

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1007S.02C
Bill No.: SCS for SB Nos. 55, 23 & 25
Subject: Education, Elementary And Secondary
Type: Original
Date: January 26, 2021

Bill Summary: Modifies provisions related to elementary and secondary education.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue Fund*	Up to (\$801,807) to (\$1,685,382)	Up to (\$29,299,049) to (\$101,704,162)	Up to (\$32,150,772) to (\$111,708,039)
Total Estimated Net Effect on General Revenue	Up to (\$801,807) to (\$1,685,382)	Up to (\$29,299,049) to (\$101,704,162)	Up to (\$32,150,772) to (\$111,708,039)

*The range in the fiscal impact stems from the amount of savings (if any) that can be realized by the state as a result of scholarships provided to students to attend private schools, home schools, charter schools, public schools outside student's district of residence, or virtual schools who would otherwise attend public schools. Also, **Oversight** notes Section 163.036 states school districts may use an estimate of the weighted ADA for the current year, or the weighted ADA for the immediately preceding year, or the weighted ADA attendance for the second preceding year, whichever is greater. This could result in the savings to the foundation formula call for those students no longer attending public schools because of this program to occur in future years, rather than the years reported. Therefore, Oversight will reflect the possibility of the tax credits without offsetting savings in that year.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
State School Moneys Fund*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

*Cost avoidance and loss of \$0 to approximately \$71.5 million and 78.7 million net \$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue – STO	4 FTE	4 FTE	4 FTE
General Revenue - DESE	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	5 FTE	5 FTE	5 FTE

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Political Subdivisions	Up to \$425,424 to \$1,308,999	Less than (\$71,096,113)	Less than (\$78,248,267)
Local Government	Up to \$425,424 to \$1,308,999	Less than (\$71,096,113)	Less than (\$78,248,267)

FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

Section 135.712 –Missouri Empowerment Scholarship Accounts Program

Oversight notes this section establishes the Missouri Empowerment Scholarship Accounts Program to provide options toward ensuring the education of students in the State of Missouri. This section further provides the definitions applicable to Section(s) 135.712 to 135.719.

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state Section(s) 135.712 – 135.719 & Section(s) 166.700 – 166.725 create the Missouri Empowerment Scholarship Accounts Program, which grants scholarships to qualified students for qualified schools through educational assistance organizations.

A “qualified school” is a charter school, a home school, a private school, a public school, or a public or private virtual school.

An “educational assistance organization” is a charitable organization that is registered in this state, that is certified by the state treasurer, and that allocates all annual revenue for educational assistance.

Section 135.713 – Tax Credit For Contribution(s) to Educational Assistance Organizations

Officials from **B&P** state, beginning July 1, 2022, a taxpayer may claim a tax credit for qualifying contributions to an educational assistance organization in an amount equal the amount the taxpayer contributed during the tax year for which the credit is claimed. This credit cannot exceed 50 percent of the taxpayer’s state tax liability. This credit may be carried forward for four (4) subsequent tax years. This tax credit is capped at \$100 million per calendar year. If the amount of tax credits claimed in the first year exceeds ninety percent (90%) of the tax credits available, the capped amount shall increase annually by ten percent (10%). This proposed legislation may reduce General Revenue (GR) and Total State Revenue (TSR) up to a minimum of \$100 million annually starting in Fiscal Year 2023 and by \$110 million in Fiscal Year 2024.

This proposal may impact the calculation under Article X, Section 18(e). The State Treasurer’s Office is to receive up to ten percent (10%) for the first \$250,000 of qualifying contributions for

marketing and administrative expenses of such program. This amount decreases to eight percent (8%) for the next \$500,000 and three percent (3%) thereafter.

Oversight notes B&P states the Missouri State Treasurer's Office is to receive up to ten percent (10%) for the first \$250,000 of qualifying contributions, eight percent (8%) for the next \$500,000 of qualifying contributions, and three percent (3%) thereafter. For marketing and administrative expenses.

Oversight notes, however, that Section 135.714 states each educational assistance organization shall ensure that.... "marketing and administrative expenses shall not exceed the following limits of its remaining revenue from contributions: ten percent (10%) for the first two hundred fifty thousand dollars (\$250,000), eight percent (8%) for the next five hundred thousand dollars (\$500,000), and three percent (3%) thereafter".

Therefore, **Oversight** assumes the Missouri State Treasurer will not receive these funds, but rather the educational assistance organization(s) will retain such.

In response to similar legislation (SB 25 – 2021), officials from the **Missouri State Treasurer's Office (STO)** stated this section requires STO to operate a tax credit program related to donations to scholarship-granting organizations.

STO does not operate tax credit programs and does not currently have the resources to absorb these duties. STO anticipates a minimum of four (4) FTE is required to perform the functions illustrated in this proposed legislation.

STO has assigned these costs to GR as these duties are beyond the scope of permitted expenditures from the State Treasurer's General Operations Fund pursuant to Section 30.605 which authorizes STO to retain interest to fund STO functions pertaining to the management of state funds. The basis point cap included within this section cannot absorb additional functions without being raised above 15 basis points.

Oversight notes the STO anticipates the need for one (1) FTE Director (84,925 annual salary), two (2) FTE Analysts (\$39,708 annual salary/FTE), and one (1) FTE Clerk (\$24,744 annual salary) to administer the tax credit program created under this proposed legislation.

Oversight notes STO is usually funded by the State Treasurer's General Operating Fund (0164); however, as mentioned by STO, the State Treasurer's General Operating Fund cannot absorb the costs anticipated. Therefore, Oversight will report the administrative cost(s) reported by STO being paid from GR.

Officials from the **Missouri Department of Revenue (DOR)** state this section creates a tax credit for taxes due under Chapters 143 and 153 in an amount equal to one-hundred percent (100%) of contributions made to an educational assistance organization. The amount of tax credit claimed shall not exceed fifty percent (50%) of the taxpayer's state tax liability. The tax credits

allocated may not exceed \$100 million in the first calendar year. Should at least ninety percent (90%) of the credits be claimed in the first year, then the available credits shall increase by 10% in subsequent years. The loss to GR is expected to be \$100 million in Year 1 and over \$100 million annually thereafter.

This tax credit begins on July 1, 2022, and the first year in which the returns claiming the credit can be filed would be in January 2023 (Fiscal Year 2023). This credit is **not** refundable but can be carried forward four (4) years.

DOR anticipates the need for one (1) FTE Associate Customer Service Representative (\$24,360 annual salary/FTE) for every 6,000 tax credits redeemed, one (1) FTE Associate Customer Service Representative for every 7,600 errors/correspondence generated and cost(s) for forms and programming changes.

Oversight notes this proposed legislation allows for a tax credit equal to one hundred percent (100%) of the contribution to an educational assistance organization with no cap on the amount a taxpayer may claim on their Missouri tax return, other than it may not exceed fifty percent (50%) of the taxpayer's state tax liability. Oversight does not anticipate the increase in the number of redemptions will justify an increase in DOR FTE. Therefore, for purposes of this fiscal note, Oversight will not report an administrative (FTE) fiscal impact for this organization. Should the increase prove to be significant, DOR may seek additional FTE through the appropriation process.

Oversight notes this section provides a tax credit to taxpayers who make a qualifying contribution to an educational assistance organization.

An "educational assistance organization" is defined as: a charitable organization registered in this state and: 1) is certified by the Missouri State Treasurer, 2) allocates all of its annual revenue for educational assistance except otherwise stated, and 3) does not discriminate on the basis of race, color, or national origin.

The tax credit created under this section shall be for all fiscal years beginning on or after July 1, 2022 (Fiscal Year 2023). Oversight notes contributions made during in Calendar Year 2022, after July 1, 2022, will qualify for a tax credit to be claimed on the taxpayer's Tax Year 2022 tax return which will not be filed until after January 1, 2023 (Fiscal Year 2023).

The tax credit shall be equal to one hundred percent (100%) of the amount such taxpayer contributed to the educational assistance organization during the tax year in which the credit is claimed.

However, the tax credit, may not exceed fifty percent (50%) of the taxpayer's state tax liability for the tax year which the tax credit is claimed. Any amount of tax credit that exceeds the taxpayer's state tax liability may be carried forward to any four (4) subsequent tax years.

The tax credits created under this section may **not** be transferred, sold, or assigned and are **not** refundable.

This proposed legislation states the Missouri State Treasurer shall certify the amount(s) of tax credit to qualifying taxpayers.

Oversight notes this proposed legislation states “**the cumulative amount of tax credits that may be allocated to all taxpayers contributing to the scholarship fund in the first year of the program shall not exceed one hundred million dollars...**”.

Oversight notes, and assumes, taxpayers qualify for tax credits under this program for contributions made to educational assistance organizations. Oversight notes the ambiguity in the language could change the fiscal impact reported in this fiscal note. However, for purposes of this fiscal note, Oversight will report the impact(s) assuming “*the cumulative amount of tax credits that may be allocated to all taxpayers contributing to the educational assistance organizations in the first year of the program shall not exceed one hundred million dollars (\$100,000,000)...*”.

Therefore, Oversight assumes cumulative amount of tax credits that may be allocated to all taxpayers contributing to educational assistance organizations shall not exceed one hundred million dollars (\$100,000,000) in the first year the tax credit is available.

If the amount of tax credits claimed exceeds ninety percent (90%) of the tax credits available during the first year in which the tax credits are available, the amount of tax credits available shall increase by ten percent (10%) in subsequent years.

Oversight assumes that a tax credit equal to one hundred percent (100%) of the contribution made provides enough incentive to contributors that the maximum cap of one hundred million dollars (\$100,000,000) will be reached the first year the tax credit is available.

Therefore, **Oversight** assumes the cumulative amount of tax credits available each year will be:

Year 1	\$100,000,000
Year 2	\$110,000,000
Year 3	\$121,000,000
Year 4	\$133,100,000
Year 5	\$146,410,000
Year 6	\$161,051,000
Year 7	\$177,156,100
Year 8	\$194,871,710
Year 9	\$214,358,881
Year 10	\$235,794,769

The tax credits created shall be allocated to taxpayers on a first come, first served basis.

Oversight notes individuals can begin contributing and receiving tax credits under this section beginning July 1, 2022 (Fiscal Year 2023). Contributions made in Tax Year 2022 will not be claimed until such taxpayers file their Tax Year 2022 tax return after January 1, 2023 (Fiscal Year 2023)

Oversight notes tax credits reduce GR by an amount equal to the amount of tax credit redemptions each year. Therefore, due to the lucrateness of the tax credit created (100% of a taxpayer's contribution), Oversight will report a reduction to GR by an amount "Up to" the tax credit cap(s) established each fiscal year beginning in Fiscal Year 2023.

Section 135.714 – Educational Assistance Organization and Missouri State Treasurer Requirements

Oversight notes this section establishes the requirements of educational assistance organizations in regards to: intent, financials/financial accountability/financial viability, distribution of moneys in scholarship accounts, criminal background checks, state/national test(s) administration, test result(s) reporting, graduation rate(s) reporting, and parental satisfaction survey reporting.

Oversight notes this section states distributions to Missouri Empowerment Scholarship accounts shall occur "four times per year or in a single lump sum at the beginning of the year as requested by the parent or guardian of a qualified student, not to exceed a total grant amount equal to the state adequacy target [\$6,375]... calculated by the Department of Elementary and Secondary Education."

Oversight assumes, since this proposed legislation states distributions of money(s) shall not exceed a **total** grant amount equal to the state adequacy target, and since this proposed legislation does not specifically state that such distribution shall not exceed the state adequacy target annually, that the maximum grant each qualifying student may receive under this program totals \$6,375, regardless of the length of time such qualifying student participates in the program.

Oversight notes this section establishes requirements of the Missouri State Treasurer in regards to: compliance of student privacy laws, collection of test results, public reporting of state/national test(s) results, and public reporting of graduation rate(s).

Section 135.716 – State Treasurer Requirements

Oversight notes this section establishes requirements of the Missouri State Treasurer in regards to: the format of the receipt issued by an educational assistance organization to contributing taxpayers, standardized formatting for the reporting required of educational assistance organizations, removing eligibility from educational assistance organizations from participating in the Missouri Empowerment Scholarship Program, and Missouri Empowerment Scholarship Program reporting.

This section further states the Missouri State Treasurer or the Missouri State Auditor may conduct investigations if evidence is found of fraud by an educational assistance organization.

Section 160.400 – Student Transfer(s) to Charter School(s)

Oversight notes Section 160.400 currently allows charter schools to operate in the St. Louis City School District, Kansas City Public School District, and school districts with an unaccredited or provisionally accredited status. Oversight assumes the changes to this section would allow charter schools to operate in any county with a charter form of government or in any municipality with a population greater than 30,000 inhabitants.

This section further removes specific procedures relating to changes in a school district's accreditation status that impact charter schools.

In response to similar legislation (SB 603 – 2020), information was obtained from the Missouri Department of Elementary and Secondary Education that indicated charters would be permitted to open in the following districts:

Afton 101	Hazelwood	Pattonville R-III
Bayless	Hickman Mills C-1	Raytown C-2
Blue Springs R-IV	Hillsboro-R-III	Ritenour
Brentwood	Independence 30	Riverview Gardens
Cape Girardeau 63	Jefferson City	Rockwood R-VI
Center 58	Jefferson Co. R-VII	Springfield R-XII
Clayton	Jennings	St. Charles R-VI
Columbia 93	Joplin Schools	St. Joseph
Crystal City 47	Kirkwood R-VII	Sunrise R-IX
Desoto 73	Ladue	University City
Dunklin R-V	Lee's Summit R-VII	Valley Park
Ferguson-Florissant R-II	Lindbergh Schools	Webster Groves
Festus R-VI	Lone Jack C-6	Wentzville R-IV
Fort Osage R-I	Maplewood-Richmond Heights	Windsor C
Fort Zumwalt R-II	Mehlville R-IX	
Fox C-6	Normandy Schools	
Francis Howell R-III	Collaborative	
Grain Valley R-V	NorthWest R-I	
Grandview C-4	Oak Grove R-VI	
Grandview R-II	Orchard Farm R-V	
Hancock Place	Parkway C-2	

In response to similar legislation (SB 603 – 2020), information from the Missouri Department of Elementary and Secondary education indicated the overall average daily attendance for these school districts was 376,161 and, in total, \$1,680,758,690 was spent in state aid.

The [National Center for Education Statistics](#) suggests, as of 2017, three percent (3%) of Missouri's public school students are enrolled in public charter schools. The National Center for Education Statistics further suggests there are six (6) states that do not have charter school laws, eight (8) states that have less than one percent (1%) of each state's public school students enrolled in public charter schools, fourteen (14) states that have one percent (1%) but less than five percent (5%) of each state's public school students enrolled in public charter schools, fifteen (15) states that have five percent (5%) but less than ten percent (10%) of each state's public school students enrolled in public charter schools, and seven (7) states and one (1) district that have ten percent (10%) or more of each state's/district's public school students enrolled in public charter schools. The National Center for Education Statistics state the United States' average percent of public school students enrolled in public charter schools per state is six percent (6%).

Oversight estimates six percent (6%) of the students in these districts will transfer to charter schools that could open as a result of this proposed legislation.

If the districts mentioned above experience a six percent (6%) shift of students from public schools to charter schools, approximately 22,570 students would transfer from public schools to charter schools ($376,161 * 6\%$).

If the districts mentioned above experience a six percent (6%) shift of students from public schools to charter schools, local public schools would recognize a negative net direct fiscal impact of state aid to local public school districts equal to \$100,845,521 ($(\$1,680,758,690 / 376,161) * 22,570$ or $\$1,680,758,690 * 6\%$).

If six percent (6%) of the students from public schools shift to charter schools, charter schools would recognize a positive net direct fiscal impact to local charter school districts equal to \$100,845,521.

Oversight notes the negative and positive amount(s) reported above could be either low or high.

The amount(s) reported above are likely to be low, as: 1) it does not include the local effort approximation that the Missouri Department of Elementary and Secondary Education distributes to each charter school on the basis of historical property tax valuation, 2) it does not include federal money distributed to charters, and 3) it does not include non-resident students who might enroll.

The amount(s) reported above are likely to be high because it is unlikely that charter schools would open immediately after implementation and it is unlikely that charter schools would open in the same proportion in every district.

Oversight notes the amount(s) reported above could be low, as the United States’ average percent of public school students enrolled in public charter schools is calculated including states that have no charter schools.

Due to the uncertainty of the number of students that would shift from public schools to charter schools, Oversight will report the negative fiscal impact to Local Political Subdivisions – Public School Districts equal to \$0 (no public school students transfer to charter school) to an amount that “Could Exceed \$100,845,521.” Oversight will report the positive fiscal impact to Local Political Subdivisions – Charter Schools equal to \$0 (no public school students transfer to charter school) to an amount that “Could Exceed \$100,845,521.”

Oversight notes, even as this proposed legislation may reduce the number of students educated by public school districts, public school districts may not immediately reduce their fixed and variable costs proportionately, including buildings and staff.

Section 160.422 – Property Transfers to Charter Schools

Oversight notes this section would prohibit the City of St. Louis from adopting, enforcing, imposing, or administering any ordinances, local policies, or local resolutions that prohibits property sold, leased, or transferred by the City of St. Louis from being used for any lawful educational purpose by a charter school.

This section prohibits the City of St. Louis from imposing, enforcing, or applying any deed restrictions that prohibits property sold, leased, or transferred by the City of St. Louis from being used for any lawful educational purpose by a charter school.

This section states if the City of St. Louis offers property of the City of St. Louis for sale, lease, or rent, the City of St. Louis shall not refuse to sell, lease, or rent such property to a charter school.

Section 161.022 – State Board of Education

Oversight notes this section no member on the State Board of Education shall serve more than one full term.

Oversight does not anticipate this change to result in a fiscal impact. Therefore, Oversight will not report a fiscal impact for this section.

Section 161.229 – Missouri Department of Elementary and Secondary Publication(s)

Oversight notes this section requires the Missouri Department of Elementary and Secondary Education to maintain and publish on its website any data or report sent to the Missouri Department of Elementary and Secondary Education from any federal agency within thirty (30) days of receipt.

Oversight notes this section would require the Missouri Department of Elementary and Secondary Education to maintain and publish on its website the full text of all state administrative rules and regulations related to elementary and secondary education and shall update such information within thirty (30) days of the publication in the Missouri register of any final order of rulemaking related to such rules and regulations.

Oversight notes that the Missouri Department of Elementary and Secondary Education would be maintaining and publishing data that is assumed to already be present within the Missouri Department of Elementary and Secondary Education. Therefore, for purposes of this fiscal note, Oversight assumes the Missouri Department of Elementary and Secondary Education can implement the requirements set forth under this section with existing resources. Should such maintenance and publishing become significant, the Missouri Department of Elementary and Secondary Education may seek additional expense through the appropriation process.

Oversight notes, by December 31st in every even-numbered year, the Missouri State Auditor shall review the Missouri Department of Elementary and Secondary Education's website for compliance of this section.

For purposes of this fiscal note, Oversight assumes the Missouri State Auditor can absorb the responsibilities set forth under this section with existing resources. Should such compliance review become extensive, the Missouri State Auditor may seek additional expense through the appropriation process.

Section 161.670 – Virtual Schools

In response to similar legislation (HCS for HB 2491 – 2020), officials from the **Missouri Department of Elementary and Secondary Education (DESE)** assumed:

Student Costs –

Under Section 161.670, current full-time provider indicates an enrollment of 325. DESE expects this legislation could increase enrollment up to 1,000.

Payment to Providers –

Current:

325 students x \$6,375 = \$2,071,875 Total payments to full-time provider(s)

Future:

1,000 students x \$6,375 = \$6,375,000 Total future payment to full-time provider(s)

DESE also anticipates the need for one (1) FTE Supervisor.

Oversight notes this proposed legislation will likely reduce transfers to districts for each student attending full time virtual school, and that Section 161.670.3(3) limits DESE provider payments to the state adequacy target (\$6,375). To estimate DESE's transfer reduction to school districts, Oversight will multiply the number of pupils estimated to attend virtual school full time by the per-pupil TSR expenditure (\$5,066).

Current:

325 students x \$5,066 = \$1,646,450 total savings to state formula

Future:

1,000 students x \$5,066 = \$5,066,000

DESE estimates this proposed legislation could increase the number of students using online education from 325 to 1,000 in Fiscal Year 2023.

Oversight will show the cost to payment providers as estimated by DESE, and savings in state aid to districts for these students as estimated by Oversight.

Oversight estimates the reduced funding (loss to local political subdivisions) to schools for those same students would total \$1,646,450 up to \$5,066,000.

Oversight further estimates the reduction in payments to providers (savings to local political subdivisions) would total \$2,071,875 to \$6,375,000.

Section 162.089 – Recall of School Board Member(s)

Oversight notes this section permits registered voters of respective school districts to recall any member of any school board of any public school district.

The recall election shall be held upon the submission of a petition signed by registered voters of the district equal in number to at least twenty-five percent (25%) of the number of voters who voted in the most recent election held to elect a district board member in such district.

Local election authorities shall certify such notice of intent to recall and shall determine whether the required petition is signed by the required number of voters.

The local election authorities shall share their findings with either the person who filed the petition or the person who filed the petition, the school district administration, the school board and the board member sought to be recalled.

If the petition is found insufficient, no further action shall be required. If the petition is found to be sufficient, the election authority shall order the question to be submitted to a vote of the people.

This section establishes procedures should the voters approve or disapprove of the recall of the board member sought to be recalled.

Officials from the **Platte County Election Authority** assume this proposed legislation will result in a fiscal impact. However, Platte County Election Authority did not provide narrative as to the cause for impact.

Officials from the **St. Louis County Election Authority** assume this proposed legislation will not cause a fiscal impact on their respective election authority. Oversight does not have any information to the contrary. Therefore, Oversight will not report a fiscal impact for this organization.

For purposes of this fiscal note, Oversight assumes there will be no fiscal impact to local election authorities.

Section 166.705 – Missouri Empowerment Scholarship Accounts

Oversight notes this section states a parent of a qualified student may establish a Missouri Empowerment Scholarship account. A “Qualified Student” is defined as a resident of this state who: attended a public school as a full-time student for at least one semester from the previous twelve months, previously participated in the Missouri Empowerment Scholarship Accounts Program, is a child who is eligible to begin kindergarten, is attending school for the first time, or a child of a parent in active military service.

This section states that the qualified student shall not be enrolled in a school operated by the qualified student’s district of residence or a charter school except for qualified students that are in the custody of the state. The qualifying student must release the district of residence from all obligations to educate the qualified student while the qualified student is enrolled in the program.

Oversight notes this section states that the qualified student shall not be enrolled in a charter school, except for qualified students that are in the custody of the state. Oversight further notes “Qualifying School” is defined as a charter school, a home school, a private school, a public school, or public or private virtual schools that are incorporated in Missouri.

This section states that each student qualifying student shall receive a grant deposited into the qualifying student’s Missouri Empowerment Scholarship account.

The money(s) deposited shall be used for: tuition or fees at a qualified school, textbooks, educational therapies or services, tutoring services, curriculum, tuition or fees for a private virtual school, fees for a nationally standardized norm-referenced achievement test, advanced

placement examinations, international baccalaureate examinations, or any exams related to college or university admission, fees for management of the Missouri Empowerment Scholarship account, services provided by a public school, computer hardware or other technological devices, fees for summer education and after-school education programs, and other expense related to home school instruction.

The money(s) deposited shall not be used for consumable educational supplies or tuition at a private school located outside of the State of Missouri.

This section states that any funds remaining in a Missouri Empowerment Scholarship account after a student: withdraws from the program, is disqualified from the program, or graduates shall be returned to the educational assistance organization for redistribution to other qualifying students.

This section states the money(s) deposited into the Missouri Empowerment Scholarship accounts shall not be considered Missouri taxable income.

Oversight notes Section 135.713 establishes a tax credit program for taxpayers who contribute to educational assistance organizations. The tax credit program will reduce GR by an amount equal to the amount of tax credit redemptions that occur as a result of the tax credit program created.

However, the contributions made to educational assistance organizations will be used to fund scholarship grants to qualifying students. Oversight notes educational assistance organizations must ensure that they spend at least ninety percent (90%) of its revenues from qualifying contributions on scholarship accounts.

The scholarship(s) could result in a cost savings to the GR by an amount equal to the savings in GR transfers to the State School Moneys Fund.

Oversight notes this proposed legislation would provide scholarship grants in an amount not to exceed the state adequacy target (\$6,375).

Below, **Oversight** estimates the amount of saving(s) that would be recognized as a result of the scholarship program calculated using the various scholarship amounts. The savings are shown in green. The estimated net cost to the state, as it relates to the Missouri Empowerment Scholarship Accounts Program (**not including FTE expenses**) is reported in yellow.

Grant Equal To \$6,375 - Qualified Student				
Program Year	Year 1	Year 2	Year 3	Year 4
Fiscal Year	Fiscal Year 2023	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026
Tax Credit Cap	\$100,000,000	\$110,000,000	\$121,000,000	\$133,100,000
90% of Contributions to Scholarship Accounts	\$90,000,000	\$99,000,000	\$108,900,000	\$119,790,000
State Adequacy Target for This Pool	\$6,375	\$6,375	\$6,375	\$6,375
Maximum Number of Scholarships	14,118	15,529	17,082	18,791
Current ADA Cost Per Pupil	\$ 5,066	\$ 5,066	\$ 5,066	\$ 5,066
Total Savings From Qualified Student Transfers	\$71,521,538	\$78,673,692	\$86,541,061	\$95,195,167
Total Cost to State (Tax Credit Cap - Savings)	\$28,478,462	\$31,326,308	\$34,458,939	\$37,904,833
	up to	up to	up to	up to
	\$100,000,000	\$110,000,000	\$121,000,000	\$133,100,000

Oversight notes the State School Moneys Fund would recognize a cost avoidance equal to the estimated savings to GR and the State School Moneys Fund would recognize a loss equal to the amount that would no longer be transferred to the State School Moneys Fund. Therefore, Oversight assumes the impact to the State School Moneys Fund would net \$0.

Oversight notes, even as this proposed legislation may reduce the number of students educated by public school districts, public school districts may not immediately reduce their fixed and variable costs proportionately, including buildings and staff. Therefore, Oversight will report a positive impact for local public school districts equal to “Unknown” as it relates to reduced fixed costs associated with educating public school students.

Furthermore, **Oversight** will report a negative impact for local public school districts equal to the amount of state aid that would no longer be provided to public school districts as a result of the transfer of eligible students/reduced ADA.

Oversight notes Section 163.036 states school districts may use an estimate of the weighted ADA for the current year, or the weighted ADA for the immediately preceding year, or the weighted ADA attendance for the second preceding year, whichever is greater. This could result in the savings/losses reported to occur in future years, rather than the years reported. However, since Oversight is unable to determine which year each school district will use in future years to determine the amount of state aid each school district is entitled to (weighted ADA), Oversight will, for purposes of this fiscal note, assume the savings/losses will occur immediately.

Section 166.710 – Auditing of Missouri Empowerment Scholarship Accounts

Oversight notes this section requires educational assistance organizations to conduct or contract for annual audits of Missouri Empowerment Scholarship accounts beginning in the 2023-2024 school year.

Furthermore, this section provides that STO shall promulgate rules for conducting random, quarterly and annual reviews of accounts.

Oversight notes, if a parent, qualified student, or vendor is disqualified from program participation at the discretion of the Missouri State Treasurer's Office, such parent, qualified student, or vendor may appeal such decision to the Administrative Hearing Commission.

Section 166.715 – Cause for Criminal Charge

Oversight notes this section states a person commits a Class A Misdemeanor if such person is found to have used money(s) for purposes other than provided for.

Officials from the **State Public Defender's Office (SPD)** state, as a result of excessive caseloads, SPD cannot assume existing staff will be able to provide competent and effective representation for any new cases where indigent persons are charged with the proposed new crime(s) under Section 166.715 concerning the use of scholarship money for an improper purpose, which will be classified as a Class A Misdemeanor. SPD is currently providing legal representation in caseloads in excess of recognized standards. While the number of new cases may be too few or uncertain to request additional funding for this proposed legislation, SPD will continue to request sufficient appropriation(s) to provide competent and effective representation in all cases where the right counsel attaches.

Officials from the **Missouri Attorney General's Office (AGO)** assume any additional litigation costs arising from this proposed legislation can be absorbed with existing personnel and resources. However, AGO may seek additional appropriation if there is a significant increase in litigation.

Section 166.725 – Participation Confidentiality

Oversight notes this section states that all information concerning eligible students and parents within the Missouri Empowerment Scholarship Accounts Program shall be confidential.

Legislation As A Whole

In response to similar legislation (SB 25 – 2021) officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative

session. The fiscal impact for this fiscal note to SOS for administrative rules is less than \$5,000. SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what SOS can sustain with SOS's core budget. Therefore, SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposed legislation. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriations process.

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Oversight assumes JCAR will be able to administer any rules from this proposed legislation with existing resources.

Officials from the **Missouri Department of Higher Education and Workforce Development**, the **Missouri Department of Social Services**, and the **Office of State Courts Administrator** do not anticipate this proposed legislation will cause a fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, for purpose of this fiscal note, Oversight will not show a fiscal impact for these organizations.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
<u>Revenue Reduction – Section 135.713 – Tax Credit For Donations To Educational Assistance Organizations – p. 3-7</u>	\$0	Up to (\$100,000,000)	Up to (\$110,000,000)
<u>Savings/Cost Avoidance – Section(s) 135.714 & 166.705 – State Schools Money Fund Transfers Decreased Due to Qualified Students – p. 7 & 13-15</u>	\$0	\$0 to \$71,521,538	\$0 to \$78,673,692
<u>Costs – STO – Section 135.713 - p. 4</u>			
Personnel Services	(\$157,571)	(\$190,976)	(\$192,886)
Fringe Benefits	(\$90,052)	(\$108,638)	(\$109,220)
Equipment & Expense	(\$57,000)	(\$21,836)	(\$22,491)
Total Cost – STO	(\$304,623)	(\$321,450)	(\$324,597)
FTE Change – STO	4 FTE	4 FTE	4 FTE

<u>Costs</u> – DESE – Section 161.670 – p. 12			
Personnel Services	(\$35,549)	(\$49,650)	(\$41,057)
Fringe Benefits	(\$21,270)	(\$25,659)	(\$25,797)
Equipment & Expense	(\$14,949)	(\$7,403)	(\$7,588)
Total Cost – DESE	(\$71,759)	(\$73,712)	(\$74,442)
FTE Change - DESE	1 FTE	1 FTE	1 FTE
<u>Savings</u> – Section 161.670 – Reduced Payments To Public School Districts - p. 11 - 12	Up to \$1,646,450 to \$5,066,000	Up to \$1,646,450 to \$5,066,000	Up to \$1,646,450 to \$5,066,000
<u>Cost</u> – Section 161.670 – Payments To Providers – p. 11 - 12	<u>Up to (\$2,071,875) to (\$6,375,000)</u>	<u>Up to (\$2,071,875) to (\$6,375,000)</u>	<u>Up to (\$2,071,875) to (\$6,375,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>Up to (\$801,807) to (\$1,685,382)</u>	<u>Up to (\$29,299,049) to (\$101,704,162)</u>	<u>Up to (\$32,150,772) to (\$111,708,039)</u>

STATE SCHOOL MONEYS FUND (0616)			
<u>Savings/Cost Avoidance – Section(s) 135.714 & 166.705 – General Revenue Decreased ADA For Transfer Of Qualified Students - p. 7 & 13-15</u>	\$0	\$0 to \$71,521,538	\$0 to \$78,673,692
<u>Loss – Section(s) 135.714 & 166.705 – Schools Decreased ADA For Transfer of Qualified Students - p. 7 & 13-15</u>	\$0	\$0 to (\$71,521,538)	\$0 to (\$78,673,692)
ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL POLITICAL SUBDIVISIONS			
<u>Savings</u> – Section(s) 135.714 & 166.705 – Transfer Of Qualified Students Out Of School District Or To Non-Public School - p. 7 & 13-15	\$0	Unknown	Unknown
<u>Loss</u> – Section(s) 135.714 & 166.705 – State Funding Schools Decreased ADA For Transferred Students – p. 7 & 13-15	\$0	\$0 to (\$71,521,538)	\$0 to (\$78,673,692)
<u>Loss</u> – Public School Districts – Section 160.400 – Transfer Of Public School Students To Newly Implemented Charter Schools – p. 8-10	\$0 to could exceed (\$100,845,521)	\$0 to could exceed (\$100,845,521)	\$0 to could exceed (\$100,845,521)
<u>Revenue Gain</u> – Charter Schools – Section 160.400 – Increased Funding For New Charter Schools – p. 8-10	\$0 to could exceed \$100,845,521	\$0 to could exceed \$100,845,521	\$0 to could exceed \$100,845,521
<u>Savings</u> – Section 161.670 – Reduction In Payments To Providers – p. 11-12	Up to \$2,071,875 to \$6,375,000	Up to \$2,071,875 to \$6,375,000	Up to \$2,071,875 to \$6,375,000

<u>Loss – Section 161.670 - Reduction In State Revenue Transfer To Local Public School Districts – p. 11-12</u>	<u>Up to (\$1,646,450) to (\$5,066,000)</u>	<u>Up to (\$1,646,450) to (\$5,066,000)</u>	<u>Up to (\$1,646,450) to (\$5,066,000)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>Up to \$425,424 to \$1,308,999</u>	<u>Less than (\$71,096,113)</u>	<u>Less than (\$78,248,267)</u>

FISCAL IMPACT – Small Business

This proposed legislation could impact any small business that makes a contribution to an educational assistance organization as such small business could receive a tax credit that would reduce or eliminate such small business's tax liability.

FISCAL DESCRIPTION

MISSOURI EMPOWERMENT SCHOLARSHIP PROGRAM

For all fiscal years beginning on or after July 1, 2022, a taxpayer may make a qualifying contribution to an educational assistance organization and claim a tax credit equal to the contribution. The amount of the tax credit claimed shall not exceed 50% of the taxpayer's state tax liability for the tax year for which the credit is claimed, and a taxpayer may carry the credit forward to any of the next four tax years. Tax credits authorized under the program may not be transferred, sold, or assigned, and are not refundable.

The annual cumulative amount of tax credits that may be allocated in the first year of the program shall not exceed \$100 million. If the amount of tax credits claimed exceeds 90% of the total amount available in any year, the cumulative amount shall increase by 10%. The State Treasurer shall establish a procedure to allocate the tax credits to the educational assistance organizations on a first come, first served basis.(Section 135.713)

An educational assistance organization shall meet certain requirements set forth in the act, including notifying the State Treasurer of its intent to provide scholarship accounts; being a 501(c)(3) organization; providing a receipt to taxpayers for contributions; ensuring that funds are used as specified in the act; distributing scholarship payments four times per year in an amount not to exceed the state adequacy target; carry forward no more than 25% of the revenue from contributions into the following fiscal year; providing the State Treasurer, upon request, with criminal background checks on all employees and board members; annually administer either the state achievement tests or nationally norm-referenced tests and provide such results to the parents of participating students and to the State Treasurer; conduct an annual parental satisfaction survey; and demonstrate financial accountability and viability, as described in the act.

Each educational assistance organization shall publicly report to the State Treasurer, by June first annually, the name and address of the organization, the total number and dollar amount of contributions during the previous calendar year, and the total number and dollar amount of scholarship accounts opened during the previous calendar year. (Section 135.714)

The State Treasurer shall provide standardized forms for program participants, and shall require a taxpayer to provide a copy of such receipt if claiming a tax credit under the program.

The State Treasurer or State Auditor may conduct an investigation of any educational assistance organization if it possesses evidence of fraud. In addition, the State Treasurer may bar an educational assistance organization from participating if the organization has failed to comply with program requirements.

The State Treasurer shall issue a report on the state of the program five years after it goes into effect, including information regarding the finances of the educational assistance organization, and educational outcomes of qualified students. (Section 135.716)

The provisions of the Missouri Sunset Act shall not apply to the program. (Section 135.719)

A student is eligible to receive funds in a Missouri Empowerment Scholarship Account if he or she attended public school full-time for at least one semester in the last year, previously participated in the program, is eligible to begin kindergarten, is attending school for the first time, or is the child of active duty military members. (Section 166.700)

A parent of a qualified student shall only use the money in the account for certain expenses related to the qualified student's education, as described in the act.

The parent of a qualified student shall sign an agreement with an educational assistance organization to enroll the qualified student in a qualified school to receive an education for the student in certain subjects; not enroll the student, other than a student that is in the custody of the state, in a school operated by the qualified student's district of residence or in a charter school; release the district of residence from the obligation of educating the student while the student is enrolled in the program; use the Missouri Empowerment Scholarship Account money for only specified purposes; and not use the funds for consumable education supplies or tuition at a private school located outside of the state.

The scholarship accounts are renewable on an annual basis upon request of the parent of a qualified student. A qualified student shall remain eligible for renewal until the student completes high school. If a qualified student withdraws from the program by enrolling in a school other than a qualified school, or is disqualified from the program for violations specified in the act, the scholarship account shall be closed and any remaining funds shall be returned to the educational assistance organization for redistribution to other qualified students. When a student withdraws from the program, the responsibility for providing an education for that student transfers back to the student's district of residence.

The funds remaining in the scholarship account at the end of a school year shall remain in the account for the following school year. Any funds remaining in the account after graduation shall be returned to the educational assistance organization for redistribution to other qualified students. (Section 166.705)

Beginning in the 2023-2024 school year, the educational assistance organization shall conduct or contract for an annual audit of accounts to ensure compliance. A parent may be disqualified from program participation if the State Treasurer determines that the parent is found to have committed an intentional program violation. The State Treasurer may refer cases of substantial misuse of moneys to the Attorney General. (Section 166.710)

A person commits a Class A misdemeanor if he or she is found to have knowingly used moneys for any purposes other than those set forth in the act. (Section 166.715)

CHARTER SCHOOLS

Under this act, charter schools may be operated in any school district located within a charter county as well as in any municipality with a population greater than 30,000.

Procedures relating to changes in a school district's accreditation status that affect charter schools are repealed under this act. (Section 160.400)

Under this act, St. Louis City shall not adopt, enforce, impose, or administer an ordinance, local policy, or local resolution that prohibits property sold, leased, or transferred by the city from being used for any lawful education purpose by a charter school.

St. Louis City may not impose, enforce, or apply any deed restriction that expressly, or by its operation, prohibits property sold, leased, or transferred by the city from being used for any lawful educational purpose by a charter school.

If St. Louis City offers property of the city for sale, lease, or rent, St. Louis shall not refuse to sell, lease, or rent to a charter school solely because the charter school intends to use the property for an educational purpose.

Any deeds that have been executed and recorded prior to the effective date of this act shall be exempt from this provision. (Section 160.422)

STATE BOARD OF EDUCATION TERMS

Under this act, no member of the State Board of Education shall serve more than one eight-year term. (Section 161.022)

INFORMATION TO BE PUBLISHED ON DEPARTMENT WEBSITE

Within thirty days of receipt or publication, the Department of Elementary and Secondary Education shall maintain and publish on its website any data or report sent to the Department from any federal agency and the full text of all state administrative rules and regulations related to elementary and secondary education. Such information shall be accessible and searchable from various electronic communication devices as described in the act.

By December 31 in every even-numbered year, the State Auditor shall review the Department's website for compliance with this section. (Section 161.229)

MISSOURI COURSE ACCESS AND VIRTUAL SCHOOL PROGRAM

Under current law, for purposes of calculation and distribution of state school aid, all students enrolled in the Missouri Course Access and Virtual School Program shall be included in the student enrollment of the school district in which the student physically is enrolled.

Under this act, full-time equivalent students shall not be included in the student enrollment of the school district in which such student resides. The Department of Elementary and Secondary Education shall pay any Missouri Course Access and Virtual School Program an amount equal to the average daily attendance for the student's district of residence. A virtual school program serving full-time equivalent students shall be considered an attendance center as defined in current law.

Current law requires a school district or charter school to allow any eligible student who resides in such district to enroll in Missouri Course Access and Virtual School Program courses if, prior to enrolling in any such course, a student has received approval from his or her school district or charter school. This act repeals the provision requiring a student to receive approval from his or her school district. If the school district or charter school believes a student's request to enroll in a virtual program is not in the best educational interest of the student, the reason shall be

provided in writing to the student's parent or guardian, who shall have final decision-making authority.

The Department, rather than each school district or charter school, shall adopt a policy that delineates the process by which a student may enroll in courses provided by the Missouri Course Access and Virtual School Program.

Current law requires costs associated with such virtual courses to be paid by the school district or charter school directly on a pro rata monthly basis based on a student's completion of assignments and assessments. Under this act, costs shall be paid by the school district or charter school, or by the Department for full-time equivalent students, to the provider on a pro rata basis once per semester based on a student's completion of assignments and assessments.

Current law also requires the Department to monitor student success and engagement and report such information to the school district or charter school. Under this act, the Department shall report such information to the parent or guardian of the student, who may withdraw the student at any time if the course is not meeting the educational needs of the student. This act also repeals the provision setting forth the responsibility of school districts and charter school to monitor full-time student progress and success.

Virtual school providers are required, under this act, to monitor student progress and success, and may remove a student from the program if the provider believes it to be in the best educational interest of the student.

A full-time virtual school shall, under this act, submit a notification to a parent or legal guardian of a student who is not consistently engaged in instructional activities, as defined in the act. Such school shall also develop a policy setting forth the consequences for a student's failure to attend school and complete instructional activities, including disenrollment from the virtual school.

School districts or charter schools are required, under current law, to inform parents of their child's right to participate in the virtual schools program. Under this act, any school district or charter school that fails to notify parents of their child's right to participate in the program shall be subject to civil penalties in an amount equal to \$100 for each day such school district or charter school is in violation of this requirement, including reasonable attorney's fees. (Section 161.670)

SCHOOL BOARD RECALL ELECTIONS

This act establishes a recall procedure for local school board members.

A recall election shall be held upon the submission of a petition signed by at least 25% of the number of registered voters who voted in the most recent school board election. Recall proceedings shall not be commenced against any member during the first 30 or last 180 days of

the member's term or against any member who has had a recall election decided in their favor during the term.

Recall proceedings shall commence by filing a notice of intention to circulate a recall petition, as described in the act, with the school district's election authority. The notice of intention shall include the grounds for recall, which may include but are not limited to conduct that adversely affects the rights and interests of the public, commission of an act of malfeasance, and moral turpitude.

The election authority shall certify the notice of intention so long as it meets the act's requirements and shall notify the school district administration, school board, and the board member. The board member may file a statement in answer, as described in the act.

After notifying the petition filer that the petition has been certified as sufficient, the election authority shall order the question to be submitted to the voters on an election day as described in the act. If no election day will be held prior to the expiration of the board member's term, the board member shall serve the rest of his or her term.

If a majority of voters are in favor of recall, the resulting vacancy shall be filled as provided in existing law for premature vacancies in the district, unless the recall question was submitted in an April election for new school board members, in which case the vacancy shall be filled by the first runner-up in the election for new members.

A recalled school board member shall not fill the vacancy created by the recall, but he or she may seek future reelection. (Section 162.089)

STATEWIDE ACTIVITIES ASSOCIATIONS AND HOMESCHOOL STUDENTS

Under this act, school districts shall not receive funding under the foundation formula if such district is a member of, or remits any funds to, any statewide activities association that prohibits a home school student from participating in any event or activity offered by the school district, or requires a home school student to attend the public school for any portion of a school day in order to participate in any event or activity.

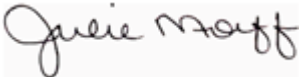
The Department of Elementary and Secondary Education is required to withhold payments to districts in violation of this act until such district proves to the State Board of Education that the school district has ceased membership in the organization.

This act further provides that a statewide activities association shall not prohibit or restrict any school district that is a member of the association from participating in any events authorized or regulated by the association with any school that is not a member of the association. (Section 167.790)

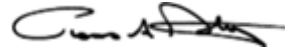
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Missouri Attorney General's Office
Office of Administration – Budget & Planning Division
Missouri Department of Higher Education and Workforce Development
Missouri Department of Revenue
Missouri Department of Social Services
Missouri State Public Defender's Office
Missouri Department of Elementary and Secondary Education
Missouri Secretary of State's Office
Platte County Local Election Authority
St. Louis County Local Election Authority
Missouri State Treasurer's Office
Joint Committee on Administrative Rules
Office of State Courts Administrator



Julie Morff
Director
January 26, 2021



Ross Strobe
Assistant Director
January 26, 2021