

MISSOURI STATE BOARD OF EDUCATION AGENDA ITEM:**May 2015**

CONSIDERATION OF A NOTICE OF PROPOSED RULEMAKING TO ADOPT
 RULE 5 CSR 30-640.200 EARLY LEARNING FACILITIES FUNDING FORMULA
 FOR LEASE AGREEMENTS

STATUTORY AUTHORITY:

Section 161.092 and 161.215, RSMo.

Consent
ItemAction
ItemReport
Item

DEPARTMENT GOAL NO. 2:

All Missouri children will enter kindergarten prepared to be successful in school.

SUMMARY:

The rule will establish a funding formula for early learning programs with facility lease agreements when funding is requested from the Department of Elementary and Secondary Education. The formula will be used for facility lease costs incurred starting July 1, 2016. Please note, the fiscal impact may slightly decrease prior to publishing as the remaining districts submit information pertaining to applicable FTE used in the formula.

PRESENTER(S):

Ron Lankford, Deputy Commissioner, and Shelley Woods, Coordinator, Special Education Finance, Division of Financial and Administrative Services, will assist in the presentation and discussion of this agenda item.

RECOMMENDATION:

The Department recommends that the State Board of Education authorize publication in the *Missouri Register* of a notice of proposed rulemaking to adopt Rule 5 CSR 30-640.200, relating to establishing a funding formula for early learning programs facility lease agreements and that the State Board finds the proposed rule necessary to carry out the purposes of Sections 161.092 and 161.215.

Title 5 – DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 30 – Division of Financial and Administrative Services
Chapter 640 – School Buildings

PROPOSED RULE

5 CSR 30-640.200 Early Learning Facilities Funding Formula for Lease Agreements

PURPOSE: The rule establishes a funding formula for early learning programs facility lease agreements when funding is requested from the Department of Elementary and Secondary Education (department).

- (1) The department uses the following formula to determine the maximum allowable cost per fiscal year for early learning programs facility lease agreements:
 - (A) Standard amount of square footage per child multiplied by the total number of eligible pupils educated at the facility multiplied by the cost per square foot by county; and
 - (B) Standard amount of square footage per itinerant full-time equivalent (FTE) position multiplied by the total itinerant FTE multiplied by the cost per square foot by county.
- (2) The square footage must be utilized in accordance with the programs' state and federal guidelines as found on the department's website.
- (3) If the actual expenditures are less than the amount determined by the formula only actual expenditures will be reimbursed.
- (4) For purposes of this rule, the following terms mean:
 - (A) Standard amount of square footage per child is sixty (60) square feet. This may encompass educational, administrative, and ancillary space;
 - (B) Standard amount of square footage per itinerant FTE position is one hundred twenty (120) square feet;
 - (C) Eligible pupils—
 1. For Early Childhood Special Education (ECSE) programs—the number of students with disabilities who are educated at the leased facility and have instructional services in their Individualized Education Program (IEP) plus the number of non-disabled integrated peers who are educated at the leased facility. The number shall be determined based on the pupil enrollment on April 30 in the year for which facility lease payment is requested;
 2. For the Missouri Preschool Program (MPP)—the number of slots approved by the department in the grant award for the program; and

3. For Elementary and Secondary Education Act (ESEA) preschools—the number of slots determined by the district and approved within the budget application for children who are educationally disadvantaged and are three (3), four (4), or five (5) years of age;

(D) Cost per square foot by county—

1. The highest rate per square foot for the county where the facility is located as computed based on the state lease facility space information per county obtained from the Office of Administration (OA) and posted on the department website annually; or
2. If there is no rate for an individual county, the lowest rate from the contiguous counties is used in the formula;

(E) Itinerant positions are instructional and related services staff that travel from one (1) building/facility to a separate building/facility in order to provide instructional and related services as set forth in an IEP, or who provide services to eligible pupils outside the ECSE classroom. Itinerant FTE is determined by the instructional and related services staff coded with an itinerant delivery system in the Missouri Student Information System (MOSIS); and

(F) FTE is the number of total hours worked divided by the maximum number of compensable hours in a full-time schedule as defined by law.

- (5) The formula will be used for facility lease costs incurred starting July 1, 2016.
- (6) The formula applies to ECSE, MPP, and ESEA programs with facility lease agreements.
- (7) Requests for payment shall be submitted to the department's finance section handling the costs for the specific early learning program in accordance with the deadlines for that program.
- (8) Districts can have multiple early learning programs in the same building but the facility lease costs must be prorated among the programs based on a method approved by the department.

AUTHORITY: sections 161.092 and 161.215, RSMo Supp. 2014.

PUBLIC COST: It is estimated that this proposed rule will save the Department of Elementary and Secondary Education one million four hundred forty-four thousand six hundred fifty-one dollars and four cents (\$1,444,651.04) in fiscal year 2015. This proposed rule may cost the local school districts one million four hundred forty-four thousand six hundred fifty-one dollars and four cents (\$1,444,651.04) in fiscal year 2015 if the lease exceeds the allowed amount under the proposed funding formula. It is unknown what the costs will be in future years as leases are renegotiated. If the new lease is consistent with the formula there will be no cost to local school districts for the leases.

PRIVATE COST: The private costs are unknown. It is estimated that this proposed rule could cost lessors one million four hundred forty-four thousand six hundred fifty-one dollars and four cents (\$1,444,651.04) in fiscal year 2015 if the local school district renegotiates the lease to correspond to the formula. If local districts pay the full lease cost out of local funds there will be no cost to the lessors. This proposed rule will cost private entities providing early childhood learning under a grant from the State of Missouri an unknown amount if the current lease amount exceeds the allowed amount under the proposed funding formula.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Elementary and Secondary Education, ATTN: Special Education Finance, Division of Financial and Administrative Services, PO Box 480, Jefferson City, MO 65102-0480, or by email to spedfunding@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Department of Elementary and Secondary Education
Division Title: Division of Financial and Administrative Services
Chapter Title: School Buildings**

Rule Number and Title:	5 CSR 30-640.200 Early Learning Facilities Funding Formula for Lease Agreements
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Elementary & Secondary Education	(1,444,651.04) per year
Local School Districts/Grantees	\$1,444,651.04 per year

III. WORKSHEET

*Districts listed more than once have multiple leases.

District Code	District Name	Cost to Department for FY15 Leases	Cost to Department Under Proposed Formula	Cost to Local School Districts/Grantees under Proposed Formula
EARLY CHILDHOOD SPECIAL EDUCATION (ECSE)				
006-104	LAMAR R-I*	8,200.00	8,200.00	-
006-104	LAMAR R-I*	3,000.00	3,000.00	-
010-093	COLUMBIA 93	106,200.00	77,559.00	28,641.00
022-089	NIXA	875,000.00	82,236.00	792,764.00
025-001	CAMERON R-I	11,768.90	11,768.90	-
033-090	SALEM R-80	11,700.00	11,700.00	-
039-141	SPRINGFIELD R-XII*	687,729.00	239,808.00	447,921.00
039-141	SPRINGFIELD R-XII*	127,419.00	42,240.00	85,179.00
050-014	DESOTO 73	48,841.52	48,841.52	-
055-108	MT. VERNON R-V	9,694.00	9,694.00	-
083-001	NORTH PLATTE CO. R-I	7,500.00	7,500.00	-
084-001	BOLIVAR R-I	20,400.00	20,400.00	-
084-002	FAIR PLAY R-II*	7,000.00	7,000.00	-
084-002	FAIR PLAY R-II*	19,980.00	19,980.00	-
096-119	SSD*	57,868.00	31,953.60	25,914.40
096-119	SSD*	7,200.00	6,847.20	352.80
104-045	BLUE EYE R-V*	14,505.00	7,732.80	6,772.20
104-045	BLUE EYE R-V*	11,898.00	3,866.40	8,031.60
107-152	HOUSTON R-I	28,200.00	10,866.96	17,333.04
108-142	NEVADA R-V	13,507.74	13,507.74	-
SUBTOTAL		2,077,611.16	664,702.12	1,412,909.04
MO PRESCHOOL PROJECT (MPP)				
005-121	SOUTHWEST R-V	20,000.00	13,188.00	6,812.00
016-502	COMMUNITY DAY	6,653.00	6,653.00	-
029-003	EVERTON R-III	20,000.00	11,076.00	8,924.00
033-091	OAK HILL R-I	22,000.00	5,994.00	16,006.00
SUBTOTAL		68,653.00	36,911.00	31,742.00
TOTAL		2,146,264.16	701,613.12	1,444,651.04

IV. ASSUMPTIONS

Lease costs, child counts, and itinerant FTE utilized in the fiscal cost computation are based on information obtained from local school districts for the 2014-15 school year who currently have leases. For those local school districts that did not report the requested information, the highest possible fiscal impact was listed. The allowed rate per square foot utilized in the formula is computed based on the state lease facility information per county obtained from the Office of Administration (OA) for FY15. In addition, the formula provides a consistent method for applying reimbursement between each of the local school districts. If the local school districts choose to renegotiate lease agreements to correspond to the formula, there will be no fiscal impact.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: Department of Elementary and Secondary Education
Division Title: Division of Financial and Administrative Services
Chapter Title: School Buildings**

Rule Number and Title:	5 CSR 30-640.200 Early Learning Facilities Funding Formula for Lease Agreements
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
12	Lessors for Early Learning Facilities	\$1,444,651.04

III. WORKSHEET

*Districts listed more than once have multiple leases.

District Code	District Name	Cost to Department for FY15 Leases	Cost to Department Under Proposed Formula	Cost to Private Entity
EARLY CHILDHOOD SPECIAL EDUCATION (ECSE)				
006-104	LAMAR R-I*	8,200.00	8,200.00	-
006-104	LAMAR R-I*	3,000.00	3,000.00	-
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IV. ASSUMPTIONS

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**Small Business Regulatory Fairness Board
Small Business Impact Statement**

May 7, 2015

Rule Number: 5 CSR 30-640.200

Name of Agency Preparing Statement: Department of Elementary and Secondary Education

Name of Person Preparing Statement: Cynthia Quetsch

Phone Number: 573-751-3502 **Email:** Cynthia.Quetsch@dese.mo.gov

Name of Person Approving Statement: Cynthia Quetsch

Please describe the methods your agency considered or used to reduce the impact on small businesses

This regulation establishes a formula for reimbursement to school districts for early learning program lease agreements. The formula was determined by examining the costs of current leases. Small businesses may be lessors to school districts. Tax dollars are used to pay the leases. The purpose of the regulation is to inform districts how much they will be reimbursed. Small businesses will know the maximum amount of a lease payment that the district will pay using state funds.

Please explain how your agency has involved small businesses in the development of the proposed rule.

It is unknown if school districts lease from small businesses so no small businesses were consulted.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

There is no income to the Department from this regulation. The Department's expenses on reimbursement for lease costs for Early Childhood Special Education will be reduced in an estimated amount of one million four hundred forty-four thousand six hundred fifty-one dollars and four cents (\$1,444,651.04) in fiscal year 2015. This regulation establishes a formula for leases so school districts know prior to signing a lease what will be reimbursed. The Department expenditures for lease payments will be limited by the formula.

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

Only districts are required to comply with the rule. Districts who sign lease agreements in excess of the formula may pay the excess cost from local funds. Districts may change lessors based upon cost of the lease.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

There should be no cost to small businesses as districts are the entities required to comply with the regulation.

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

Businesses who lease property to school districts for early learning programs.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes ___ No X___

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.