs under the Act.” *Wheeler v. Barrerra*, 417 U.S. 402, 415-16 (1975), *judgment modified on other grounds*, 422 U.S. 1004 (1975). “There [is] a pronounced aversion in Congress to ‘federalization’ of local educational decisions.” *Id.* at 416.

**B. The Common Core State Standards Reflect an Attempt to Nationalize and Federalize State Elementary and Secondary Education Curriculum. Missouri Has Rejected this Attempt.**

32. In 2009, the National Governor’s Association and the Council of Chief State School Officers announced an initiative to develop the Common Core State Standards (“Common Core”). Common Core was intended to constitute a common set of standards among most or all states to define requisite skills and knowledge in English language arts and mathematics. From its inception, Common Core was intended to replace “the existing patchwork of state standards” with a uniform, nationalized set of standards, assessments, and curriculum, which would not vary from State to State. *See* 74 Fed. Reg. 59733 (Nov. 18, 2009).

33. At present, Common Core includes uniform assessment standards for English language arts and mathematics.

34. Common Core was finalized in or around June 2010.

35. As it has been implemented, Common Core has elicited criticism nationwide from parents, teachers, public-policy experts, and elected officials, from across the political spectrum. This criticism has addressed both the substantive content of the Common Core standards and the centralization of the educational system that implementation of Common Core might occasion. *See, e.g.,* Lindsey Burke & Jennifer

A. Marshall, *Why National Standards Won't Fix American Education: Misalignment of Power and Incentives*, Heritage Foundation, available at <http://www.heritage.org/research/reports/2010/05/why-national-standards-won-t-fix-american-education-misalignment-of-power-and-incentives>; Al Baker, *Common Core Curriculum Now Has Critics on the Left*, N.Y. Times, Feb. 16, 2014, available at <http://www.nytimes.com/2014/02/17/nyregion/new-york-early-champion-of-common-core-standards-joins-critics.html>.

36. Reflecting this widespread and growing discontent with Common Core, in 2014, the Missouri legislature passed House Bill 1490 ("HB 1490"). HB 1490 requires the Missouri State Board of Education to convene work groups of Missouri-based parents and educational professionals to develop educational assessment standards for Missouri, and to implement those standards beginning in the 2016-2017 school year. HB 1490 envisions assessment programs created through dialogue between educators, parents, and other stakeholders that reflect a practical assessment of our public school students' educational progress. In addition, HB 1490 provides that "[t]he state board of education and the department of elementary and secondary education shall not require districts to use any appendix to the common core state standards."

**C. Prior to HB 1490, the U.S. Department of Education, with the Active Cooperation of Governor Nixon and Commissioner Nicastro, Sought to Federalize Missouri's Curriculum under the Smarter Balanced Assessment Consortium Implementing Common Core.**

37. On February 17, 2009, the U.S. Congress passed the American Recovery and Reinvestment Act of 2009 ("ARRA"). Sections 14005 and 14006 of the ARRA provided for federal grant funding to the states related to education. Section 14005(d)(4) provided for grant funding relating to "standards and assessments," and provided that

recipient states would “take steps to improve State academic content standards and student academic achievement standards...” Section 14006 provided for remaining funds to be used as state incentive grants in FY 2010 for states “that have made significant progress in meeting the objectives of paragraphs (2), (3), (4), and (5) of section 14005(d).” 123 Stat. 115, 283 (2009). ARRA did not mention or authorize common state educational standards, or “consortia” of states.

38. On or about June 25, 2009, without authorization by the Missouri legislature or the requisite signature of the highest state education official, Governor Nixon unilaterally signed a “Memorandum of Agreement” with the National Governors Association that purported to commit Missouri to adopting a “common core of state standards (common core) in English language arts and mathematics for grades K-12.” *See* Common Core Standards, Memorandum of Agreement (attached as Exhibit 1). This Memorandum of Agreement recited that “the federal government can provide key financial support for this effort in developing a common core of state standards and in moving toward common assessments, such as through the Race to the Top Fund authorized by the American Recovery and Reinvestment Act of 2009.” *Id.*

39. On or about November 18, 2009, the U.S. Department of Education issued an invitation to the States to apply for Race to the Top (“RTTT”) grant funding pursuant to the ARRA. *See* 74 Fed. Reg. 59836 (Nov. 18, 2009). This invitation conditioned RTTT grant funding on, in part, “[t]he extent to which the State has demonstrated its commitment to adopting a common set of high-quality standards.” *Id.* at 59843. To demonstrate the requisite “commitment,” a state could (a) “participat[e] in a consortium of States that . . . [i]s working toward jointly developing and adopting a common set of

K-12 standards . . . that are supported by evidence that they are internationally benchmarked and build toward college and career readiness by the time of high school graduation,” and (b) “demonstrat[e] its commitment to and progress toward adopting a common set of K-12 standards . . . by August 2, 2012 . . . and to implementing the standards thereafter in a well-planned way.” *Id.*

40. To satisfy key criteria for grant funding under RTTT, a state thus had to commit to adopting a “common set of K-12 standards,” *i.e.* Common Core.

41. On or about January 18, 2010, Governor Nixon and Commissioner Nicastro signed an Application for Initial Funding for RTTT funds. In this application, Governor Nixon and Commissioner Nicastro purported to assert “Missouri’s commitment to Common Core Standards development and adoption.” Even though the Common Core Standards had yet to be finalized, the application definitively stated that “Missouri will begin transitioning to the Common Core K-12 Standards and Career Ready/College Ready Standards upon their adoption.” On information and belief, this application was submitted without the authorization of the Missouri legislature.

42. On or about April 9, 2010, the federal Department of Education announced “scoring priorities” for the RTTT Assessment program, which would “provide[] funding to consortia of States to develop assessments” aligned with common K-12 standards, *i.e.* Common Core. *See* 75 Fed. Reg. 18171 (April 9, 2010). To be eligible, a consortium of states “must include at least 15 States.” *Id.* The criteria required the adoption of “academic content standards for grades K-12” that are “substantially identical across all States in a consortium.” *Id.* at 18177. The criteria further provided that “a State may supplement the common set of . . . standards with

additional content standards, provided that the additional standards do not exceed 15 percent of the State's total standards for that content area." *Id.* These academic content standards had to be "fully implemented statewide in each State in the consortium no later than the 2014-2015 school year." *Id.* at 18171.

43. On or about April 14, 2010, the federal Department of Education issued a second invitation for applications for RTTT funds. *See* 75 Fed. Reg. 19496 (April 14, 2010). This invitation again conditioned RTTT grant funding on, in part, "[t]he extent to which the State has demonstrated its commitment to adopting a common set of high-quality standards." *Id.* at 19503.

44. On or about April 14, 2010, Commissioner Nicastro signed a "Document of Commitment" to the Smarter Balanced Assessment Consortium ("SBAC"). *See* Document of Commitment (attached as Exhibit 2, and incorporated by reference herein). This document purported to commit Missouri to serve as a "Governing State" in SBAC.

45. On or about May 20, 2010, Commissioner Nicastro signed a "Memorandum of Understanding" with SBAC. *See* Memorandum of Understanding (attached as Exhibit 3, and incorporated by reference herein). This Memorandum of Understanding also purported to commit Missouri to serve as a "Governing State" in the SBAC consortium.

46. On or about May 25, 2010, Governor Nixon also signed the same Memorandum of Understanding with the SBAC consortium. *See id.* On information and belief, the Missouri legislature never authorized this Memorandum of Understanding.

47. By signing the Memorandum of Understanding, Governor Nixon and Commissioner Nicastro purportedly committed Missouri to "[a]dopt the Common Core

Standards ... to which the Consortium's assessment system will be aligned, no later than December 31, 2011." *Id.* at 3. The Memorandum of Understanding also purported to commit Missouri to participate in the development of assessments aligned with the Common Core State Standards for use by states in the consortium. *Id.* at 4.

48. The Memorandum of Understanding purported to commit Missouri to:

- (a) "Adopt common achievement standards no later than the 2014-2015 school year";
- (b) "Fully implement statewide the Consortium summative assessment in grades 3-8 and high school for both mathematics and English language arts no later than the 2014-2015 school year";
- (c) "Adhere to the governance as outlined in [the Memorandum of Understanding]";
- (d) "Agree to support the decisions of the Consortium";
- (e) "Agree to follow agreed-upon timelines";
- (f) "Be willing to participate in the decision-making process and, if a Governing State, final decision"; and
- (g) "Identify and implement a plan to address barriers in State law, statute, regulation, or policy to implementing the proposed assessment system and to addressing any such barriers prior to full implementation of the summative assessment components of the system."

*Id.* at 3.

49. The Memorandum of Understanding also purported to commit Missouri to submit to the Governance Structure of the SBAC consortium. *Id.* at 7-10.

From	Nicastro, Chris	Date	Thursday, April 04, 2013 3:16 PM
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To	Demien, Debi; Herschend, Peter; Herschend, Peter (2); Jones, Michael; Ponder, Mike; Shields, Charlie; Still, Russell
Cc	DESE.Executive Leadership Team
Subject	Friday Report

1 Carpool Shortfall.pdf (70 Kb ) Missouri School District Ballot Issues April 2013.doc (199 Kb ) DESE Weekly Legislative Report - April 4, 2013.pdf (311 Kb ) Creating Opportunity Schools Exec Summ\_CEE Trust\_20130102.pdf (592 Kb )

All,

As you know, we have been struggling to manage department activities over the past 4 years within the monies provided for operation. We've reorganized, eliminated positions, eliminated programs and activities, increased efficiencies through the use of electronic tools, and taken every other measure we could identify to reduce expenditures. Over this time, we have become increasingly dependent on federal funds. While we had a few years of increases due to ARRA, these are now gone and we face additional reductions in federal funding. In addition, the House budget reduces our administrative budget by another \$85,000.



## PART 2: EDUCATION REFORM ASSURANCES

The Governor or his/her authorized representative assures the following:

- (1) The State will take actions to improve teacher effectiveness and comply with section 1111(b)(8)(C) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 6311(b)(8)(C)) in order to address inequities in the distribution of highly qualified teachers between high- and low-poverty schools, and to ensure that low-income and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers. (*Achieving Equity in Teacher Distribution Assurance*)
- (2) The State will establish a longitudinal data system that includes the elements described in section 6401(e)(2)(D) of the America COMPETES Act (20 U.S.C. 9871(e)(2)(D)). (*Improving Collection and Use of Data Assurance*)
- (3) The State will –
  - (3.1) Enhance the quality of the academic assessments it administers pursuant to section 1111(b)(3) of the ESEA (20 U.S.C. 6311(b)(3)) through activities such as those described in section 6112(a) of the ESEA (20 U.S.C. 7301a(a)); (*Improving Assessments Assurance*)
  - (3.2) Comply with the requirements of paragraphs (3)(C)(ix) and (6) of section 1111(b) of the ESEA (20 U.S.C. 6311(b)) and section 612(a)(16) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1412(a)(16)) related to the inclusion of children with disabilities and limited English proficient students in State assessments, the development of valid and reliable assessments for those students, and the provision of accommodations that enable their participation in State assessments; (*Inclusion Assurance*) and
  - (3.3) Take steps to improve State academic content standards and student academic achievement standards consistent with section 6401(e)(1)(A)(ii) of the America COMPETES Act. (*Improving Standards Assurance*)
- (4) The State will ensure compliance with the requirements of section 1116(b)(7)(C)(iv) and section 1116(b)(8)(B) of the ESEA with respect to schools identified under these sections. (*Supporting Struggling Schools Assurance*)

Governor or Authorized Representative of the Governor (Printed Name):

Jeremiah W. (Jay) Nixon

Signature:

Date:

6/30/09

Form <b>990</b> Department of the Treasury Internal Revenue Service	<b>Return of Organization Exempt From Income Tax</b> Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation) ▶ The organization may have to use a copy of this return to satisfy state reporting requirements	OMB No 1545-0047 <b>2010</b> Open to Public Inspection
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A For the 2010 calendar year, or tax year beginning 01-01-2010 and ending 12-31-2010

B Check if applicable: <input type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	C Name of organization NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION Doing Business As Number and street (or P.O. box if mail is not delivered to street address) Room/suite 2121 CRYSTAL DRIVE NO 350 City or town, state or country, and ZIP + 4 ARLINGTON, VA 22202	D Employer identification number 46-0282694 E Telephone number (703) 684-4000 G Gross receipts \$ 3,401,454
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4b (Code ) (Expenses \$ 399,191 including grants of \$ 0 ) (Revenue \$ 2,500 )

COMMON CORE STANDARDS IN 2009 THE COUNCIL OF CHIEF STATE SCHOOL OFFICERS AND THE NATIONAL GOVERNORS ASSOCIATION IN PARTNERSHIP WITH ACHIEVE, ACT AND THE COLLEGE BOARD LAUNCHED THE COMMON CORE STATE STANDARDS INITIATIVE, A STATE-LED PROCESS OF ADOPTING COMMON STANDARDS IN ENGLISH LANGUAGE ARTS AND MATHEMATICS ACROSS THE NATION. THIS INITIATIVE WILL PROVIDE STATES WITH FEWER, CLEARER, AND HIGHER STANDARDS THAT ARE RESEARCH-AND-EVIDENCE BASED AND INTERNATIONALLY BENCHMARKED. HAVING COMMON STANDARDS IS A SIGNIFICANT AND HISTORIC MOVEMENT AS STUDENTS WILL NOW HAVE CLEARER AND CONSISTENT EXPECTATIONS ACROSS THE NATION, WHICH WILL HELP MINIMIZE ACADEMIC CHALLENGES WHEN MOVING ACROSS STATE OR DISTRICT LINES. BY ADOPTING THESE STANDARDS, STATES WILL BE BETTER EQUIPPED TO PREPARE STUDENTS WITH THE KNOWLEDGE AND SKILLS THEY NEED TO SUCCEED IN COLLEGE AND IN A CAREER WORKFORCE IN A GLOBAL ECONOMY. IN 2009 48 STATES AND 3 TERRITORIES AGREED TO PARTICIPATE IN THE PROCESS OF CREATING A SET OF COMMON CORE STANDARDS. BY AUGUST 31, 2010 THIRTY SIX STATES AND THE DISTRICT OF COLUMBIA HAVE ADOPTED THE STANDARDS AND OVER 40 STATES ARE EXPECTED TO ADOPT THE STANDARDS BY THE END OF 2010. ADOPTION OF THE STANDARDS IS VOLUNTARY BUT SHOULD A STATE CHOOSE TO ADOPT, THEY MUST ADOPT 100% OF THE COMMON CORE K-12 STANDARDS IN ENGLISH LANGUAGE ARTS AND MATHEMATICS AND BEGIN ASSESSMENTS ON THE COMMON CORE STATE STANDARDS WITHIN THREE YEARS. A STATE WILL HAVE ADOPTED WHEN THE STANDARDS AUTHORIZING BODY WITHIN THE STATE HAS TAKEN FORMAL ACTION TO ADOPT AND IMPLEMENT THE COMMON CORE STANDARDS. NASBE IS AN EQUAL PARTNER WITH THE COUNCIL OF CHIEF STATE SCHOOL OFFICERS AND NATIONAL GOVERNORS ASSOCIATION ON THE COMMON CORE STANDARDS INITIATIVE. THE THREE ORGANIZATIONS ARE WORKING CLOSELY TOGETHER TO FACILITATE THE DIALOGUE RELATED TO STANDARDS ADOPTION AND IMPLEMENTATION. THE FOCUS OF THIS EFFORT IS TO ENGAGE STATE BOARDS OF EDUCATION, OTHER GOVERNING BODIES, AND THE LARGER PUBLIC IN SUPPORTING THE ADOPTION AND IMPLEMENTATION OF A RIGOROUS AND USEABLE SET OF ACADEMIC STANDARDS UPON WHICH A ROBUST AND COHERENT EDUCATIONAL SYSTEM CAN BE BASED. NASBE CONDUCTED FOUR REGIONAL CONFERENCES FROM JANUARY-MARCH OF 2010 TO GIVE STATE BOARDS AN OPPORTUNITY TO GAIN AN INFORMATION INFRASTRUCTURE OF MATERIALS AND RESOURCES ON THE COMMON CORE AS WELL AS PREPARE STATE BOARDS FOR THE POLICY AND ADVOCACY WORK THAT WILL BE ESSENTIAL TO A SMOOTH APPROVAL PROCESS OF THE COMMON CORE STANDARDS. THE CONFERENCES ARE FUNDED BY THE BILL AND MELINDA GATES FOUNDATION.

Form <b>990</b> Department of the Treasury Internal Revenue Service	<b>Return of Organization Exempt From Income Tax</b> Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation) ▶ The organization may have to use a copy of this return to satisfy state reporting requirements	OMB No 1545-0047 <b>2011</b> Open to Public Inspection
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A For the 2011 calendar year, or tax year beginning 01-01-2011 and ending 12-31-2011

B Check if applicable: <input type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	C Name of organization NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION Doing Business As Number and street (or P.O. box if mail is not delivered to street address) Room/suite 2121 CRYSTAL DRIVE NO 350 City or town, state or country, and ZIP + 4 ARLINGTON, VA 22202	D Employer identification number 46-0282694 E Telephone number (703) 684-4000 G Gross receipts \$ 3,443,806
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4b (Code ) (Expenses \$ 537,127 including grants of \$ 0 ) (Revenue \$ 250 )

COMMON CORE STANDARDS IN 2009 THE COUNCIL OF CHIEF STATE SCHOOL OFFICERS AND THE NATIONAL GOVERNORS ASSOCIATION IN PARTNERSHIP WITH THE NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION, ACHIEVE, ACT, THE COLLEGE BOARD LAUNCHED THE COMMON CORE STATE STANDARDS INITIATIVE, A STATE-LED PROCESS OF ADOPTING COMMON STANDARDS IN ENGLISH LANGUAGE ARTS AND MATHEMATICS ACROSS THE NATION. THIS INITIATIVE PROVIDES STATES WITH FEWER, CLEARER, AND HIGHER STANDARDS THAT ARE RESEARCH-AND-EVIDENCE BASED AND INTERNATIONALLY BENCHMARKED. HAVING COMMON STANDARDS IS A SIGNIFICANT AND HISTORIC MOVEMENT AS STUDENTS WILL NOW HAVE CLEARER AND CONSISTENT EXPECTATIONS ACROSS THE NATION, WHICH WILL HELP MINIMIZE ACADEMIC CHALLENGES WHEN MOVING ACROSS STATE OR DISTRICT LINES. BY ADOPTING THESE STANDARDS, STATES WILL BE BETTER EQUIPPED TO PREPARE STUDENTS WITH THE KNOWLEDGE AND SKILLS THEY NEED TO SUCCEED IN COLLEGE AND IN A CAREER WORKFORCE IN A GLOBAL ECONOMY. NASBE IS AN EQUAL PARTNER WITH THE COUNCIL OF CHIEF STATE SCHOOL OFFICERS AND NATIONAL GOVERNORS ASSOCIATION ON THE COMMON CORE STANDARDS INITIATIVE. THE THREE ORGANIZATIONS ARE WORKING CLOSELY TOGETHER TO FACILITATE THE DIALOGUE RELATED TO STANDARDS IMPLEMENTATION. THE FOCUS OF THIS EFFORT IS TO ENGAGE STATE BOARDS OF EDUCATION, OTHER GOVERNING BODIES, AND THE LARGER PUBLIC IN SUPPORTING THE IMPLEMENTATION OF A RIGOROUS AND USEABLE SET OF ACADEMIC STANDARDS UPON WHICH A ROBUST AND COHERENT EDUCATIONAL SYSTEM CAN BE BASED. TO DATE, 45 STATES, THE DISTRICT OF COLUMBIA AND 3 U.S. TERRITORIES HAVE ADOPTED THE COMMON CORE STATE STANDARDS IN BOTH ENGLISH LANGUAGE ARTS AND MATHEMATICS. NASBE CONDUCTED FOUR REGIONAL CONFERENCES FROM APRIL-AUGUST OF 2011 TO GIVE STATE BOARDS AN OPPORTUNITY TO GAIN AN INFORMATION INFRASTRUCTURE OF MATERIALS AND RESOURCES ON THE COMMON CORE AS WELL AS PREPARE STATE BOARDS FOR THE POLICY AND ADVOCACY WORK THAT WILL BE ESSENTIAL TO A SMOOTH APPROVAL PROCESS OF THE COMMON CORE STANDARDS. THE CONFERENCES ARE FUNDED BY THE BILL AND MELINDA GATES FOUNDATION.

efile GRAPHIC print - DO NOT PROCESS | As Filed Data - | DLN: 93493136010673

<b>Form 990</b>  Department of the Treasury Internal Revenue Service	<b>Return of Organization Exempt From Income Tax</b> Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)	OMB No 1545-0047 <b>2012</b> <b>Open to Public Inspection</b>
	The organization may have to use a copy of this return to satisfy state reporting requirements	


A For the 2012 calendar year, or tax year beginning 01-01-2012, 2012, and ending 12-31-2012

<b>B</b> Check if applicable: <input type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	<b>C</b> Name of organization NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION	<b>D</b> Employer identification number 46-0282694
	Doing Business As	
	Number and street (or P.O. box if mail is not delivered to street address) Room/suite 2121 CRYSTAL DRIVE NO 350	<b>E</b> Telephone number (703) 684-4000
	City or town, state or country, and ZIP + 4 ARLINGTON, VA 22202	<b>G</b> Gross receipts \$ 2,320,877

4a (Code ) (Expenses \$ 346,458 including grants of \$ ) (Revenue \$ )

COMMON CORE STANDARDS IN 2009 THE COUNCIL OF CHIEF STATE SCHOOL OFFICERS AND THE NATIONAL GOVERNORS ASSOCIATION IN PARTNERSHIP WITH THE NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION, ACHIEVE, ACT, THE COLLEGE BOARD LAUNCHED THE COMMON CORE STATE STANDARDS INITIATIVE, A STATE-LED PROCESS OF ADOPTING COMMON STANDARDS IN ENGLISH LANGUAGE ARTS AND MATHEMATICS ACROSS THE NATION. THIS INITIATIVE PROVIDES STATES WITH FEWER, CLEARER, AND HIGHER STANDARDS THAT ARE RESEARCH-AND-EVIDENCE BASED AND INTERNATIONALLY BENCHMARKED. HAVING COMMON STANDARDS IS A SIGNIFICANT AND HISTORIC MOVEMENT AS STUDENTS WILL NOW HAVE CLEARER AND CONSISTENT EXPECTATIONS ACROSS THE NATION, WHICH WILL HELP MINIMIZE ACADEMIC CHALLENGES WHEN MOVING ACROSS STATE OR DISTRICT LINES. BY ADOPTING THESE STANDARDS, STATES WILL BE BETTER EQUIPPED TO PREPARE STUDENTS WITH THE KNOWLEDGE AND SKILLS THEY NEED TO SUCCEED IN COLLEGE AND IN A CAREER WORKFORCE IN A GLOBAL ECONOMY. NASBE IS AN EQUAL PARTNER WITH THE COUNCIL OF CHIEF STATE SCHOOL OFFICERS AND NATIONAL GOVERNORS ASSOCIATION ON THE COMMON CORE STANDARDS INITIATIVE. THE THREE ORGANIZATIONS ARE WORKING CLOSELY TOGETHER TO FACILITATE THE DIALOGUE RELATED TO STANDARDS IMPLEMENTATION. THE FOCUS OF THIS EFFORT IS TO ENGAGE STATE BOARDS OF EDUCATION, OTHER GOVERNING BODIES, AND THE LARGER PUBLIC IN SUPPORTING THE IMPLEMENTATION OF A RIGOROUS AND USEABLE SET OF ACADEMIC STANDARDS UPON WHICH A ROBUST AND COHERENT EDUCATIONAL SYSTEM CAN BE BASED. TO DATE, 45 STATES, THE DISTRICT OF COLUMBIA AND 3 U.S. TERRITORIES HAVE ADOPTED THE COMMON CORE STATE STANDARDS IN BOTH ENGLISH LANGUAGE ARTS AND MATHEMATICS.

efile GRAPHIC print - DO NOT PROCESS | As Filed Data - | DLN: 93493160006654

<b>Form 990</b>  Department of the Treasury Internal Revenue Service	<b>Return of Organization Exempt From Income Tax</b> Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)	OMB No 1545-0047 <b>2013</b> <b>Open to Public Inspection</b>
	Do not enter Social Security numbers on this form as it may be made public. By law, the IRS generally cannot redact the information on the form. Information about Form 990 and its instructions is at <a href="http://www.irs.gov/form990">www.irs.gov/form990</a>	

A For the 2013 calendar year, or tax year beginning 01-01-2013, 2013, and ending 12-31-2013

<b>B</b> Check if applicable: <input type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	<b>C</b> Name of organization NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION	<b>D</b> Employer identification number 46-0282694
	Doing Business As	
	Number and street (or P.O. box if mail is not delivered to street address) Room/suite 2121 CRYSTAL DRIVE NO 350	<b>E</b> Telephone number (703) 684-4000
	City or town, state or province, country, and ZIP or foreign postal code ARLINGTON, VA 22202	<b>G</b> Gross receipts \$ 2,557,496

4a (Code ) (Expenses \$ 271,661 including grants of \$ ) (Revenue \$ )

COMMON CORE STANDARDS IN 2009 THE COUNCIL OF CHIEF STATE SCHOOL OFFICERS AND THE NATIONAL GOVERNORS ASSOCIATION IN PARTNERSHIP WITH THE NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION, ACHIEVE, ACT, THE COLLEGE BOARD LAUNCHED THE COMMON CORE STATE STANDARDS INITIATIVE, A STATE-LED PROCESS OF ADOPTING COMMON STANDARDS IN ENGLISH LANGUAGE ARTS AND MATHEMATICS ACROSS THE NATION. THIS INITIATIVE PROVIDES STATES WITH FEWER, CLEARER, AND HIGHER STANDARDS THAT ARE RESEARCH-AND-EVIDENCE BASED AND INTERNATIONALLY BENCHMARKED. HAVING COMMON STANDARDS IS A SIGNIFICANT AND HISTORIC MOVEMENT AS STUDENTS WILL NOW HAVE CLEARER AND CONSISTENT EXPECTATIONS ACROSS THE NATION, WHICH WILL HELP MINIMIZE ACADEMIC CHALLENGES WHEN MOVING ACROSS STATE OR DISTRICT LINES. BY ADOPTING THESE STANDARDS, STATES WILL BE BETTER EQUIPPED TO PREPARE STUDENTS WITH THE KNOWLEDGE AND SKILLS THEY NEED TO SUCCEED IN COLLEGE AND IN A CAREER WORKFORCE IN A GLOBAL ECONOMY. NASBE IS AN EQUAL PARTNER WITH THE COUNCIL OF CHIEF STATE SCHOOL OFFICERS AND NATIONAL GOVERNORS ASSOCIATION ON THE COMMON CORE STANDARDS INITIATIVE. THE THREE ORGANIZATIONS ARE WORKING CLOSELY TOGETHER TO FACILITATE THE DIALOGUE RELATED TO STANDARDS IMPLEMENTATION. THE FOCUS OF THIS EFFORT IS TO ENGAGE STATE BOARDS OF EDUCATION, OTHER GOVERNING BODIES, AND THE LARGER PUBLIC IN SUPPORTING THE IMPLEMENTATION OF A RIGOROUS AND USEABLE SET OF ACADEMIC STANDARDS UPON WHICH A ROBUST AND COHERENT EDUCATIONAL SYSTEM CAN BE BASED. TO DATE, 45 STATES, THE DISTRICT OF COLUMBIA AND 3 U.S. TERRITORIES HAVE ADOPTED THE COMMON CORE STATE STANDARDS IN BOTH ENGLISH LANGUAGE ARTS AND MATHEMATICS.

efile GRAPHIC print - DO NOT PROCESS		As Filed Data -	DLN: 93493196012515
Form <b>990</b> Department of the Treasury Internal Revenue Service	<b>Return of Organization Exempt From Income Tax</b> Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations) ▶ Do not enter social security numbers on this form as it may be made public. ▶ Information about Form 990 and its instructions is at <a href="http://www.irs.gov/form990">www.irs.gov/form990</a>		OMB No 1545-0047 <b>2014</b> Open to Public Inspection
<b>A For the 2014 calendar year, or tax year beginning 01-01-2014, and ending 12-31-2014</b>			
<input type="checkbox"/> Check if applicable: <input checked="" type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Final return/terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	<b>C Name of organization</b> NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION <b>Doing business as</b> _____ <b>Number and street (or P.O. box if mail is not delivered to street address) Room/suite</b> 333 JOHN CARLYLE STREET NO 530 _____ <b>City or town, state or province, country, and ZIP or foreign postal code</b> ALEXANDRIA, VA 22314		<b>D Employer identification number</b> 46-0282694 <b>E Telephone number</b> (703) 684-4000 <b>G Gross receipts \$</b> 3,256,543

**4a** (Code ) (Expenses \$ 380,936 including grants of \$ 21,000 ) (Revenue \$ 440 )

COMMON CORE STANDARDS IN 2009 THE COUNCIL OF CHIEF STATE SCHOOL OFFICERS AND THE NATIONAL GOVERNORS ASSOCIATION IN PARTNERSHIP WITH THE NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION, ACHIEVE, ACT, THE COLLEGE BOARD LAUNCHED THE COMMON CORE STATE STANDARDS INITIATIVE, A STATE-LED PROCESS OF ADOPTING COMMON STANDARDS IN ENGLISH LANGUAGE ARTS AND MATHEMATICS ACROSS THE NATION. THIS INITIATIVE PROVIDES STATES WITH FEWER, CLEARER, AND HIGHER STANDARDS THAT ARE RESEARCH-AND-EVIDENCE BASED AND INTERNATIONALLY BENCHMARKED. HAVING COMMON STANDARDS IS A SIGNIFICANT AND HISTORIC MOVEMENT AS STUDENTS WILL NOW HAVE CLEARER AND CONSISTENT EXPECTATIONS ACROSS THE NATION, WHICH WILL HELP MINIMIZE ACADEMIC CHALLENGES WHEN MOVING ACROSS STATE OR DISTRICT LINES. BY ADOPTING THESE STANDARDS, STATES WILL BE BETTER EQUIPPED TO PREPARE STUDENTS WITH THE KNOWLEDGE AND SKILLS THEY NEED TO SUCCEED IN COLLEGE AND IN A CAREER WORKFORCE IN A GLOBAL ECONOMY. NASBE IS AN EQUAL PARTNER WITH THE COUNCIL OF CHIEF STATE SCHOOL OFFICERS AND NATIONAL GOVERNORS ASSOCIATION ON THE COMMON CORE STANDARDS INITIATIVE. THE THREE ORGANIZATIONS ARE WORKING CLOSELY TOGETHER TO FACILITATE THE DIALOGUE RELATED TO STANDARDS IMPLEMENTATION. THE FOCUS OF THIS EFFORT IS TO ENGAGE STATE BOARDS OF EDUCATION, OTHER GOVERNING BODIES, AND THE LARGER PUBLIC IN SUPPORTING THE IMPLEMENTATION OF A RIGOROUS AND USEABLE SET OF ACADEMIC STANDARDS UPON WHICH A ROBUST AND COHERENT EDUCATIONAL SYSTEM CAN BE BASED. TO DATE, 45 STATES, THE DISTRICT OF COLUMBIA AND 3 U.S. TERRITORIES HAVE ADOPTED THE COMMON CORE STATE STANDARDS IN BOTH ENGLISH LANGUAGE ARTS AND MATHEMATICS.



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Press Releases

### Three Longtime State Education Leaders Receive National Honor


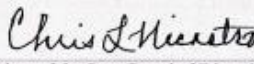
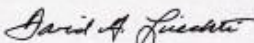
October 11, 2012

Peter Herschend has served on the Missouri State Board of Education since 1991, having been reappointed five times by governors from both parties. He is currently the board president, a position he has held twice before, and when his term expires in 2015 he will have served on the state board for an unprecedented 24 consecutive years. Among the legislation borne of his board efforts is a state law that allowed the state board to establish the Show-Me Standards, performance-based assessments, and other measures. Policies he championed include approval of new high school graduation requirements, and end-of course exams for high school students. The awards are being presented at NASBE's national conference in Chicago on October 12. - See more at: <http://www.nasbe.org/latest-news/three-longtime-state-education-leaders-receive-national-honor/#sthash.bjN6BHEU.dpuf>

<http://www.nasbe.org/latest-news/three-longtime-state-education-leaders-receive-national-honor/>



**RACE TO THE TOP APPLICATION ASSURANCES**  
(CFDA No. 84.395A)

Legal Name of Applicant (Office of the Governor): State of Missouri, Office of the Governor Jeremiah W. (Jay) Nixon, Governor	Applicant's Mailing Address:  Dept. of Elementary & Secondary Education PO Box 480, 205 Jefferson Street Jefferson City, MO 65101
Employer Identification Number: 446000987	Organizational DUNS: CCSR093746923
State Race to the Top Contact Name: (Single point of contact for communication) Robin Coffman	Contact Position and Office: Chief of Staff MO Dept. of Elementary & Secondary Education
Contact Telephone: 573.751.4446	Contact E-mail Address: Robin.Coffman@dese.mo.gov
<p>Required Applicant Signatures:</p> <p>To the best of my knowledge and belief, all of the information and data in this application are true and correct.</p> <p>I further certify that I have read the application, am fully committed to it, and will support its implementation:</p>	
Governor or Authorized Representative of the Governor (Printed Name): Jeremiah W. (Jay) Nixon	Telephone: 573.751.3222
Signature of Governor or Authorized Representative of the Governor: 	Date: 5/25/10
Chief State School Officer (Printed Name): Chris L. Nicastro	Telephone: 573.751.4446
Signature of the Chief State School Officer: 	Date: 5/25/2010
President of the State Board of Education (Printed Name): David G. Liechti	Telephone: 573.751.3563
Signature of the President of the State Board of Education: 	Date: 5/25/2010

## II. DEFINITIONS

**Common set of K-12 standards** means a set of content standards that define what students must know and be able to do and that are substantially identical across all States in a consortium. A State may supplement the common standards with additional standards, provided that the additional standards do not exceed 15 percent of the State's total standards for that content area.

## V. ELIGIBILITY REQUIREMENTS

A State must meet the following requirements in order to be eligible to receive funds under this program.

### **Eligibility Requirement (a)**

The State's applications for funding under Phase 1 and Phase 2 of the State Fiscal Stabilization Fund program must be approved by the Department prior to the State being awarded a Race to the Top grant.

*The Department will determine eligibility under this requirement before making a grant award*

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Wednesday, June 02, 2010

**NATIONAL GOVERNORS ASSOCIATION AND STATE EDUCATION CHIEFS LAUNCH COMMON STATE ACADEMIC STANDARDS**

Robust standards drafted by teachers, content experts, and leading researchers are the cornerstone of a state led effort to turn our nation's schools around.

Contact:

Melissa McGrath  
[melissa.mcgrath@ccsso.org](mailto:melissa.mcgrath@ccsso.org)  
202-336-7034

Contact:

Jodi Omear  
202-624-5346

Today, the National Governors Association Center for Best Practices (NGA Center) and the Council of Chief State School Officers (CCSSO) released a set of state-led education standards, the [Common Core State Standards](#), at Peachtree Ridge High School in Suwanee, GA. The English-language arts and mathematics standards for grades K-12 were developed in collaboration with a variety of stakeholders including content experts, states, teachers, school administrators and parents. The standards establish clear and consistent goals for learning that will prepare America's children for success in college and work.



# Missouri State Board of Education

P.O. Box 480  
Jefferson City, MO 65102-0480  
Telephone (573) 751-4446  
Fax (573) 751-1179

Tuesday, June 15, 2010

8:30 a.m.

State Board of Education Room  
205 Jefferson Street, 1<sup>st</sup> Floor  
Jefferson City, MO 65101

No. 11587

Consideration

of Adoption of  
Common Core

Standards

(06/15/2010)

Mr. Ponder joined the meeting by teleconference for the presentation

and vote of this item. It was moved by Rev. Archie, seconded by Mr. Still, to

approve the adoption of the Common Core Standards.

Motion carried (Yes: 5, No: 1)

Vote:	Yes	Archie, Slaughter, Still, Liecht, Ponder
	No	Demien

## OVERVIEW OF SEA'S REQUEST FOR THE ESEA FLEXIBILITY

### Top 10 by 20 Initiative

The key to Missouri achieving its goal of preparing all students to be college and career ready is in the development and implementation of a focused education reform plan that identifies specific goals and provides specific strategies implemented with precision and fidelity. To ensure the success of all students in the state, Missouri has implemented the Top 10 by 20 Initiative.

### 1B. Transition to College- and Career-Ready Standards

The State Education Agency (SEA) proposes to transition to and implement no later than the 2013-2014 school year college- and career-ready standards statewide in at least reading/language arts and mathematics for all students and schools. The following is an explanation of how this transition plan is likely to lead to all students - including English learners, students with disabilities, and low-achieving students - gaining access to and learning content aligned with such standards.

### Context and Rationale

From 1993 until 2010, Missouri operated under highly regarded content and performance standards that specified what content students should know and be able to perform at each grade level and upon graduating from high school. Missouri's state standards have been acclaimed nationally as among the top three in the country; a perspective confirmed by close alignment between our statewide assessment scores and National Assessment of Educational Progress (NAEP) scores, indicating high cut scores for proficiency. However, it was confusing that many of Missouri's schools were already labeled as failing when schools of similar quality in other states were not due to differences in standards and the rigor of the assessments used from one state to the next. Over the past 10 years, the No Child Left Behind Act of 2001 (NCLB) has provided useful

## Governor Nixon February 2009 Missouri education “Outstanding”



Margaret Spellings visited MO in 2008 during her tenure as US Secretary of Education. In a meeting with DESE and the SBE, after mentioning that Massachusetts' [#1] standards usually gets the limelight, said **“It’s a little known fact is that Missouri’s standards are right up there and really, really strong.”**

<http://missourieducationwatchdog.com/common-core-enthusiast-didnt-get-the-memo>



## SMARTER Balanced Assessment Consortium MOU

**Memorandum of Understanding**  
**SMARTER Balanced Assessment Consortium**  
**Race to the Top Fund Assessment Program: Comprehensive Assessment**  
**Systems Grant Application**  
 CFDA Number: 84.395B

This Memorandum of Understanding ("MOU") is entered as of May 25, 2010, by and between the SMARTER Balanced Assessment Consortium (the "Consortium") and the State of Missouri, which has elected to participate in the Consortium as (check one)

☐ An Advisory State (description in section e),

**OR**

☒ A Governing State (description in section e),

pursuant to the Notice Inviting Applications for the Race to the Top Fund Assessment Program for the Comprehensive Assessment Systems Grant Application (Category A), henceforth referred to as the "Program," as published in the Federal Register on April 9, 2010 (75 FR 18171-18185).

**(b) Responsibilities of States in the Consortium**

Each State agrees to the following element of the Consortium's Assessment System:

- Adopt the Common Core Standards, which are college- and career-ready standards, and to which the Consortium's assessment system will be aligned, no later than December 31, 2011.

Each State that is a member of the Consortium in 2014–2015 also agrees to the following:

- Adopt common achievement standards no later than the 2014–2015 school year,
- Fully implement statewide the Consortium summative assessment in grades 3–8 and high school for both mathematics and English language arts no later than the 2014–2015 school year,
- Adhere to the governance as outlined in this document,
- Agree to support the decisions of the Consortium,
- Agree to follow agreed-upon timelines,
- Be willing to participate in the decision-making process and, if a Governing State, final decision, and
- Identify and implement a plan to address barriers in State law, statute, regulation, or policy to implementing the proposed assessment system and to addressing any such barriers prior to full implementation of the summative assessment components of the system.

**IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI**

FRED N. SAUER,	)	
ANNE GASSEL, and	)	
GRETCHEN LOGUE,	)	
	)	Cause No. 14AC-CC00477
Plaintiffs,	)	
	)	Division II
vs.	)	
	)	
	)	
JEREMIAH W. (JA Y) NIXON, et al.,	)	
	)	
Defendants.	)	

**JUDGMENT**

Court finds that the Smarter Balanced Assessment Consortium, a.k.a. Smarter Balanced, Smarter Balanced at UCLA, SBAC, and SB, is an unlawful interstate compact to which the U.S. Congress has never consented, whose existence and operation violate the Compact Clause of the U.S. Constitution, Article I, § 10, cl. 3, as well as numerous federal statutes; and that Missouri's participation in the Smarter Balanced Assessment Consortium as a member is unlawful under state and federal law.

Letter to Joint Education Committee Chair, State Representative David Wood

August 4, 2015

Representative David Wood  
Chairman, Joint Education Committee

Cc: Senator Kurt Schaefer, Representative Kurt Bahr, Senator Ed Emery, Speaker Todd Richardson, Senate Pro Temp Dempsey, Kevin Gwaltney, Ph.D., Executive Director JEC

RE: This is to request that the following actions be taken prior to the August 26, 2015 meeting of the Joint Committee on Education: (1) withdraw the agenda item to hear testimony from workgroup chairs and replace with an initiative to conduct a cost analysis of the implementation of the Common Core State Standards Initiative (CCSSI) in Missouri; (2) if the committee wishes to hear the testimony of the workgroup chairs that, in addition to initiating a cost analysis, invitations to speak at the hearing scheduled for August 26, 2015 be extended to all members of the work groups so as to reduce the potential of bias and increase accuracy of information shared with committee members.

Chairman Wood,

A Missouri Times article, dated July 8, 2015, reported that as chair of the Joint Committee on Education, you have scheduled a hearing of chairpersons of academic work groups constituted by HB 1490 to determine decisions about the work of those groups.<sup>1</sup> The article stated that the committee would not hold public hearings, however, you were quoted as saying that only the chair of each work group committee would be invited to attend the August meeting. We have several concerns regarding this statement.

First, although HB 1490 Sec. 60.514, 4 lines 76-78 state, "The state board of education shall also solicit comments and feedback on the academic performance standards or learning standards from the joint committee on education . . . , it does not stipulate the type of feedback the joint committee should give. A review of RSMO 160.254 that gives statutory authority to form the joint committee on education and designates its functions, describe the functions as providing oversight of costs and feasibility studies associated with public school systems, rather than input on the content or process of developing academic standards. A consistent application of the role of the joint committee on education would be to investigate the cost and impact of implementation of the CCSSI to school districts in Missouri. To our knowledge, no such study has been conducted, especially with respect to the fact that the current royalty free license of the Common Core State Standards has no guarantee of permanence; nor has there been any acknowledgment of the vulnerability of the state to the potential for transfer of the privately held copyright without input or notice to the licensees. During committee hearings in 2014, Representative Monticello stated that she made attempts to obtain a cost-benefit analysis of the CCSSI in Missouri, but, received no information.

Second, as demonstrated at the April 2015 hearing of the State Board of Education and in the content below, at least one work group chair has been biased in her reporting of work group activity, omitting disclosure of mitigating circumstances that caused dissension in her work group. Content discovered in email communication between DESE personnel and a subset of the workgroup members discussed below indicates her bias may be attributable to the efforts of personnel at the

<sup>1</sup> <http://themisouritimes.com/19402/joint-education-committee-prepping-for-scholarship-evaluations-common-core-presentations/>

<sup>2</sup> <http://www.nfoic.org/cost-related-access-challenges-solutions-18-states>

Department of Elementary and Secondary Education (DESE) to control the outcome of the work groups.

Therefore, this is to request the following actions be taken prior to the August 26, 2015 meeting of the Joint Committee on Education: (1) withdraw the agenda item to hear testimony from workgroup chairs and replace with an initiative to conduct a cost analysis of the implementation of the CCSS in Missouri; (2) if the committee wishes to hear the testimony of the workgroup chairs that, in addition to initiating a cost analysis, invitations to speak at the hearing scheduled for August 26, 2015 be extended to all members of the work groups so as to reduce the potential of bias and increase accuracy of information shared with committee members.

### Supporting Evidence

Members of the Missouri Coalition Against Common Core filed a Freedom of Information Act request (FOIA) for communication between DESE personnel, ELA work group members, legislators and facilitators from May 1, 2014 through May 1, 2015. At first, we were informed that the cost of procuring the e-mails was \$5,000. The charging of exorbitant fees in an apparent maneuver to obstruct citizen review of public services was described in a March 13, 2015 AP article, *Cost-related access challenges, solutions in 18 states*.<sup>2</sup> Our solution to overcoming this obstruction was to file the FOIA through a cooperative legislator.

A review of just a sample of the e-mails confirmed that,

- (1) DESE personnel sought to nullify the intent of HB 1490 by actively seeking consultation and financial support from out-of-state and federally funded organizations dedicated to the implementation of the common core state standards;
- (2) DESE personnel sought external funding and misused federal funds to circumvent the intent of the legislation and hire facilitators to implement DESE's agenda and distribute DESE prepared materials; and
- (3) DESE personnel sought public media coverage of the disruption within an English language arts work group caused by a non-qualified member who had misrepresented his qualifications and his impartiality on the issue of Common Core in order to secure an appointment by then Speaker of the House Tim Jones.

Please note the following points and supporting e-mail content:

(1) DESE personnel sought consultation and financial support from out-of-state and federally funded organizations dedicated to the implementation of the Common Core State Standards. From the outset, after the passage of HB 1490, but before the Governor signed the bill, DESE actively pursued the counsel, services, and financial support of out-of-state organizations and individuals that administratively and financially support implementation of the Common Core State Standards. Organizations include the Washington, DC-based Center on Enhancing Early Learning Outcomes (CEELO)<sup>3</sup>; the National Institute for School Leadership (NISL)<sup>4,5</sup>; the federally funded California

<sup>2</sup> <http://www.nfoic.org/cost-related-access-challenges-solutions-18-states>

<sup>3</sup> CEELo @ National Institute for Early Education Research Rutgers, The State University of New Jersey 73 Easton Avenue New Brunswick, NJ 08901-1879

<sup>4</sup> <http://www.nisl.net/foundation-support/>

<sup>5</sup> NISL is organized and funded by Marc Tucker's National Center for Education and the Economy. Tucker served on the Common Core English Language Arts Feedback Committee, and has lobbied for the transformation of schools from institutions of education to workforce development for over three decades.

based Center on Standards and Assessment Implementation (CSAI)<sup>6</sup> and the Central Comprehensive Center (C3)<sup>7</sup> at the University of Oklahoma to control the work group standards development process.

For example, below is an e-mail from Ellen Balkenbush of the University of Oklahoma to DESE personnel, that includes an agenda for a later discussion with Sujie Chin, Director of Research for the Assessment & Standards Development Services (ASDS) program at WestEd in California, to discuss how to structure work group facilitation for the desired outcome.

**From** Balkenbush, Ellen K.

**Date** Tuesday, June 24, 2014 1:37 PM

**To** Franklin, Melia; Ellis, Jeremy (DESE); Muenks, Michael; Rehak, Janice  
Conference call related to Review of MO Learning Standards

Good afternoon All-

I am putting together a conference call with Sujie Chin of the Center on Standards and Assessment Implementation (CSAI) to have a conversation around her expertise and experience that might be helpful in preparing us for the upcoming facilitation (sic) of workgroups to review the MO Learning Standards (1490).

She has just completed similar work with the state of Indiana (and others), so I am thinking she may have some great insights for us.

#### AGENDA

**Central Comprehensive Center (C3)/  
Missouri Department of Elementary and Secondary Education (DESE)/  
Center on Standards and Assessment Implementation (CSAI)  
Student Learning Standards (Missouri House Bill [HB] 1490)  
Planning Conference Call  
July 7, 2014  
8:30 – 9:30 a.m. CT**

<b>Purposes</b>	<ul style="list-style-type: none"> <li>Identify DESE's needs in addressing the review of the Missouri State Standards as required by HB 1490.</li> <li>Develop a plan to provide technical assistance, facilitation, and support.</li> </ul>
<b>Expected Outcomes</b>	<ul style="list-style-type: none"> <li>Identification of potential challenges</li> <li>Effective and efficient plan for facilitation of HB 1490 work groups, protocols, dates, and necessary materials</li> <li>Next steps</li> </ul>

<sup>6</sup> <http://www.csai-online.org/about>

<sup>7</sup> <http://c3ta.org/>

Time	Item	Presenter
8:30 a.m.	Introductions and purpose of meeting	Ellen Balkenbush, C3 Missouri Technical Assistance (TA) Liaison
8:40	Discussion <ul style="list-style-type: none"> <li>▪ Overview of Missouri HB 1490 requirements</li> <li>▪ Insights/lessons learned from similar work in other states</li> <li>▪ Discussion of facilitation               <ul style="list-style-type: none"> <li>o Dates</li> <li>o Potential conflicts</li> <li>o Training/preparation</li> <li>o Protocols</li> <li>o Materials</li> <li>o Next steps</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Sharon Helwig, DESE Assistant Commissioner</li> <li>▪ Sujie Shin, CSAI Assistant</li> <li>▪ Director</li> <li>▪ All participants</li> </ul>
9:30	Adjourn	

(2) DESE sought external funding to circumvent the intent of the legislation and hire facilitators to implement DESE's agenda and distribute DESE prepared materials. HB 1490 neither required nor implied that DESE personnel actively participate in the standards development process as agents of the state of Missouri; and, though Section 160.526. 3 specified the qualifications of workgroup members and authorized only members to develop Missouri's academic standards in four subject areas, DESE sought funds from NISL to contract and actively work with hand-picked facilitators and certain work group members between work group meetings to develop strategies designed to "shape the House Bill 1490 work groups," that is, to interfere in the work of the groups and keep discussions and decisions of the groups in favor of keeping the privately copyrighted Common Core Standards.

Note in the e-mail between Melia Franklin and Michael Muenks and Teri Longley (below) that Ms. Franklin asks for financial support only for the expenses associated with hiring trained facilitators. She does not mention covering the expenses of Missouri teachers or citizens who are providing a public service to the state in an effort to develop academic learning standards in public domain. The succeeding e-mails verify that the intent of DESE is only to fund hired facilitators and note-takers, making no effort to reimburse teachers or citizens, thereby, discriminating against them.

**From:** Helwig, Sharon  
**Sent:** Tuesday, August 26, 2014 3:07 PM  
**To:** LePage, Shari  
**Subject:** Question

Shari,

As we're getting logistics for these work groups put together for HB 1490, we're going to run into 80-90 thousand quickly. I talked briefly with Andy about whether or not we might try for a supplemental budget request. Is that a possibility? Initially, when we talked in ELT, we just said we wouldn't be able to pay for the participants and I was going

to get our regional Technical Assistance Center (MC3) to pay for facilitators. But, now, MC3 can't find anyone who's not joined at the hip with Common Core, and we need to pay for people to make this happen.

So, I will talk to ELT tomorrow about this. But wanted to alert you as well. We could probably piece together money from curr, assessment (although it's really not assessment), but that would take a huge chunk of what little we get for curriculum.

**From:** Franklin, Melia

**Sent:** Wednesday, September 03, 2014 9:23 PM

**To:** Muenks, Michael; Longley, Teri

**Cc:** Balkenbush, Ellen K.; Helwig, Sharon; Ellis, Jeremy (DESE)

**Subject:** HB 1490 aid

Hello,

In order to best build capacity of those serving in Missouri's Department of Elementary and Secondary Education, the Office of College and Career Readiness is seeking the aid and input of NISL (National Institute of School Leaders) certified trainers to shape the House Bill 1490 workgroup sessions.

We are respectfully requesting that C3, dedicated to supporting such capacity, support these efforts financially. Attached is a spreadsheet enumerating the expenses DESE will encounter as a result of these meetings.

Thank you for taking this proposal into consideration.

Melia Franklin, Ed.D. | Director of English Language Arts | Office of College and Career Readiness

**From** Ellis, Jeremy (DESE)

**Date** Thursday, September 04, 2014 8:51 AM

**To** 'Jay Roth'

**Subject** RE: Digital Library probs AGAIN

We talk you listen! Just kidding.

We will discuss 1490 and what we are attempting to do with the committees. We will go over the logistics and agenda for the initial meeting. We discussed Do's and Don'ts with the committees. We discussed some worst case scenarios and how we may react if they happen. We have a PowerPoint presentation that will be used in all 8 groups as an introduction to standards. We will go over it and ask for your input.

We had some great feedback from the first group we had in last week.

Jeremy Ellis | Director of Mathematics | Office of College and Career Readiness



**From:** Mike Price  
**Sent:** Monday, November 03, 2014 12:23 PM  
**To:** LePage, Shari  
**Subject:** common core meetings

Shari – I'm guessing you've seen this - [http://www.stltoday.com/news/local/department-appointed-facilitators-note-takers-paid-per-replacement-common-core/article\\_aedf9544-3a81-51f1-97a8-e198229cdf9d.html](http://www.stltoday.com/news/local/department-appointed-facilitators-note-takers-paid-per-replacement-common-core/article_aedf9544-3a81-51f1-97a8-e198229cdf9d.html)

Can you give me a breakdown of the approps used/funds spent for these note takers and facilitators? Thanks.

Michael Price  
 Director - House Appropriations  
 B-20, State Capitol

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The following e-mail indicates that DESE personnel appear to have misappropriated federal Title II funds to cover costs associated with facilitators and notetakers who would exercise control over the work groups. The public is repeatedly told that standards are not curriculum<sup>8</sup>; however, Dr. Sharon Helwig verifies that control of the work groups constituted for the development of Missouri's academic standards would be financed through funds dedicated to the development of curriculum.

**From:** Beck, Andrea  
**Date:** Tuesday, November 04, 2014 12:25 PM  
**To:** Muenks, Michael  
**Subject:** FW: common core meetings

Michael, you are using Title II or assessment funds, right?

-----

**From:** Helwig, Sharon  
**Sent:** Tuesday, November 04, 2014 9:32 AM  
**To:** Lankford, Ronald  
**Subject:** RE: common core meetings

We have used Title II funds allotted to curriculum for this.

Sharon (Hoge) Helwig, Ph.D. | Assistant Commissioner | Office of College and Career Readiness

(3) Persons and personnel associated with DESE caused conflict within the ELA work group and sought public media coverage of the disruption. The e-mail immediately below verifies that Mr. Nick Kremer was associated with DESE and he has been the primary instigator of conflict within the academic standards workgroup; and that DESE Communications Coordinator, Sarah Potter,

<sup>8</sup> <http://cfelmlee.edublogs.org/2013/07/26/common-core-standards-and-smarter-balanced-assessment/>

contacted newspaper reporters to publicize the conflict and discredit the work of the groups. Nick Kremer, who had previously very publicly supported the Common Core Standards on behalf of DESE and went to far as to call those who opposed them “crazy”<sup>9</sup>, was a major focus of conflict in the ELA 6-12 work group. Note in the e-mail immediately below, dated just before the passage of HB 1490, Mr. Kremer describes his association with DESE’s former Director of English Language Arts, Diane Audley, and his commitment to maintaining Common Core Standards as Missouri Learning Standards. Also, note in the follow-up e-mail, the confirmation of DESE’s current Director of English Language Arts, Melia Franklin, to maintaining the Common Core ELA standards.

**From:** Nick Kremer  
**Sent:** Monday, May 05, 2014 11:01 AM  
**To:** Julie Knernschild; Franklin, Melia; Helwig, Sharon  
**Cc:** Leslie Trogdon  
**Subject:** RE: SB 815

Sharon/Melia/Sharon,

We have and continue to be actively working in Columbia to rally teachers in opposition to the standards revision aspects of SB 815/HB 1390 highlighted below, but in the unfortunate event that a final bill with those provisions does indeed become law, I want to be the first to volunteer to serve on the ELA standards committee. If we cannot get the full legislature to put politics aside long enough to sensibly understand the merits of the existing standards and the significant setbacks that revising them would cause, than I am cautiously optimistic that the case can be made and won at the committee level.

I served on Diane Audsley’s Missouri Core Academic Standards transition team several years ago and have been vocally and passionately advocating in favor of the standards throughout the state ever since. Under my leadership, Columbia Public Schools has designed and been implementing its own SBAC-inspired interim assessment system for the past two years. I am articulate, political-savvy, and fully-committed to the standards. If push comes to shove, help me help us all... :-)

And in the meantime, please don’t hesitate to let me know how I can be of greater assistance in the fight at-hand!

Sincerely,  
 Nick Kremer  
 Coordinator of Language Arts 6-12  
 Coordinator of Social Studies K-12  
 Columbia Public Schools

<sup>9</sup> <https://youtube/Y3OrwfVTsk>; education.missouri.edu/orgs/mper/files/OpCoMinutes011520131.doc

**From** Franklin, Melia  
**Date** Monday, May 05, 2014 2:57 PM  
**To** 'Nick Kremer'  
**Subject** RE: SB 815

Nick,

Please know that you'll be on the top of the list, should push come to shove. I don't know the degree to which we (DESE) will have a voice in who may be selected for the committees, but any man who'd name his son Atticus is A-#1 in my book.  
 Thanks for your support and for staying the course!

Melia Franklin, Ed.D. | Director of English Language Arts | Office of College and Career Readiness

**From** Potter, Sarah  
**Date** Tuesday, December 02, 2014 8:31 AM  
**To** McKinney, Roger, rkeller@columbiatribune.com  
**Subject** FW: Read this ASAP!

Roger or Rudi,

I thought you might be interested in the situation happening this morning in the 6-12 English language arts standards setting meeting. A Columbia Schools employee and curriculum person, Nick Kremer, is being removed by Speaker Tim Jones after he appointed him to the committee. There was no mechanism in HB 1490 to remove work group members, but he is trying. You can see Nick's emails below on the situation.

We'd appreciate if someone from the Columbia Tribune could cover this. Email me with questions. I'll be in a meeting this morning.

The meeting is in the 5th floor conference room at 205 Jefferson Street in Jefferson City. Let me know if you're coming.

Thanks,  
 Sarah Potter | Communications Coordinator

**From:** Nick Kremer [mailto:NKremer@cpsk12.org]  
**Sent:** Monday, December 01, 2014 11:11 PM  
**To:** Franklin, Melia; Helwig, Sharon  
**Subject:** Read this ASAP!

Melia/Sharon,

Major FYI (and apologies for the short notice!):

I have it on reliable authority that the Speaker will be issuing a statement tomorrow morning that officially declares his removal and replacement of me on our committee; he

will be calling into question my years of experience as a source of legitimacy for his actions. My replacement is expected to be in attendance at our meeting. I have been informed that the Speaker also intends to send staff members and Capital police to our meeting room to help ensure his desired outcome.

We start at 8:00 AM. I have to be at a meeting in Columbia until 9:00, but I believe that my committee is going to vote to disregard the Speaker's actions until a court of law establishes he has the authority to make them (as the bill does not explicitly give him that power). **Some media outlets have been notified of the fireworks that are likely to ensue.** Assuming all goes well, I plan to head down mid-morning...

- Nick

**From:** Potter, Sarah

**Date:** Tuesday, December 02, 2014 10:35 AM

**To:** **A Stuckey-at-post-dispatch.com**

**Subject:** Nick Kremer

Alex,

Here is the situation. Columbia Schools employee and curriculum person, Nick Kremer, is being removed by Speaker Tim Jones after he appointed him to the committee. There was no mechanism in HB 1490 to remove work group members, but he is trying. You can see Nick's emails below on the situation.

We'd appreciate if someone from the Post could cover this. Email me with questions. I'll be in a meeting this morning.

The meeting is in the 5<sup>th</sup> floor conference room at 205 Jefferson Street in Jefferson City. Let me know if you're coming

Thanks,

Sarah Potter | Communications Coordinator

**From:** Potter, Sarah

**To:** McKinney, Roger; Keller, Rudi

**Subject:** FW: Read this ASAP!

**Importance:** High

Roger or Rudi,

**I thought you might be interested in the situation happening this morning in the 6-12 English language arts standards setting meeting.** A Columbia Schools employee and curriculum person, Nick Kremer, is being removed by Speaker Tim Jones after he appointed him to the committee. There was no mechanism in HB 1490 to remove work group members, but he is trying. You can see Nick's emails below on the situation.

We'd appreciate if someone from the Columbia Tribune could cover this. Email me with questions. I'll be in a meeting this morning.

The meeting is in the 5<sup>th</sup> floor conference room at 205 Jefferson Street in Jefferson City. Let me know if you're coming.

Thanks,  
Sarah Potter | Communications Coordinator

A final concern -- you are quoted in the Missouri Times as saying, "If we drastically change standards and everything, you're looking at a significant burden for our teachers." Chairman Wood, the "sunken cost fallacy" to which you refer is far more dangerous than a temporary burden on our teachers and schools which the citizens of Missouri did not instigate. A far greater concern is the loss of Missouri's control over education of its citizens due to the potential transfer of the copyright of the Common Core State Standards held by non-governmental organizations not accountable to Missourians, or the uncontrolled costs associated with the royalty that for now is free, but that cost is not guaranteed in perpetuity. Recall that the State Board of Education never produced a cost-benefit analysis. Also, be aware that education publishing companies such as Pearson and McGraw Hill Education have been suffering profit losses consistently for several quarters, and will be positioning to ensure their solvency with public tax dollars spent on implementation of the CCSSI.

## Summary

As stated in our concerns and shown in the e-mails above, DESE and persons associated with DESE's agenda to implement the Common Core State Standards Initiative have deliberately worked to ensure that the intent of HB 1490 to *develop* academic standards in the public domain is denied and the status quo, that is implementing privately copyrighted Common Core State Standards, is maintained. In her latest committee report to the State Board of Education on the progress of the work groups, the chair of the 6-12 English language arts group, Ms. Kari Skeeters, did not report reasons for dissension in her group, omitting egregious violations of protocol and HB 1490 and acts of discrimination by DESE. It was during the public hearing portion of the meeting when other group members were allowed to speak that the state board heard evidence about the group's work that the chair did not report.

If you or other members of the Joint Committee on Education make decisions about the Common Core Standards without a report of costs, or have made a decision about the work of the academic standards groups a priori, the intent of HB 1490 is violated and the work of the academic standards work groups could be for naught. Their charge was to protect Missouri's sovereignty over the education of its children and develop quality standards for their subject areas that would make our students college and career ready. They were encouraged to seek outside expertise and consider the work of the Missouri Curriculum Alignment Initiative, not ensure that they were not going to upset too many Missouri teachers with too drastic of changes. Several groups have been moving forward with these instructions. We hope that the Joint Education Committee is respectful of their efforts and the intent and the letter of the law.

Your work to restore accountability of state government to the public is very much appreciated. We respectfully ask that you act on our request prior to the August 26 meeting of the Joint Education Committee so that members of the committee may get a balanced report of costs associated with implementing the CCSS and the progress of the work groups.

We look forward to supporting your work in the future on our behalf. Please don't hesitate to contact any one of us if you have any questions

Sincerely,

Mary Byrne, Ed.D.  
417-818-1261

Anne Gassel  
636-448-2124

Gretchen Logue  
314-378-6568

Missouri Coalition Against Common Core

**CAPITOL OFFICE**

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Kurt.Bahr@house.mo.gov

Legislator Assistant  
Nina Dean  
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**COMMITTEES**

Vice Chair – Children and  
Families and Persons with  
Disabilities

Member

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Small Business

Elementary and Secondary  
Education

Professional Registration

**Kurt M. Bahr**

State Representative  
District 102

Dear Work Group Member,

As the sponsor of HB 1490, I would like to thank you for agreeing to serve the people of Missouri. You have been challenged to write the standards for our most vital resource, our children. I truly appreciate your sacrifice for our children, parents, teachers and citizens in Missouri.

To facilitate your task, I thought I would take you through the few guidelines that are now statute under HB 1490. It is important that the few rules we put in the law are followed so that it is not later litigated.

First of all, please understand under in HB 1490 nobody is in charge of the work groups, not DESE (Department of Elementary and Secondary Education) or the Legislature. HB 1490 just tasked the State Board of Education to convene work groups. They are not in charge of the work groups. There is nothing in the legislation telling the work groups how to operate. Thus, you are free to operate any way you choose.

There is nothing in the law that says you may only meet three times. In fact, we realize that you need to meet more than three times. You could choose the time, day of the week, and location as a group. You may use conference calls and Skype. Your work group is free to meet as is best for them. The three meetings are not for the work groups, they are for the State Board of Education.

Finally, HB 1490 states that all standards taken from other sources are in the Public Domain. That means you cannot use copyrighted standards in developing new standards for Missouri. To date, the only copyrighted standards this office is aware of is Common Core.

You were chosen because we believe you will hold the children and parents' best interest at heart.

I thank you so much for being here.

Thank you,

A handwritten signature in black ink, appearing to read "Kurt Bahr".

Kurt Bahr  
State Representative, District 102





LIEUTENANT GOVERNOR OF MISSOURI  
JEFFERSON CITY  
65101

PETER D. KINDER  
LIEUTENANT GOVERNOR

STATE CAPITOL ROOM 224  
OFFICE PHONE: (573) 751-4727

Joint statement from:  
Lieutenant Governor Peter D. Kinder  
Senate Pro Tem Tom Dempsey  
Speaker of the House Tim Jones  
Senator Ed Emery  
Rep. Kurt Bahr

**Lieutenant Governor, Legislative leaders  
Issue Statement Clarifying HB1490 Work Groups**

"HB1490 was designed to vest in the Education Work Groups the power to shape recommendations for academic standards absent influence from bureaucrats and politicians. Under the law, after DESE convened the initial meeting, the power shifts to the groups alone to guide themselves each month with the goal of delivering their best academic standards recommendations by Oct. 1, 2015. There exists no authority in the statute for DESE to dictate the deliberations of these work groups, nor even to guide their deliberations after the initial organizing meetings held yesterday, unless invited to do so by individual work groups."

*Peter Kinder Tom Dempsey*  
*Tim Jones Ed Emery*  
*Kurt M Bahr*



# State of Missouri

## ESEA Flexibility Request

Revised March 31, 2015

U.S. Department of Education  
Washington, DC 20202

OMB Number: 1810-0708

- Ensure that teachers are effective and able to improve instruction by:
  - Reviewing the effectiveness of teachers using an evaluation system that adheres to the state's seven essential principles of effective evaluation.

### Essential Principles of Effective Evaluation

In August 2013, the Missouri State Board of Education adopted a rule establishing the seven principles of effective evaluation. The rule states that "school districts not electing to adopt the state model shall align their local evaluation process to these same principles and shall submit their process to the department for review and approval."

School districts submit for approval the details regarding their local evaluation process through Screen 18a of the Core Data System of Missouri's Department of Elementary and Secondary Education. Through this submission, school districts indicate their alignment to the essential

Principle 1: Performance of educators is measured against research-based, proven expectations and performance targets consistent with the improvement of student achievement.

- Educator performance targets are research-based and proven.
- Performance targets align to appropriate state and national standards.
- Performance targets articulate essential practices.
- Performance targets are clearly articulated.
- Performance targets of the educator link to improvements in student learning.

# THE NATIONAL ACADEMIES

*Advisers to the Nation on Science, Engineering, and Medicine*

Division of Behavioral and Social Sciences and Education  
Board on Testing and Assessment

500 Fifth Street, NW  
Washington, DC 20001  
Phone: 202 334 2353  
Fax: 202 334 1294  
Email: [botal@nas.edu](mailto:botal@nas.edu)  
[www.nationalacademies.org](http://www.nationalacademies.org)

October 5, 2009

The Honorable Arne Duncan  
Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue, SW, Room 3W329  
Washington, DC 20202

Dear Mr. Secretary:

This letter offers comments concerning the Department's Proposed Regulations on the Race to the Top (RTT) fund of the American Recovery and Reinvestment Act of 2009 (74 Fed. Reg. 37804, proposed July 29, 2009) from the Board on Testing and Assessment of the National Research Council. (See Attachment A for a list of members.) The comments reflect a consensus of the Board.

Under National Academies procedures, any letter report must be reviewed by an independent group of experts before it can be publicly released, which made it impossible to complete the letter within the public comment period of the *Federal Register* notice.<sup>1</sup> However, we hope that the Department will still find these comments helpful in revising the RTT plans.

The Board on Testing and Assessment stands ready to assist the federal government, Congress, and the states in addressing issues concerning the use of evidence to improve educational opportunities for the nation's young people.

Sincerely yours,



Edward H. Haertel, *Chair*  
Board on Testing and Assessment

that will one day become operational. However, BOTA has significant concerns that the Department's proposal places too much emphasis on measures of growth in student achievement (1) that have not yet been adequately studied for the purposes of evaluating teachers and principals and (2) that face substantial practical barriers to being successfully deployed in an operational personnel system that is fair, reliable, and valid.

## REFERENCE COPY

FILE: GCN  
Critical

### EXPLANATION: EVALUATION OF PROFESSIONAL STAFF

This policy was revised at the request of the Department of Elementary and Secondary Education (DESE) as a way of helping districts understand that student growth must be part of the evaluation process.

This policy was also revised to reflect the requirements of House Bill 1490 (2014) that prohibits the sharing of evaluation results with state and federal agencies. MSBA has also included language from state law describing the essential principles that must be incorporated in all evaluation procedures and made changes in wording for clarity and consistency with standards approved by the State Board.

DESE has a wealth of information on incorporating student performance data into the evaluation process on its website at:

<http://dese.mo.gov/educator-growth-toolbox/student-growth-data>

The DESE website also has information on implementing the evaluation process (Effective Evaluation Implementation Rubric):

<http://dese.mo.gov/sites/default/files/Effective-Evaluation-Implementation-Rubric.pdf>

The Missouri Teacher Standards adopted by the Missouri State Board of Education are available at:

<http://dese.mo.gov/sites/default/files/TeacherStandards.pdf>

*MSBA recommends that copies of this document be routed to the following areas because the content is of particular importance to them. The titles on this list may not match those used by the district. Please forward copies to the district equivalent of the title indicated.*

	Board Secretary		Business Office		Coaches/Sponsors
	Facility Maintenance		Food Service		Gifted
X	Human Resources	X	Principals		Library/Media Center
	Health Services		Counselor		Special Education
	Transportation		Public Info/Communications		Technology

## REFERENCE COPY

FILE: GCN  
Critical

### EVALUATION OF PROFESSIONAL STAFF

The Board requires a program of comprehensive, performance-based evaluations for the teachers and other professional staff members it employs in order to ensure high-quality staff performance that improves student achievement. Evaluation instruments used by the district will minimally reflect the standards for evaluation of professional staff. Pursuant to these principles, the evaluation process should:

1. Use research-based performance targets aligned with state standards;
2. Establish indicators of performance articulated across differentiated levels with standards specifying expectations at all levels of practice;
3. Be aligned with the probation period for the educator as specified in state law and provide for the accurate and appropriate accumulation of performance data;
4. Use student growth in learning as a significant contributing factor in the evaluation of practice at all levels, using a wide variety of student performance measures;
5. Assess performance on a regular basis, providing timely feedback from multiple sources that promotes formative development at all career stages and supporting overall improvement;
6. Be designed to ensure that evaluators who collect evidence of performance and provide feedback are highly trained and objective, ensuring that ratings are fair, accurate and reliable; and
7. Be designed to guide district decisions regarding determinations of status, recognition, development, interventions and policies that impact student learning in the system.

#### Evaluation of Professional Staff Other Than Teachers

All professional staff members contribute toward the achievement of the district's students and the overall success of the district. To ensure continuous improvement and growth, the supervisors of professional staff members or their designees will set performance goals in consultation with the employee, conduct continuous performance evaluations and complete a written summative evaluation annually.

#### Teacher Evaluations

FILE: GCN  
Critical

## REFERENCE COPY

The superintendent or designee ("evaluator") will annually complete a summative evaluation of the performance of the district's teachers in the district using an evaluation instrument that incorporates the Essential Principles of Effective Evaluation as adopted by the State Board.

The primary purpose of the evaluation is to improve student performance by promoting the continuous growth of teachers in a manner that is aligned with the district's Comprehensive School Improvement Plan (CSIP) and, where applicable, building improvement plans (BIPs). Results of the evaluation will inform employment decisions, but may not be the only factor considered.

The superintendent or designee, in consultation with the district's teaching staff, will develop procedures and instruments for professional staff evaluation and will be approved by the Board.

### Teacher Evaluation Standards

Teachers in the Lathrop R-II School District will be held to the following standards: The evaluator will measure performance based on the Missouri Teacher Standards. In accordance with these standards, detailed below, the teacher must demonstrate the knowledge and ability to ensure the success of all students.

1. *Content Knowledge Aligned with the Appropriate Instruction:* The teacher understands the central concepts, structures and tools of inquiry of the discipline(s) taught and creates learning experiences that make these aspects of subject matter meaningful and engaging for all students.
2. *Student Learning, Growth and Development:* The teacher understands how students learn, develop and differ in their approaches to learning and. The teacher provides learning opportunities that are adapted to diverse learners and support the intellectual, social and personal development of all students.
3. *Curriculum Implementation:* The teacher recognizes the importance of long-range planning and curriculum development and. The teacher develops, implements and evaluates curriculum based on student, district and state standards data.
4. *Critical Thinking:* The teacher uses a variety of instructional strategies and resources to encourage students' critical thinking, problem-solving and performance skills, including instructional resources.
5. *Positive Classroom Environment:* The teacher uses an understanding of individual and group motivation and behavior to create a learning environment that encourages active engagement in learning, positive social interaction and self-motivation.

## REFERENCE COPY

FILE: GCN  
Critical

6. *Effective Communication:* The teacher models effective verbal, nonverbal and media communication techniques with students, colleagues and families to foster active inquiry, collaboration and supportive interaction in the classroom.
7. *Student Assessment and Data Analysis:* The teacher understands and uses formative and summative assessment strategies to assess the learner's progress; and uses classroom and standardized assessment data to plan ongoing instruction; The teacher monitors the performance of each student and devises instruction to enable students to grow; and develop, and make making adequate academic progress.
8. *Professionalism:* The teacher is a reflective practitioner who continually assesses the effects of choices and actions on others and The teacher actively seeks out opportunities to grow professionally in order to improve learning for all students.
9. *Professional Collaboration:* The teacher has effective working relationships with students, parents/guardians, school colleagues and community members.

### Counselor and Librarian Evaluation Standards

The district adopts the model standards for librarians and counselors developed by the Department of Elementary and Secondary Education and adopted by the State Board.

#### Recordkeeping

A copy of the professional staff member's summative evaluation and supporting documentation will be kept in the employee's personnel file.

#### Evaluation Records

The summative evaluation and any written responses by the teacher or professional staff member will be maintained in the employee's personnel file in accordance with the state retention manuals applicable to schools. The district will not share the evaluation with any state or federal agency unless it is required by law to do so.

\* \* \* \* \*

**Note:** *The reader is encouraged to check the index located at the beginning of this section for other pertinent policies and to review administrative procedures and/or forms for related information.*

Adopted: 11/13/1991

SCHOOLS: The Missouri School Boards'  
 SCHOOL BOARD ASSOCIATION DUES: Association is a "quasi-public  
 SCHOOL BOARDS: governmental body" as defined in  
 SUNSHINE LAW: Section 610.010(2), RSMo Supp.  
 1988, and subject to the  
 provisions of Chapter 610, RSMo, the Sunshine Law.

December 22, 1988

OPINION NO. 103-88

The Honorable Tom McCarthy  
 Senator, District 26  
 State Capitol Building, Room 427  
 Jefferson City, Missouri 65101




Dear Senator McCarthy:

This opinion is in response to your question asking whether the provisions of Chapter 610, RSMo, commonly known as Missouri's "Sunshine Law," are applicable to the Missouri School Boards' Association (hereinafter "the Association"). A memorandum accompanying your question states that the Association is incorporated as a not-for-profit corporation under Chapter 355, RSMo. The memorandum also notes that Section 162.011, RSMo 1986, authorizes a local school board to use money in the incidental fund of the district to pay membership dues to the Association.

#### CONCLUSION

It is the opinion of this office that the Missouri School Boards' Association is a "quasi-public governmental body" as defined in Section 610.010(2), RSMo Supp. 1988, and subject to the provisions of Chapter 610, RSMo, the Sunshine Law.

Very truly yours,

  
 WILLIAM L. WEBSTER  
 Attorney General



**From:** [Dickey, Kelli](#)  
**To:** [Lantford, Ronald](#)  
**CC:** [Coffman, Robin](#); [Bauer, Denise](#)  
**Subject:** Initiative Petition 14-024  
**Date:** Tuesday, March 26, 2013 8:16:54 AM

Please note that the Commissioner made some changes to the attached document.

**COMMITTEE ON LEGISLATIVE RESEARCH**  
**OVERSIGHT DIVISION**  
 (573) 751-4143

Enter requested data in the following cells. This information will be used throughout the Fiscal Note Worksheet.

<b>Agency:</b> DESE
<b>Division:</b> Admin & Financial Svcs
<b>Preparer:</b> Rich Villmer
<b>Telephone:</b> 751-7166
<b>Date Prepared:</b> 3-25-13
<b>E-mail:</b> <a href="mailto:Rich.Villmer@desec.mo.gov">Rich.Villmer@desec.mo.gov</a>
<b>Fiscal Note:</b> Initiative Petition 14-024
<b>Approval Signature:</b>

Kelli -  
 Keep  
 copy &  
 forward one  
 to  
 Ron

Create additional state fund worksheets by clicking the "Create new State Fund" button and following prompts. General Revenue has already been provided. **IF YOU NEED TO CREATE ADDITIONAL FEDERAL FUNDS, you MUST create them BEFORE creating your state funds. See button and instructions below!**

**Hyperlinks to Various Worksheet Tabs**

<a href="#">Instructions</a>	<a href="#">Summary of Fiscal Impact</a>	<a href="#">Overview - Questions</a>	
<a href="#">General Revenue fund tab</a>	<a href="#">Federal fund tab</a>	<a href="#">Local</a>	<a href="#">Worksheet Troubleshooting Form</a>
<a href="#">Comment memo</a>	<a href="#">Technical Memo</a>	<a href="#">Statement of No Change</a>	

**Note:** A few select agencies require more than one Federal fund; this button can be used to create additional funds. If you do create additional federal funds, leave the default "Federal" fund worksheet blank. It will remain on the Fiscal Impact Summary sheet with zero impact and your custom-created funds will display with correct federal fund totals.



**FISCAL ESTIMATE WORKSHEET**  
**OVERSIGHT DIVISION (573)751-4143**  
**FAX (573)751-7681**

**FISCAL NOTE:** Initiative Petition 14-024

0

[Instructions](#)

**SUMMARY OF FISCAL IMPACT**

**Type of Fiscal Note Response:** original

Agency: DESE Date: 3-25-13  
 Division: Admin & Financial Svcs Telephone: 751-7166  
 Preparer: Rich Villmer E-Mail Address: Rich.Villmer@dese.mo.gov  
 Preparer's Signature: No Impact on Agency:  
 Approval Signature: No Local Fiscal Impact:  
 Oversight Analyst: 0

Note: if both of the "no impact" lines are checked, you only need to complete the "Summary of Fiscal Impact" and "Overview" worksheets.

Create and complete separate worksheets for each state fund affected.

[Fiscal Note Worksheet](#)

**ESTIMATED NET EFFECT ON STATE FUNDS**

Fund Affected	FY 2014	FY 2015	FY 2016
General Revenue	\$0	\$0	\$0
<b>Total Estimated Net Effect on All State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**ESTIMATED NET EFFECT ON FEDERAL FUNDS**

Federal Funds	\$0	\$0	\$0
<b>Total Estimated Net Effect on All Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**ESTIMATED NET EFFECT ON LOCAL FUNDS**

Local Funds	(potential for significant <del>cost</del> unknown costs)	(potential for significant <del>cost</del> unknown costs)	(potential for significant <del>cost</del> unknown costs)
<b>Total Estimated Net Effect on All Local Funds</b>	<b>(potential for significant unknown costs)</b>	<b>(potential for significant unknown costs)</b>	<b>(potential for significant unknown costs)</b>

"cost unknown" in each box

## FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: Initiative Petition 14-024

[Fiscal Note Worksheet](#)

BILL NO: 0

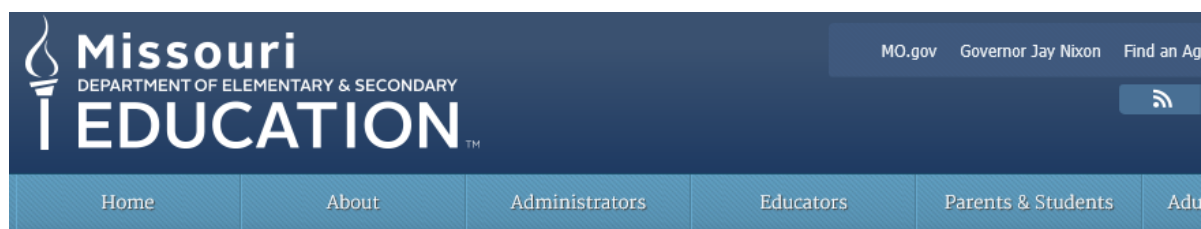
[Instructions](#)[Instructions](#)[Instructions](#)

## Assumptions

beyond what is currently in the ESEA waiver.

DESE assumes this initiative will have no cost on the agency. ~~The potential exists for local school districts to incur significant litigation costs, as well as development and implementation costs.~~ School districts electing to adopt the Missouri Educator Evaluation System developed by the Department of Elementary and Secondary Education should incur no cost in the development of the evaluation instrument mandated under the proposed amendment. Should districts choose to develop and implement their own evaluation instruments, the costs to those districts are unknown.

<http://dese.mo.gov/communications/news-releases/missouri-education-department-chooses-vendor-assessments>



## Missouri Education Department Chooses Vendor for Assessments

[Home](#)

Mon, 10/07/2013 - 03:46

The Missouri Department of Elementary and Secondary Education has chosen CTB/McGraw-Hill for a new statewide assessment contract beginning with the 2014-15 school year. The Department's current contracts with CTB/McGraw-Hill for the administration of the Missouri Assessment Program (MAP) expire with the spring 2014 test administrations. The new contract includes all required assessments in English language arts, mathematics, science, and social studies. The scope of the work addresses item development, test administration, scoring, security and reporting.

The purpose of the state's new assessments is to help inform better teaching and better learning. The new tests will assess the deeper knowledge students need for success after they graduate from high school. The assessments are integral to accomplishing Missouri's top 10 by 20 initiative goal of all students graduating ready for college, postsecondary training or a career.

[Common Core and Assessment](#) | [News](#)

# Brief: Missouri Chooses CTB/McGraw-Hill to Administer Online Assessments

By [Kanoë Namahoe](#) | 10/31/13

<https://thejournal.com/articles/2013/10/31/brief-missouri-chooses-ctb-mcgraw-hill-to-administer-online-assessments.aspx>

The [Missouri Department of Elementary and Secondary Education](#) has selected CTB/McGraw-Hill to administer its online assessments starting with the 2014-2015 school year. The assessments are designed to measure progress toward Common Core State Standards.

According to a statement from CTB/McGraw-Hill, the contract covers English language arts and math interim assessments; English language arts, math, and science grade-level and end-of high school summative assessments; and English language arts, math, science, and social studies high school end-of-course assessments.

The state's new assessments are part of its "[Top 10 by 20](#)" program, which is designed to ensure that all high school graduates are sufficiently prepared for college or entry into the workforce.

<http://www2.ed.gov/policy/elsec/leg/esea02/pg2.html#sec1116>

## NCLB Part A — Improving Basic Programs Operated by Local Educational Agencies

### Subpart 1 — Basic Program Requirements

#### (3) ACADEMIC ASSESSMENTS-

(A) IN GENERAL- Each State plan shall demonstrate that the State educational agency, in consultation with local educational agencies, has implemented a set of high-quality, yearly student academic assessments that include, at a minimum, academic assessments in mathematics, reading or language arts, and science that will be used as the primary means of determining the yearly performance of the State and of each local educational agency and school in the State in enabling all children to meet the State's challenging student academic achievement standards, except that no State shall be required to meet the requirements of this part relating to science assessments until the beginning of the 2007-2008 school year.

(B) USE OF ASSESSMENTS- Each State educational agency may incorporate the data from the assessments under this paragraph into a State-developed longitudinal data system that links student test scores, length of enrollment, and graduation records over time.

(C) REQUIREMENTS- Such assessments shall--

(i) be the same academic assessments used to measure the achievement of all children;

(ii) be aligned with the State's challenging academic content and student academic achievement standards, and provide coherent information about student attainment of such standards;

**(iii) be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards;**

<http://files.eric.ed.gov/fulltext/ED484538.pdf>

and

<http://www.gao.gov/assets/120/116034.pdf>

**COOPERATIVE AGREEMENT**  
**Between the**  
**U.S. DEPARTMENT OF EDUCATION**  
**and the**  
**SMARTER BALANCED ASSESSMENT CONSORTIUM**  
**and the**  
**STATE OF WASHINGTON**  
**(fiscal agent)**

Date: January 7, 2011. PR/Award #: S395B100003

**APPENDIX F: RTTA PROGRAM REQUIREMENTS**  
(attached for reference purposes)

These requirements are from the RTTA NIA published in the *Federal Register* on April 9, 2010, pages 18174-18175:

An eligible applicant awarded a grant under this category must—

1. Evaluate the validity, reliability, and fairness of the summative assessment components of the assessment system, and make available through formal mechanisms (*e.g.*, peer-reviewed journals) and informal mechanisms (*e.g.*, newsletters), and in print and electronically, the results of any evaluations it conducts;

<http://www.smarterbalanced.org/wordpress/wp-content/uploads/2014/04/Quarterly-Report-December-2013.pdf>



## Quarterly Report YEAR 4 QUARTER 1 (OCTOBER–DECEMBER 2013)



## Quarterly Report YEAR 4 QUARTER 1 (OCTOBER–DECEMBER 2013)

### Executive Summary (continued)

packaging format. To assist member states in planning for the operational assessment, a device certification process was released to verify devices for use with Smarter Balanced assessments. Smarter Balanced also released two documents to assist states in developing test delivery requests for proposals and designed a new Training Test to provide students with opportunities to practice newly-developed tools and item types. Additionally, the Technology Framework and Testing Device Requirements documents were updated and posted to [smarterbalanced.org](http://www.smarterbalanced.org).

**Accessibility:** Smarter Balanced initiated translations of test items and support materials intended for use on the Field Test and the operational assessments. This work is in addition to American Sign Language (ASL) video translations for Practice Test mathematics items and ELA/literacy listening stimuli and items, which are already underway.

In conjunction with the National Center for Education Outcomes (NCEO), Smarter Balanced developed frequently asked questions (FAQs) to accompany the Smarter Balanced Usability, Accessibility, and Accommodations Guidelines approved earlier this year. States contributed significantly to this development effort, identifying key questions and providing applicable answers. The resulting document has been posted on the Smarter Balanced website at [http://www.smarterbalanced.org/wordpress/wp-content/uploads/2013/12/SmarterBalanced\\_Guidelines\\_FAQ.pdf](http://www.smarterbalanced.org/wordpress/wp-content/uploads/2013/12/SmarterBalanced_Guidelines_FAQ.pdf).

**Mathematical Reasoning:** In October, Smarter Balanced held a two-day meeting for 20 experts in mathematics, technology, and scoring, to discuss ways to improve the measurement of mathematical reasoning and enhance associated technologies. A research agenda was developed to prioritize activities that expand what can be measured via online assessments. Fifty prototype items were developed to elicit mathematical reasoning from students and to explore more efficient scoring methods; these items will be included in the spring 2014 Field Test.

**Organization:** Governing States elected Michael Muenks of Missouri, and reelected Michael Hock of Vermont and Beverly Young (higher education representative) of California, to the Executive Committee. All three terms run through September 30, 2014.

**Sustainability:** The Consortium's sustainability planning advanced on multiple fronts this quarter, including agreements with UCLA on draft language for Memorandum of Understanding (MOU) terms of agreement; planning for certification of vendors to administer the operational assessment; and establishment of bylaws for the successor organization. The Michigan Department of Education released a report this quarter evaluating 12 assessment vendor options for measuring student progress toward college and career readiness. Smarter Balanced stands out as the clear assessment option. The report and its appendices may be accessed at <http://www.michigan.gov/mde/0,1607,7-140-22709---,00.html>.

**Procurement:** RFP-21 (Standard Setting) was posted on October 30. Two proposals were received on December 18. Proposal evaluation began on December 23, with a committee of representatives from the Validation and Psychometrics/Test Design Work Group, higher education, TAC and external experts, Executive Committee and executive staff members, and Smarter Balanced state representatives.





## Meeting Minutes—Executive Committee Meeting—10/1/2013

Subject	Smarter Balanced Executive Committee and Staff Meeting			Date	October 1, 2013
Facilitator	Deb Sigman			Time	9:00 a.m. Pacific
Location	WebEx and Conference Call			Scribe	WestEd
Attendees	<b>Smarter Balanced Executive Committee Members:</b> Juan D'Brot, Michael Hock, Charles Lenth, Mike Middleton, Michael Muenks, Deb Sigman				
	<b>Smarter Balanced Executive Staff:</b> Joe Willhoft, Tony Alpert, Magda Chia, Linda Darling-Hammond, Dacia Hopfensperger, Jacqueline King, Marty McCall				
	<b>WestEd:</b> Christyan Mitchell, Ann Appert				

<http://www2.ed.gov/programs/racetothetop-assessment/reports/sbac-year-3.pdf>

# RACE TO THE TOP ASSESSMENT

## Smarter Balanced Assessment Consortium

### Year Three Report



#### CHALLENGES

- *Item development*

As noted above, Smarter Balanced made significant progress during Year 3, developing approximately 21,000 items for the field test in spring 2014. Following the pilot test and the Department's Technical Review, Smarter Balanced increased its quality control measures by establishing the IQRP, revising item specifications, developing item quality criteria and an item audit process, and completely revising the mathematics performance tasks. The Department acknowledges the difficult work building a next-generation assessment system to measure whether students have the knowledge and skills necessary to succeed in college and the workforce. Smarter Balanced continued to experience challenges in Year 3 around adherence to established timelines and making sure the items and tasks developed met the consortium's quality criteria. The consortium should continue to evaluate whether its quality control processes are sufficient and provide close oversight over the development of future items and tasks to ensure that established timelines and quality criteria are being met. In Year 4, as Smarter Balanced develops additional items and tasks, it will need to be attentive to areas where it will need to improve the overall performance of the item pool.





### *Program Requirements*

An eligible applicant awarded a grant under this category must—

1. Evaluate the validity, reliability, and fairness of the summative assessment components of the assessment system, and make available through formal mechanisms (e.g., peer-reviewed journals) and informal mechanisms (e.g., newsletters), and in print and electronically, the results of any evaluations it conducts;

## GOVERNOR OF MISSOURI

JEREMIAH W. JAY NIXON  
GOVERNOR

JEFFERSON CITY  
65102

P.O. Box 720  
(573) 751-3222

May 8, 2015

TO THE CHIEF CLERK OF THE  
HOUSE OF REPRESENTATIVES  
98th GENERAL ASSEMBLY  
FIRST REGULAR SESSION  
STATE OF MISSOURI

Herewith I return to you Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2 entitled:

## AN ACT

To appropriate money for the expenses, grants, refunds, and distributions of the State Board of Education and the Department of Elementary and Secondary Education, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2015 and ending June 30, 2016; provided that no funds from these sections shall be expended for the purpose of costs associated with the travel or staffing of the offices of the Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, or Attorney General, and further provided that no funds from these sections shall be expended for the purpose of aerial travel within the state of Missouri.

On May 8, 2015, I approved Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2. However, section 2.070 of Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2 contains language that is inconsistent with existing law relating to the state's education assessment plan. The legislature may not create new and different mandates or amend current legal requirements through the appropriations process. It is well-settled that "to inject general legislation of any sort into an appropriation act is repugnant to the constitution." See *State ex rel. Hueller v. Thompson*, 289 S.W. 338, 340 (Mo. banc 1926). Indeed, "[a]ppropriations of money for payment of state obligations and the amendment of a general statute are entirely different and separate subjects for legislative action." *Igoe v. Bradford*, 611 S.W.2d 343, 350 (Mo.App. 1980). To the extent section 2.070 of Conference Committee

RECEIVED

MAY 08 2015

CHIEF CLERK

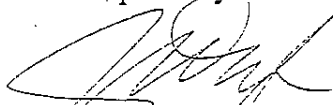
Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2 attempts to legislate through the appropriations process in violation of the single-subject requirement of Article III, Section 23 of the Missouri Constitution, existing substantive law must prevail.

Section 2.070 seeks to require “that no later than February 1, 2016 the Department of Elementary and Secondary Education shall submit a plan for the development and implementation of a new, Missouri-based state assessment plan for review and approval by the House Budget Committee and Senate Appropriations Committee....” Existing state law does not mandate the development of a new state assessment plan by a date certain, and the legislature may not seek to impose such a requirement through an appropriations bill. Moreover, the attempt to extend approval authority of a new state assessment plan to the House Budget Committee and Senate Appropriations Committee is similarly flawed due to its conflict with current law. Section 160.526.2, RSMo, provides a process by which the entire General Assembly can veto implementation, modification, or revision to the state assessment plan by concurrent resolution adopted by majority vote of both chambers. This duly enacted statute cannot be altered, amended or affected by a phrase inserted into an appropriations bill. If a new state assessment plan is proposed, the State Board of Education and the Department of Elementary and Secondary Education will comply with the process set forth in Missouri statutes.

Section 2.070 of Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2 further states “that no funds from this section shall be used for assessments which generate results used to lower a public school district’s accreditation or a teacher’s evaluation.” This language broadly prohibits, without limitation, the use of assessment results to lower a district’s accreditation or in a teacher’s evaluation. By contrast, section 161.855.4, RSMo, - enacted only last year - limits the use of such results in the accreditation of districts and in the evaluation of teachers only in the *first* year a new or changed statewide assessment system is utilized. The inconsistency between the substantive law and the language in the appropriations bill must be resolved in favor of the substantive law. The impact of assessment results on a school district’s accreditation or in a teacher’s evaluation will be guided by section 161.855.4, RSMo.

The aforementioned language contained in section 2.070 of Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2 conflicts with existing state law and thereby violates Article III, Section 23 of the Missouri Constitution. Accordingly, this language is void and unenforceable and will be viewed as legal surplusage in its implementation.

Respectfully-submitted,



Jeremiah W. (Jay) Nixon  
Governor

To Commissioner@dese.mo.gov  
 CC sbe@dese.mo.gov Kurt Bahr Ed Emery Nina Dean Josh Foster  
 Jun 8

Commissioner Vandeven,

Various news outlets have reported the withdrawal of Missouri from the Smarter Balanced Assessment Consortium (SBAC) due to the cut in funding for consortium membership in the 2016 budget. Examples are

<http://www.wgem.com/story/29241629/2015/06/04/common-core-no-more-in-Missouri>

<http://www.stltoday.com/news/local/education/missouri-legislature-throws-common-core-test-out-the-window>

Though in several public statements by legislators, mention is made of SBAC's failure to meet its contractual agreement with Missouri to provide formative tests in a timely manner; to date, none of the articles I've read has included Judge Green's February ruling that SBAC was unlawful in its existence and operation and prohibited payment of membership fees by the state. In other words, the recent reports of the reasoning behind the budget cut are incomplete in their analysis.

In her June 4 article, Elisa Crouch reported, "Department officials are considering asking for bids from testing companies for assessments to give students next spring. Whatever test is given will be aligned with the Common Core, which education officials often refer to as the Missouri Learning Standards."

That statement is concerning, because Missouri statute 160.526.3 requires the commissioner of education to have revised what should have been an existing procedure for regular advice and counsel to be provided to the state board of education regarding the development evaluation, modification or revision of the statewide assessment system from ad hoc committees populated by a variety stakeholders from a variety of categories including parents. Statutory requirement of such a procedure has existed since the passage of the Outstanding Schools Act in 1993, and was updated with clarification language in 2014.

The text of the statute is provided below.

Missouri Revised Statutes  
Chapter 160  
Schools--General Provisions  
August 28, 2014

**Development of academic standards, learning standards, and assessment system, criteria--assistance of experts--notification of implementation of system, legislative veto--professional advice and counsel.**

160.526. 1. In establishing, evaluating, modifying, and revising the academic performance standards and learning standards authorized by section 160.514 and the statewide assessment system authorized by subsection 1 of section 160.518, the state board of education shall consider the work that has been done by other states, recognized regional and national experts, professional education discipline-based associations, other professional education associations, the work product from the department of higher education's curriculum alignment initiative, or any other work in the public domain.

**2. The state board of education shall by contract enlist the assistance of such national experts to receive reports, advice and counsel on a regular basis pertaining to the validity and reliability of the statewide assessment system. The reports from such experts shall be received by the state board of education. Within six months prior to implementation of or modification or revision to the statewide assessment system, the commissioner of education shall inform the president pro tempore of the senate and the speaker of the house of representatives about the procedures to implement, modify, or revise the statewide assessment system, including a report related to the reliability and validity of the assessment instruments, and the general assembly may, within the next sixty legislative days, veto such implementation, modification, or revision by concurrent resolution adopted by majority vote of both the senate and the house of representatives.**

**3. The commissioner of education shall establish a procedure for the state board of education to regularly receive advice and counsel from professional educators at all levels in the state, district boards of education, parents, representatives from business and industry, the general assembly, and labor and community leaders pertaining to the implementation of sections 160.514 and 160.518. By December 31, 2014, the commissioner of education shall revise this procedure to allow the state board of education to regularly receive advice and counsel from professional educators at all levels in the state, district boards of education, parents, representatives from business and industry, the general assembly, and labor and community leaders whenever the state board develops, evaluates, modifies, or revises academic performance standards, learning standards, or the statewide assessment system under sections 160.514 and 160.518. The procedure shall include, at a minimum, the appointment of ad hoc committees.**

(L. 1993 S.B. 380 § 6, A.L. 1998 S.B. 781, A.L. 2014 H.B. 1490)

Note also that RsMO 160.526.2 requires the commissioner to report to legislative leadership **the reliability and validity of the assessment instruments**. It is my opinion,

that had the commissioner of education acted in compliance with RsMO 160.526.2 and 160.526.3 in 2010 Missouri would not have entered into SBAC membership because no test was available for review to determine its validity and reliability. A plan to gather validity and reliability data is not equivalent to presenting the data. To date, published data about SBAC validity and reliability is not available -- which by traditional ethical and professional standards of test administration practices should have prevented the delivery of SBAC to students in Missouri. Failure to produce such data for scrutiny renders the assessment tool legally indefensible for use in decision-making about students, teacher, or district performance.

Given that current Missouri law requires the commissioner to have revised the procedure by December 31 of last year, and given that the procedure to advise the state board of education on the modification or revision of the statewide assessment system is a pressing concern to all Missourians concerned with an appropriate education for all children using valid and reliable assessments, I request that you to provide the following to me and to the bill sponsors of HB 1490 prior to the next state board of education meeting:

- (1) a copy of the procedure to allow the board of education to regularly receive advice and counsel from stakeholders familiar with the evaluation of the psychometric quality of statewide assessments as per RsMO 160.526.2 and 160.536.3;
  - (2) copies of meeting minutes documenting the description of the procedure to state board of education members and a timeframe describing how the state board of education will receive "regular" advice and counsel about the statewide assessments used in 2016 and thereafter;
  - (3) a list of current members appointed to the ad hoc committees as required by statute.
- Thank you in advance for your compliance with RsMO 160.526 and your response to my request for information.

Mary Byrne, Ed.D.  
Springfield, MO

Vandeven, Margie <Margie.Vandeven@dese.mo.gov>

Jun 12 at 3:09 PM

To 'mary.byrne53@att.net'

CC Coffman, Robin

Dear Dr. Byrne:

Thank you for sharing your concerns regarding the Department's ability to remain in compliance with RsMO 160.526. While the conflicting language found in HB 2 and RsMO 160.526 creates implementation challenges for our state, I can assure you that we are aware of our responsibilities and are committed to meeting them in the most sufficient manner.

We are working diligently to honor the mandates of the members of the general assembly and thoughtfully to provide a meaningful assessment system for our students and teachers.

Thank you,  
Margie

To Vandeven, Margie  
CC Coffman, Robin Kurt Bahr Ed Emery Nina Dean Josh Foster sbe@dese.mo.gov  
Jun 13

Commissioner Vandeven,

Thank you for your reply to my e-mail. I know you are very busy, and appreciate your time to make direct correspondence with me as education professionals and concerned citizens.

Your response described a conflict of HB 2 signed into law in May of 2015.

According to the May 8 2015 letter from Governor Nixon to the Chief Clerk of the House of Representatives (attached), the governor addressed the conflict in HB 2 and RSMo 160.526.2 in the second paragraph on page two, stating that that the Department of Elementary and Secondary Education would not execute a provision in HB 2 requiring DESE to submit an assessment plan to committees in the House and Senate, rather, "Section 160.526.2, RSMo, provides a process by which the entire General Assembly can veto implementation, modifications, or revision to the state assessment plan by concurrent resolution adopted by majority vote in both chambers. . . . comply with the process set forth in Missouri statutes."

I made a request for information about the implementation of RsMO 160.526.3 which is the same statute cited by the governor, but a section not identified as conflicting with HB 2. Please clarify the conflict to which you refer.

Thank you in advance for your response.

Mary Byrne, Ed.D.



Vandeven, Margie <Margie.Vandeven@dese.mo.gov>

Jun 17 at 3:18 PM

To 'Mary Byrne'

CC Coffman, Robin

I am aware of the language in the Governor's letter. In the email below, I was referencing the conflicting timelines established through legislation.

Thank you.

To Vandeven, Margie  
 CC Coffman, Robin  
 Jun 17

Thank you for your response and clarification of the conflict as you described. However, your response described a conflict of HB 2 signed into law in May of 2015.

My concerns pertain to the misunderstandings regarding the implementation of HB 1490 as evidenced by recent the media coverage and editorials (the Springfield News Leader editorial board reprinted the STL Post Dispatch editorial in the June 12 edition), and that public trust in the process should be supported by transparency in government.

I have not yet received the information I requested, and will, therefore, clarify my original request and request clarification of your response.

The information I requested pertained to implementation of section 160.526.3, RSMo, last revised as part of HB 1490 and a reiteration of statutory requirements that have been in effect for many years prior to 2014.

***By December 31, 2014, the commissioner of education shall revise this***

***30 procedure to allow the state board of education to regularly receive advice and counsel***

***31 from professional educators at all levels in the state, district boards of education, parents,***

***32 representatives from business and industry, the general assembly, and labor and 33 community leaders whenever the state board develops, evaluates, modifies, or revises***

***34 academic performance standards, learning standards, or the statewide assessment system***

***35 under sections 160.514 and 160.518.*** The procedure shall include, at a minimum, the  
***36 appointment of ad hoc committees [and shall be in addition to the advice and counsel obtained***

***37 from the commission pursuant to section 160.510]***

I requested:

(1) a copy of the procedure to allow the board of education to regularly receive advice and counsel from stakeholders familiar with the evaluation of the psychometric quality of statewide assessments as per subsections 2 and 3 of 160.526, RSMo;

(2) copies of meeting minutes documenting the description of the procedure to State Board of Education members and a timeframe describing how the State Board

of Education will receive "regular" advice and counsel about the statewide assessments used in 2016 and thereafter;

(3) a list of current members appointed to the ad hoc committees as required by statute.

Thank you in advance for providing the above information.

Respectfully,

Mary Byrne, Ed.D.



Stacey Preis, Ph.D. • Deputy Commissioner

Division of Learning Services

205 Jefferson Street, P.O. Box 480 • Jefferson City, MO 65102-0480 • [dese.mo.gov](http://dese.mo.gov)

July 10, 2015

Dr. Mary Byrne  
2630 South Williams Court  
Springfield, MO 65807-5552

Dear Dr. Byrne:

Commissioner of Education Margaret Vandeven has shared your recent email exchange with me, and I am pleased to respond on behalf of the Department of Elementary and Secondary Education.

The procedures that the State Board of Education and Department use to not only share information, but also receive input on statewide assessments include:

- meetings with education organizations such as the Missouri State Teachers Association, Missouri National Education Association, American Federation of Teachers, Missouri Association of Secondary School Principals, Missouri Association of Elementary School Principals, Missouri Association of School Administrators, Missouri School Boards' Association, Missouri Association of Rural Education, and Missouri Parents and Teachers Association;
- regional meetings throughout the state with pK-12 educators;
- meetings with business and industry and other organizations, such as the Missouri Chamber of Commerce, the Kansas City and Springfield Chambers, and St. Louis Regional Business Council; as well as Rotary Clubs and other groups such as the Heartland Foundation, etc.;
- a superintendents' advisory council that meets regularly with the Commissioner of Education and Department staff; and
- meetings with representatives of higher education institutions.

In addition, advice and counsel is solicited and publicly posted on the Department's website: <http://dese.mo.gov/college-career-readiness/curriculum/hb-1490-work-group-process> through such avenues as:

- public hearings and comment cards;
- surveys; and
- email specific to standards work.

The Commissioner and other Department staff regularly testify at hearings of the Joint Committee on Education and other legislative education committees, and

Dr. Mary Byrne  
Page 2  
July 10, 2015

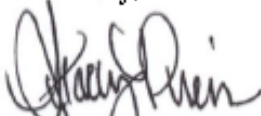
communications are sent to the entire General Assembly. It is commonplace for the Department to share information and solicit feedback from legislators and public testimony during these hearings.

The State Board of Education and the Department receive correspondence from individuals and organizations on a variety of topics, including standards and assessments, throughout the entire year. The State Board of Education also receives reports and discusses statewide assessments several times throughout the school year at their monthly meetings.

Regarding a list of ad hoc committee members, it would be premature to appoint ad hoc committees to provide advice on the implementation of a new assessment system prior to having new learning standards adopted by the State Board of Education. As you know, the HB 1490 work groups are to submit their recommendations for academic (learning) standards to the State Board of Education by October 1, 2015. The State Board must review, adopt and implement academic (learning) standards effective in the 2016-17 school year. The new Missouri-based assessment system must align to these new academic (learning) standards. Missouri will be using the current version of the academic standards for the 2015-16 school year. We are in the process of finalizing plans for the 2016 assessments, and are working to provide stability for our schools and students during this transition.

As previously communicated, we are working diligently and thoughtfully to honor the mandates of the General Assembly in order to provide a meaningful assessment system for our students and teachers.

Sincerely,



Stacy Preis  
Deputy Commissioner  
Division of Learning Services

c: Senator Ed Emery  
Representative Kurt Bahr  
Constance Rush



**NICOLE R. GALLOWAY, CPA**  
**Missouri State Auditor**

FOR IMMEDIATE RELEASE

Contact: Gena Terlizzi  
 gena.terlizzi@auditor.mo.gov  
 Phone: (573) 522-2358  
 Follow @MOAuditorNews

**Education audit highlights need for improvements to protect student information against cyber threats, State Auditor Galloway says**

State education department audit finds unnecessary collection of student Social Security numbers

JEFFERSON CITY (Oct. 21, 2015) Missouri State Auditor Nicole Galloway today released a cybersecurity audit of the Missouri Student Information System used by the Department of Elementary and Secondary Education (DESE). The audit found DESE unnecessarily collected and retained personally identifiable information, including Social Security numbers, from school districts across the state.

"When student's Social Security numbers are exposed in a data breach, they are five times as likely to be a victim of identity theft," Galloway said. "We must take proactive measures to decrease the risk that personal information could be compromised. As a result of this audit, DESE has agreed to collect only the information that is absolutely necessary, destroy unneeded sensitive data from their system, and maintain that information safely and securely."

DESE's system includes records for about 900,000 current Missouri students and an additional 520,000 students that have graduated from Missouri's public and charter K-12 schools since the system was instituted in 2008. The system collects and stores individual student information, including names, addresses, academic records, and Social Security numbers.

The audit also identified the following issues:

- User names and passwords were shared by multiple DESE personnel. If unauthorized or inappropriate changes occur with shared accounts, it's difficult, if not impossible, to identify the individual responsible.
- DESE does not have a comprehensive data breach response policy to allow a quick and effective response to a potential data breach. A data breach policy lays out goals and

processes for responding to a breach and creates mechanisms for reporting, remediation and feedback in a chaotic situation. The risk of potential harm caused by the data breach could be increased without a formal data breach policy.

- DESE has not updated its business continuity plan since 2004, even though the plan itself stipulates it should be reviewed annually. Continuity planning provides an efficient, structured approach to aide in a quick recovery during a disaster or other unexpected event.

In DESE's response, which is included in the audit report, the department agreed to immediately begin working to address all findings noted in the report.

"Cybersecurity is not a status that can be achieved," Galloway said. "It's an ongoing process of learning, adapting and remaining vigilant about protecting Missourians from cyber threats."

The complete report is available [here](#).

Since taking office Auditor Galloway has made cybersecurity a priority across all components of government, including Missouri schools. Last month Auditor Galloway announced a Cyber Aware School Audit program as part of an ongoing emphasis on data protection practices and keeping Missourians' information secure.

###

*Follow the Missouri Auditor's Office on Twitter @MOAuditorNews*

October is National Cybersecurity Awareness Month. National Cybersecurity Awareness Month was designed to engage and educate public and private sector partners with the goal of raising awareness about cybersecurity and increasing protections against cyber incidents.

**Mary R. Byrne, Ed.D.**

2630 S. Williams Ct.  
Springfield, MO 65807

Cell: 417-818-1261  
E-mail: mary.byrne53@att.net

October 21, 2015

Honorable Daniel R. Green  
Circuit Judge of Cole County  
Post Office Box 1870  
Jefferson City, MO 65102

Dear Judge Green,

I am a teacher educator with a doctorate in special education who is very concerned about Missouri's implementation of the Common Core State Standards Initiative, including administration of the Smarter Balanced Assessments in the Missouri Assessment Plan. As such, I am conducting research to support testimony for the October 26, 2015 public hearing of Missouri's State Board of Education, which is the last of the three public hearings mandated by HB 1490. My research has caused me to question the actions of several personnel within the Department of Elementary and Secondary Education (DESE) with respect to compliance with your decision in the *Sauer v Nixon* lawsuit (Cause No. 14AC-CC00477)<sup>1</sup>.

A review of the decision you handed down earlier this year verified that on 2/24/2015, you ruled,

... no Missouri taxpayer funds may be disbursed to SBAC in the form of membership fees, whether directly or indirectly and PERMANENTLY ENJOINS Defendants, and each of them, *and all those in active concert with them*, [italics added] from taking any action to implement *or otherwise effectuate any payment of Missouri funds as membership fees to SBAC, whether directly or indirectly* . . . . [italics added]

Among others, the suit names DESE, the Missouri State Board of Education, and the Office of Administration (OA), as well as their commissioners at the time of filing as defendants. As I understand the judgement, they are, therefore, each and all of them, permanently enjoined from taking any action to implement payment of Missouri funds for membership fees of any kind to SBAC.

As a result of my research, I found contract C315002001 which the State of Missouri entered into with CTB/McGraw-Hill LLC -- Missouri's vendor for the Smarter Balanced Assessment. The contract is dated 4/22/15 (see cover page attached) as revised with amendment #001 dated 3/30/15 (see page behind cover page). Please note that page 70 of the contract file is a memo dated 3/6/15 from Michael Muenks, DESE Coordinator of Curriculum and Assessment and 2013-2014 member of the SBAC Executive Committee,<sup>23</sup> on letterhead of the Assistant

<sup>1</sup> <http://www.scribd.com/doc/240031894/SBAC-Lawsuit-Petition>

<sup>2</sup> <http://www.smarterbalanced.org/about/governance/>



Commissioner of Education, Sharon Helwig, which directed Missouri's OA to bring the contract current (attached). Also, note section 1.4.3 on page 7 of the document left intact reads as follows:

Missouri intends to maintain its membership in Smarter Balanced in order to afford the state and its assessment vendors (on behalf of the state agency) access to the Smarter Balanced item bank and interim benchmark assessments. *The state agency will be responsible for all costs associated with maintaining Smarter Balanced membership.* [italics added] (attached)

Though the purpose of the memo appears to refer to a modification of the contract for the format of assessments scheduled for delivery in spring 2015, the retention of the above text in the contract appears to show contempt for the court's decision in *Sauer v Nixon*. As I read the judgement, you did not identify a specific category of membership when prohibiting Missouri from paying membership fees. The wording "... no Missouri taxpayer funds *may be disbursed to SBAC in the form of membership fees*" [italics added] encompasses any type of membership.

That said, further evidence of the defendants' contempt for the court and, in addition, the legislature is the fact that on June 23, 2015, a review of the SBAC website indicated Missouri was identified on a map of SBAC member states as a *License Member*. In fact, it was the only state on the map identified in that category. Payment for *License Membership* violated prohibitions in HB 002 passed and signed by Governor Nixon in May 2015, which stated,

"... no funds from this section shall be used *for license fees or membership dues* for the Smarter Balanced Assessment Consortium ..." (see excerpts of HB 002, attached)

Attached to this letter is an excerpt of my June 23, 2015 e-mail to State Representative Kurt Bahr, Chair of the House K-12 Budget Committee, reporting Missouri's status as an SBAC *License Member*. On July 8, Dr. Helwig finally sent a letter to the executive director of SBAC, Tony Alpert, to inform him that Missouri would not continue a license of materials (see attached letter), however, her communication was dated a full two weeks after my communication with Representative Bahr's office – indicating a cause and effect scenario.

Given the timing of judicial and legislative prohibitions on the expenditure of taxpayer dollars with respect to SBAC membership and licensing and communications from DESE, concerns are:

- Mr. Meunke's memo and the amended contract with language affirming payment of fees for Missouri's governing membership in SBAC dated at least a full month after your decision in *Sauer v Nixon*, appear to provide evidence that DESE, as well as those in the Office of Administration and perhaps the State Board of Education were in contempt of court; and
- The SBAC map indicating Missouri was a License Member and Dr. Helwig's response to discontinue license of materials provides evidence that DESE, as well as the Office of Administration and perhaps the State Board of Education were in violation of HB 002.

---

<sup>3</sup> <http://www.smarterbalanced.org/wordpress/wp-content/uploads/2014/04/Quarterly-Report-December-2013.pdf>

I am aware that Governor Nixon has appealed *Sauer v Nixon*, but, that appeal should not detract from the concerns expressed above. Members of the executive branch of state government, specifically, personnel in DESE, the OA, and perhaps Missouri's State Board of Education have blatantly flouted Missouri's constitutional and statutory law to implement the Common Core State Standards Initiative, and engaged in a pattern of violations when met with checks on their activities by the judicial and legislative branches of state government. Without imposition of penalty, this pattern will likely continue at the expense of Missouri's taxpayers and children. I appreciate your continued work in protecting Missourians by any means within your authority as a circuit judge of Cole County.

Please feel free to contact me if you have any questions.

Sincerely,

Mary Byrne, Ed.D.


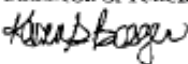
Enclosures: attachments

Cc: John Sauer, Esquire



## NOTICE OF CONTRACT AMENDMENT

State Of Missouri  
 Office Of Administration  
 Division Of Purchasing And Materials Management  
 PO Box 809  
 Jefferson City, MO 65102-0809  
<http://oa.mo.gov/purchasing-materials-management>

<b>CONTRACT NUMBER</b> C315002001	<b>CONTRACT TITLE</b> Missouri Assessment Program
<b>AMENDMENT NUMBER</b> 001	<b>CONTRACT PERIOD</b> October 3, 2014 through December 1, 2015
<b>REQUISITION NUMBER</b> NR 509 CO150000015	<b>VENDOR NUMBER</b> 5223583250 0
<b>CONTRACTOR NAME AND ADDRESS</b> CTB/McGraw-Hill LLC 20 Ryan Ranch Road Monterey, CA 93940	<b>STATE AGENCY'S NAME AND ADDRESS</b> Missouri Department of Elementary and Secondary Education 205 Jefferson Street Jefferson City, MO 65102
<b>ACCEPTED BY THE STATE OF MISSOURI AS FOLLOWS:</b>  Contract C315002001 is hereby amended pursuant to the attached amendment #001, dated 3/30/15.	
<b>BUYER</b> Stacia Dawson	<b>BUYER CONTACT INFORMATION</b> Email: <a href="mailto:Stacia.Dawson@oa.mo.gov">Stacia.Dawson@oa.mo.gov</a> Phone: (573) 522-3052 Fax: (573) 526-9816
<b>SIGNATURE OF BUYER</b> 	<b>DATE</b> <div style="border: 2px solid red; border-radius: 50%; padding: 5px; display: inline-block;">             4/22/15           </div>
<b>DIRECTOR OF PURCHASING AND MATERIALS MANAGEMENT</b>  Karen S. Boeger	



STATE OF MISSOURI  
OFFICE OF ADMINISTRATION  
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT (DPMM)  
CONTRACT AMENDMENT

AMENDMENT NO.: 001  
CONTRACT NO.: C315002001  
TITLE: Missouri Assessment Program  
ISSUE DATE: 03/10/15

REQ NO.: NR 500 C0150000015  
BUYER: Stacia Dawson  
PHONE NO.: (573) 522-3052  
E-MAIL: [Stacia.Dawson@oa.mo.gov](mailto:Stacia.Dawson@oa.mo.gov)

TO: CTB/McGraw-Hill LLC  
20 Ryan Ranch Road  
Monterey, CA 93940

RETURN AMENDMENT BY NO LATER THAN: 03/25/15 AT 5:00 PM CENTRAL TIME

RETURN AMENDMENT TO THE DIVISION OF PURCHASING AND MATERIALS MANAGEMENT (DPMM)  
BY E-MAIL, FAX, OR MAIL/COURIER:

SCAN AND E-MAIL TO:	<a href="mailto:Stacia.dawson@oa.mo.gov">Stacia.dawson@oa.mo.gov</a>
FAX TO:	(573) 526-9816
MAIL TO:	DPMM, P.O. Box 809, Jefferson City, Mo 65102-0809
COURIER/DELIVER TO:	DPMM, 301 West High Street, Room 630, Jefferson City, Mo 65101-1517

DELIVER SUPPLIES/SERVICES FOB (Free On Board) DESTINATION TO THE FOLLOWING ADDRESS:

Missouri Department of Elementary and Secondary Education  
205 Jefferson Street  
Jefferson City, MO 65102

SIGNATURE REQUIRED

DOING BUSINESS AS (DBA) NAME CTB/McGraw-Hill LLC		LEGAL NAME OF ENTITY/INDIVIDUAL FILED WITH IRS FOR THIS TAX ID NO. CTB/McGraw-Hill LLC	
MAILING ADDRESS 20 Ryan Ranch Road		IRS FORM 1099 MAILING ADDRESS 20 Ryan Ranch Road	
CITY, STATE, ZIP CODE Monterey, CA 93940		CITY, STATE, ZIP CODE Monterey, CA 93940	
CONTACT PERSON Jake Parizek		EMAIL ADDRESS <a href="mailto:jake.parizek@ctb.com">jake.parizek@ctb.com</a>	
PHONE NUMBER (319) 331-3666		FAX NUMBER	
TAXPAYER ID NUMBER (TIN) 52-2358325	TAXPAYER ID (TIN) TYPE (CHECK ONE) <input checked="" type="checkbox"/> FEIN <input type="checkbox"/> SSN	VENDOR NUMBER (IF KNOWN) 5223583250 0	
VENDOR TAX FILING TYPE WITH IRS (CHECK ONE) <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Individual <input type="checkbox"/> State/Local Government <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> IRS Tax-Exempt			
AUTHORIZED SIGNATURE 		DATE 3/30/2015	
PRINTED NAME Mark Limbach		TITLE Chief Financial Officer	



Sharon Helwig, Ph.D. • Assistant Commissioner

Office of College and Career Readiness

205 Jefferson Street, P.O. Box 480 • Jefferson City, MO 65102-0480 • dese.mo.gov

**Date:** March 6, 2015  
**To:** OA-DPMM  
**From:** Michael J. Muenks, Coordinator of Curriculum and Assessment  
*Michael J. Muenks*  
**Subject:** Amendment to Contract C315002001 - Missouri Assessment Program

The Missouri Department of Elementary and Secondary Education (DESE) wishes to amend Contract C315002001, awarded to CTB/McGraw-Hill in October 2014 for administration, scoring, and reporting of Missouri Assessment Program (MAP) Grade-Level Assessments. RFP requirements, and the subsequently awarded contract, were predicated on availability of necessary deliverables from the Smarter Balanced Assessment Consortium (Smarter Balanced) to implement a Computer Adaptive Test in English language arts and mathematics for Missouri students in grades 3 through 8. Missouri must administer annual statewide assessments in these content areas to remain in compliance with both state and federal statutes. In 2015, Missouri will administer MAP Grade-Level Assessments during a spring testing window that begins on March 30th and ends on May 22nd. Testing windows are communicated to school districts a year or more in advance to allow district personnel to determine their calendars for the coming school year.

Per RFP requirements and CTB/McGraw-Hill's awarded contract, DESE and CTB/McGraw-Hill began working to move Smarter Balanced test items into the online assessment delivery platform for the spring 2015 assessment administration in early January. Smarter Balanced items, based on all documentation coming from the consortium at the time of RFP development and contract award, were expected to be delivered in a format that would be compatible with the vendor's delivery system. However, when the first item packages were delivered from Smarter Balanced, Missouri's vendor (and vendors in several other states) quickly discovered interoperability issues that prevented the items from loading onto the assessment delivery platform without significant clean-up work (and the distinct possibility of introducing unexpected item rendering errors into the system). It became evident that it would not be possible to deploy the large number of items necessary for a Computer Adaptive Test, and guarantee error-free presentation of items in time to open the spring test administration window on March 30th.

DESE, in collaboration with CTB/McGraw-Hill, has determined that the most efficient way to move forward as scheduled with the required assessments is to work with other states in the consortium in similar situations to select "fixed assessment forms" from a smaller, targeted pool of Smarter Balanced items to administer in spring 2015. This will allow us to meet state and federal statutory requirements, maintain the scheduled spring 2015 testing window, and ensure that all items render correctly in the assessment delivery platform. This change in approach necessitates an amendment to our contract with CTB/McGraw-Hill.

c: Dr. Sharon Helwig, Assistant Commissioner, Office of College and Career Readiness



workgroups to develop revised content standards for Missouri. Workgroups will begin meeting in September 2014 to develop standards, which will then be distributed for public review and comment, and returned to the workgroups for revision. Target date for completion of new content standards is October 2015. While new content standards are being developed, H.B. 1490 allows for continued implementation of CCSS and Smarter Balanced assessments in Missouri; however, the legislation stipulates that Smarter Balanced assessments must be implemented as a statewide pilot in 2014-2015 and may not be used for school or district accountability determinations or educator evaluation during that accountability year. Therefore, the first year in which student data from the assessments included in the new assessment plan will be used for state accountability purposes will be 2015-2016. Any new content standards developed in response to requirements of H.B. 1490 will be implemented in 2016-2017. The full text of H.B. 1490 may be reviewed at <http://www.house.mo.gov/billtracking/bills141/billpdf/truly/HB1490T.PDF>. All offerors should note that based on future actions by the Governor and the General Assembly with respect to H.B. 1490, the terms of the RFP may need to be altered, either by amendment of the RFP, through a best and final offer, or an amendment to the contract, depending upon the timing of such actions.

- e. Missouri's current accountability determinations are based on student achievement level designations of Below Basic, Basic, Proficient, and Advanced. It is anticipated that these achievement level designations will remain in place for the Grade-Level Science Assessments. Missouri expects a logical transition from the cutpoints established for the current Grade-Level Science Assessment to the updated Grade-Level Science Assessment. For Grades 3-8 English language arts and Mathematics, Missouri expects to use the cutpoints and achievement levels established by Smarter Balanced for accountability determinations.
- f. To complement Missouri's implementation of Smarter Balanced English language arts and Mathematics assessments, Missouri intends to provide all districts unlimited access to the Smarter Balanced Interim Benchmark Assessments. Following the completion of the Smarter Balanced assessments, the interim benchmark assessments will be housed at the University of California - Los Angeles (UCLA)/National Center for Research, Evaluation, and Testing (CRESST), and will be accessible to all member states for deployment on vendors' platforms.

1.4.3 Missouri intends to maintain its membership in Smarter Balanced in order to afford the state and its assessment vendors (on behalf of the state agency) access to the Smarter Balanced item bank and interim benchmark assessments. The state agency will be responsible for all costs associated with maintaining Smarter Balanced membership.

1.4.4 Missouri's anticipated budget appropriation for the contract awarded as a result of this RFP is \$12 million.

1.4.5 The following link provides additional information on each of the contracts identified herein. A copy of each of the contracts can be viewed and printed from the Division of Purchasing and Materials Management's Awarded Bid & Contract Document Search System located on the Internet at: <http://content.oe.mo.gov/purchasing-materials-management/>. In addition, all proposal and evaluation documentation leading to the award of the various contracts may also be viewed and printed from the Division of Purchasing and Materials Management's Awarded Bid & Contract Document Search System. Please reference the Contract number or the Bid number when searching for these documents.

- a. MAP-Grade-Level Assessment prior to 2013-2014 - Bid number B3Z07012 or the contract number C307012001.
- b. MAP Grade-Level Assessment with CTB/McGraw-Hill-Bid number B3Z13074 or the contract number C313074001.
- c. MAP Grade-Level Science Assessment Alignment with HumRRO - Bid number B3Z14098 or the contract number C314098001.
- d. Psychometric Services with The Center - Bid number B3Z14256 or the contract number C314256001.

FIRST REGULAR SESSION  
 [TRULY AGREED TO AND FINALLY PASSED]  
 CONFERENCE COMMITTEE SUBSTITUTE FOR  
 SENATE COMMITTEE SUBSTITUTE FOR  
 HOUSE COMMITTEE SUBSTITUTE FOR

## HOUSE BILL NO. 2

### 98TH GENERAL ASSEMBLY

000221.05T

2015

#### AN ACT

To appropriate money for the expenses, grants, refunds, and distributions of the State Board of Education and the Department of Elementary and Secondary Education, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2015 and ending June 30, 2016; provided that no funds from these sections shall be expended for the purpose of costs associated with the travel or staffing of the offices of the Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, or Attorney General, and further provided that no funds from these sections shall be expended for the purpose of aerial travel within the state of Missouri.

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

7

Section 2.070. To the Department of Elementary and Secondary

2 Education

3 For the Performance Based Assessment Program, provided that no funds

4 are used to support the collection, distribution, or sharing of any

5 individually identifiable student data with the federal government;

6 with the exception of the reporting requirements of the Migrant

7 Education Program funds in Section 2.085, the Vocational

8 Rehabilitation funds in Section 2.135, and the Disability

9 Determination funds in Section 2.140, and further provided that no

10 funds from this section shall be used for license fees or

11 membership dues for the Smarter Balanced Assessment

12 Consortium and further provided that no later than February 1,







Office of College and Career Readiness

Sharon Helwig, Ph.D. • Assistant Commissioner

205 Jefferson Street, P.O. Box 480 • Jefferson City, MO 65102-0480 • [dese.mo.gov](http://dese.mo.gov)

July 8, 2015

Mr. Tony Alpert  
Executive Director  
Smarter Balanced Assessment Consortium  
10954 Le Conte Avenue, Suite 1400  
Los Angeles, CA 90095

Dear Mr. Alpert:

I am writing to inform the Smarter Balanced Assessment Consortium that Missouri will not continue as a licensee of materials for the 2015-2016 school year per section 2.2.d of the MOU. The appropriations bill passed by the legislature and signed by the governor contains language preventing the agency from spending money as a member or licensee of the Smarter Balanced Assessment Consortium.

The appropriations bill, House Bill 2 contains the following directions:

To the Department of Elementary and Secondary Education For the Performance Based Assessment Program, provided that no funds are used to support the collection, distribution, or sharing of any individually identifiable student data with federal government with the exception of the reporting requirements of the Migrant Education Program funds in Section 2.085, the Vocational Rehabilitation funds in Section 2.135, and the Disability Determination funds in Section 2.140, and further provided that no funds from this section shall be used for license fees or membership dues for the Smarter Balanced Assessment Consortium, and further provided that not later than February 1, 2016 the Department of Elementary and Secondary Education shall submit a plan for review and approval by the House Budget Committee and the Senate Appropriations Committee, and further provided that \$7,000,000 be used solely for development of a Missouri-based state assessment plan, and further provided that no funds from this section shall be used for assessments which generate results used to lower a public school district's accreditation or a teacher's evaluation.

Included with this letter you will find the required legal opinion affirming that Missouri may no longer engage with the consortium as a member or licensee.

Thank you for your time and concern regarding this matter.

Sincerely,

A handwritten signature in cursive script that reads "Sharon Helwig".

Sharon Helwig, Ph.D.  
Assistant Commissioner



William R. Thornton • General Counsel

205 Jefferson Street, P.O. Box 480 • Jefferson City, MO 65102-0480 • [dese.mo.gov](http://dese.mo.gov)

## MEMORANDUM

TO: Sharon Helwig, Assistant Commissioner, Office of College and Career Readiness

FROM: William R. Thornton, General Counsel *WRT*

DATE: July 8, 2015

RE: Smarter Balance Assessment Consortium Memorandum of Understanding and Agreement

### Legal Opinion

The purpose of this memo is to inform you that the State of Missouri, represented by the Missouri Department of Elementary and Secondary Education (DESE), must respectfully terminate participation in the Smarter Balance Assessment Consortium pursuant to Section 2.2(b)(d) of the Memorandum of Understanding and Agreement which was signed by DESE on 9/5/2014.

During the 2015 legislative session, Missouri legislators passed an appropriation bill, HB 2, which specifically prohibits DESE using funds for this fiscal year "for licensed fees or membership dues for the Smarter Balance Assessment Consortium."

As you know Section 2.2(b) permits a Member to terminate for violation of state law with thirty (30) days prior written notice. As general counsel for DESE, it is my legal opinion that the language of HB 2 specifically prohibits the State of Missouri from participating as a member or as a licensee in the Smarter Balance Assessment Consortium.

In addition, Section 2.2(d) permits termination for withdrawal due to non-appropriation of funds necessary to pay for the Member's Annual Fee. HB 2 specifically prohibits the state of Missouri to use any appropriated funds to be pay for membership dues or to pay license fees for the Smarter Balance Assessment Consortium. DESE understands that it is preferred that a Member provide at least sixty (60) days written notice to terminate its membership under this subsection, but due to the specific prohibitive language of the Missouri appropriation language, the State of Missouri respectfully requests the termination be effective immediately.

The State of Missouri appreciates your efforts to help the State of Missouri work through this matter with support, patience and cooperation.

If you have any questions, please contact me.