

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0711H.03P
 Bill No.: Perfected HCS for HB 349
 Subject: Education, Elementary and Secondary; Tax Credits
 Type: Original
 Date: February 24, 2021

Bill Summary: This proposal would establish the "Missouri Empowerment Scholarship Accounts Program".

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | | |
|--|-------------------------------------|-------------------------------------|-------------------------------------|---|
| FUND AFFECTED | FY 2022 | FY 2023 | FY 2024 | FY 2043 |
| General Revenue Fund* | \$0 up to (\$50,000,000) | \$0 up to (\$51,000,000) | \$0 up to (\$52,020,000) | \$0 up to (\$22,552,000) to (\$75,000,000) |
| Total Estimated Net Effect on General Revenue | \$0 up to (\$50,000,000) | \$0 up to (\$51,000,000) | \$0 up to (\$52,020,000) | \$0 up to (\$22,552,000) to (\$75,000,000) |

Oversight notes House Amendment No. 3 states that any qualified student receiving a Missouri Empowerment Scholarship who leaves a public school or charter school, as such terms are defined in Chapter 160, in the qualified student's resident school district shall continue to be counted in the resident public school or charter school's weighted average daily attendance (ADA) as a resident student for purposes of determining state and federal aid for the qualified student's resident school district. However the provisions of House Amendment No. 3 will terminate five years after the effective date of this section. Therefore, beginning five years after the effective date of this section, Oversight assumes savings to GR (loss to local public school districts) could occur as a result of qualified students transferring from resident school district(s) to qualified schools reducing the amount paid from GR to State School Moneys Fund for local public school districts reduced ADA. 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, five or more years after the effective date of this proposed legislation, for those students no longer attending public schools because of this program to occur in future years, rather than the years reported.

Also, implementation of the program is dependent upon additional funding to the student transportation formula (House Amendment 2), therefore, Oversight reflects the possibility of \$0.

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | | |
|--|------------------------|------------------------|------------------------|------------------------------|
| FUND AFFECTED | FY 2022 | FY 2023 | FY 2024 | FY 2043 |
| State School Moneys Fund* (0616) | \$0 | \$0 | \$0 | \$0 |
| Missouri Empowerment Scholarship Accounts Fund | Up to \$695,377 | Up to \$698,550 | Up to \$715,803 | Less than \$1,175,403 |
| Total Estimated Net Effect on Other State Funds | Up to \$695,377 | Up to \$698,550 | Up to \$715,803 | Less than \$1,175,403 |

*Cost avoidance and loss of approximately \$0 to \$52.4 million in FY 2043 net \$0

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | | |
|--|----------------|----------------|----------------|----------------|
| FUND AFFECTED | FY 2022 | FY 2023 | FY 2024 | FY 2043 |
| Total Estimated Net Effect on All Federal Funds | \$0 | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | | |
|---|----------------|----------------|----------------|----------------|
| FUND AFFECTED | FY 2022 | FY 2023 | FY 2024 | FY 2043 |
| Missouri Empowerment Scholarship Accounts Fund – STO | 4 FTE | 4 FTE | 4 FTE | 4 FTE |
| Total Estimated Net Effect on FTE | 4 FTE | 4 FTE | 4 FTE | 4 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 or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | | |
|--|----------------|----------------|----------------|---------------------------------|
| FUND AFFECTED | FY 2022 | FY 2023 | FY 2024 | FY 2043 |
| Local Government | Unknown | Unknown | Unknown | Up to (\$52,448,000) |

FISCAL ANALYSIS

ASSUMPTION

Due to time constraints, **Oversight** was unable to receive some agency responses in a timely manner and performed limited analysis. Oversight has presented this fiscal note on the best current information that we have or on information regarding a similar bill(s). 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 for Section(s) 135.712 to 135.719.

In response to the previous version of this proposed legislation, officials from the **Office of Administration – Budget & Planning Division (B&P)** stated this proposed legislation creates the Missouri Empowerment Scholarship Accounts Program, which grants scholarships to qualified students for qualified schools through educational assistance organizations.

Qualified students are defined as any elementary or secondary student who is a resident of this state who: has an individualized education plan (IEP) or is a member of a household whose total annual income does not exceed an amount equal to two hundred percent (200%) of the income standard used to qualify for free and reduced lunch.

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

In response to the previous version of this proposed legislation officials from **B&P** stated, beginning July 1, 2021, 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 \$50 million per calendar year.

If the amount of tax credits in any tax year exceeds ninety percent (90%) of the tax credits available, the amount of tax credits available shall increase by ten percent (10%) in the following year.

This section may reduce General Revenue (GR) and Total State Revenue (TSR) up to a minimum of \$50 million annually in Fiscal Year 2022, up to a minimum of \$55 million annually starting in Fiscal Year 2023, and up to a minimum of \$60.5 million annually starting in Fiscal Year 2024.

This proposed legislation may impact the calculation under Article X, Section 18(e).

In response to the previous version of this proposed legislation, officials from the **Missouri Department of Elementary and Secondary Education (DESE)** stated this proposed legislation could reduce TSR by an amount equal to \$14,240,231 to \$50,000,000 annually.

DESE provides the following:

\$50,000,000 Tax Credit Cap
-10% for administration and marketing (\$5,000,000)
=\$45,000,000
÷ \$6,375 state adequacy target at full funding
= 7,059 maximum number of available scholarships

DESE states, for the 2019 – 2020 school year, state funding amounted to \$4,275,593,319 with a regular term ADA equal to 843,960. DESE assumes state revenue per pupil by regular term ADA totals \$5,066 ($\$4,275,593,319 / 843,960$).

DESE assumes several scenarios could occur.

The first scenario that could occur is:

If scholarship recipients are public school students who use the scholarship at a non-public school or a public school outside their district of residence, the cost to the state would be \$14,240,231.

7,059 scholarships
× \$1,309 (difference between average state funding per pupil and scholarship amount)
= \$9,240,231
+\$5,000,000 (costs for administration and marketing subtracted from \$50,000,000)
=**\$14,240,231**

The second scenario that could occur is:

If all scholarship recipients go from non-public schools to non-public schools (or are incoming kindergartners who would be going to non-public schools), the cost to the state is \$50,000,000 ($(\$6,375 * 7,059 + \$5,000,000)$ (administration costs to educational assistance organizations). All of these students would be new inclusions in state support. This scenario assumes that any non-public students using the scholarship meet the requirement of previously being enrolled in a public school or are incoming kindergartners who would choose to attend non-public school.

The third scenario that could occur is:

If a proportionate distribution of students from public schools (87.7%) and non-public schools (12.3%) attend non-public school, the cost to the state would be \$18,622,321.

$6,194 \times \$1,309 = \$8,107,946$
 $865 \times \$6,375 = \$5,514,375$
 $= \$13,622,321$
 $+\$5,000,000$ (costs for administration and marketing subtracted from \$50,000,000)
TOTAL \$18,622,321

Oversight notes DESE assumes this proposed legislation could reduce TSR by \$14,240,231 (Tax Credit Cap minus savings from per pupil cost from state – first scenario) to \$50,000,000 (all scholarship recipients are non-public school students who continue to attend non-public schools).

Oversight assumes the maximum impact reported by DESE (\$50,000,000) would occur if all scholarship recipients are currently enrolled in non-public schools (who met the requirement of attending a public school for at least one semester during the previous twelve months) and continue to attend non-public schools, or if all scholarship recipients are incoming kindergartners who would attend non-public schools.

Oversight notes DESE's analysis takes into consideration the provision of this proposed legislation which states each educational assistance organization shall ensure that at least ninety percent (90% of its revenues from qualifying contributions is spent on scholarship accounts (Section 135.714).

However, Oversight assumes DESE's analysis does not take into consideration the provision of this proposed legislation which states no more than two percent (2%) of qualifying contributions may be deposited into the Missouri Empowerment Scholarship Accounts Fund to be used by the Missouri State Treasurer for marketing and administrative expenses or the costs incurred in administering the program, whichever is less (Section 135.716).

Thus, Oversight assumes the number of scholarships, as reported by DESE, could be overestimated.

In addition, as a result of House Amendment No. 3, Oversight assumes there would be **no** savings as a result of the program created until at least five years after the effective date of this proposed legislation, as public school districts would **continue** to receive state aid as a result of requiring qualifying students to be counted in the resident public school or charter school's weighted average daily attendance as a resident student for purposes of determining state and federal aid for the qualified student's resident school district or charter school.

Oversight notes, for at least the first year of the tax credit program created under this proposed legislation, the maximum amount of tax credits that may be allocated to taxpayers shall not exceed \$50,000,000.

Educational assistance organizations would be required to spend approximately ninety percent (90%) on scholarship accounts. Oversight assumes, at this point, \$45,000,000 would be available for scholarship accounts ($\$50,000,000 * 90\%$).

When taking into consideration the provision that states two percent (2%) of qualifying contributions may be used by the Missouri State Treasurer for marketing and administrative expenses, Oversight assumes \$44,000,000 would be available for scholarship accounts ($\$50,000,000 * 88\%$).

Therefore, Oversight assumes the maximum number of scholarships available, for at least the first year of the tax credit program, would total 6,902 ($\$44,000,000 / \$6,375$ (state adequacy target)).

Oversight notes Section 135.714 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 distributions shall not exceed the state adequacy target annually, that the maximum grant each qualifying student may receive under this program total \$6,375, regardless of the length of time such qualifying student participates in the program.

Oversight notes, assuming each qualified student receives a **total** scholarship grant equal to the state adequacy target (\$6,375), each student/parent/guardian would benefit financially (specific to the incentives of this program) for, roughly, two-thirds (2/3) of one (1) year ($\$6,375$ (max scholarship grant) / $\$10,132$ ([average private school tuition in Missouri](#))).

Oversight assumes, if each qualified student receives a **total** scholarship grant equal to the state adequacy target, participation in the program may be low among qualified students transferring from public school to non-public school and may high among qualified students who currently attend non-public school (who are assumed to have met the requirement of attending a public school as a full-time student for at least one semester during the previous twelve months) who continue attending non-public school, or high among children who are eligible to begin kindergarten under Section 160.051 to 160.055.

In response to the previous version of this proposed legislation, 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-grating 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) FTEs to perform the functions illustrated in this proposed legislation.

STO has assigned theses 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.

Oversight notes the costs anticipated by STO have been assigned to GR. However, Section 135.716 of this proposed legislation provides for STO to receive two percent (2%) of the qualifying contributions, which shall be deposited into the Missouri Empowerment Scholarship Accounts Fund, to fund marketing and administrative expenses or the costs incurred in administering the program.

Oversight assumes two percent (2%) of qualifying contributions totals \$1,000,000 (\$50,000,000 * 2%) during the first year. This is significantly greater than the total FTE cost reported by STO. Therefore, for purposes of this fiscal note, Oversight will report the administrative costs, reported by STO, being paid from the newly created Missouri Empowerment Scholarship Accounts Fund.

Officials from the **Missouri Department of Revenue (DOR)** state section creates a tax credit for taxes due under Chapters 143 and 153 in an amount equal to one-hundred percent of contributions made to an educational assistance organization. The amount of tax credit claimed shall not exceed fifty percent of the taxpayer's state tax liability. The tax credits allocated may not exceed \$50 million in the first year and this proposal allows that the cap may increase annually by the CPI inflation rate until it reaches the maximum allowed of \$75 million. The loss to General Revenue is the cap amount annually. This credit is not refundable but can be carried forward four years.

Per an amendment added to this proposal, the tax credit program only becomes effective upon 40% of the required fully funding of the student transportation formula. The current estimates are that it takes \$278,900,000 to fully fund the transportation formula. To enact this proposal the transportation formula would be required to receive at least 40% or \$111,560,000 in funding annually. The current Governor recommendation for the Fiscal Year 2022 budget shows a suggested funding of \$93,000,000. Therefore this proposal **would not** become effective in Fiscal Year 2022. At the time of the preparation of the fiscal note, the Fiscal Year 2022 budget has not been completed and therefore, it is unclear if enough funding will be added to the transportation formula to trigger this tax credit. For the purposes of the fiscal note, DOR will show the impact as \$0 to the \$50 million cap during the fiscal note period.

| | |
|------------------|-----------------------------------|
| Fiscal Year 2022 | Up to the \$50 million loss to GR |
| Fiscal Year 2023 | Up to the \$50 million loss to GR |
| Fiscal Year 2024 | Up to the \$50 million loss to GR |

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 exempt from federal taxation, 2) is certified by the Missouri State Treasurer, and 3) allocates all of its annual revenue for educational assistance except otherwise stated.

The tax credit created shall be for all fiscal years beginning on or after July 1, 2021 (Fiscal Year 2022). Oversight notes contributions made in Calendar Year 2021 will qualify for a tax credit to be claimed on the taxpayer’s Tax Year 2021 tax return which will not be filed under after January 1, 2022 (Fiscal Year 2022).

The tax credit shall be equal to one hundred percent (100%) of the amount such taxpayer contributed to an 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 in which the credit is claimed. Any amount of tax credit that exceeds fifty percent (50%) of the taxpayer’s state tax liability may be carried forward to any four (4) subsequent tax years.

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

This proposed legislation states the Missouri Department of Revenue shall certify the amount(s) of tax credits to qualifying taxpayers.

The cumulative amount of tax credits that may be allocated to all taxpayers contributing to educational assistance organizations shall not exceed fifty million dollars (\$50,000,000) which shall be annually adjusted by the State Treasurer for inflation based on the [Consumer Price Index for All Urban Consumers for the Midwest Region](#). However, such cumulative amount of tax credits that may be allocated to all taxpayers shall not exceed seventy five million dollars (\$75,000,000).

Oversight assumes the average percent increase in inflation each year, based on the Consumer Price Index for All Urban Consumers in the Midwest Region is approximately 1.5%. Since actual future CPI is unknown, for purposes of this fiscal note, Oversight will increase the cap of \$50,000,000 by 2% annually.

Therefore, **Oversight** assumes the following tax credit cap(s) per year:

| Fiscal Year | 2022 | 2023 | 2024 |
|----------------|--------------|--------------|--------------|
| Tax Credit Cap | \$50,000,000 | \$51,000,000 | \$52,020,000 |

The tax credits shall be allocated to educational assistance organizations on a first come, first served basis. If an educational assistance organization fails to use all, or some percentage to be determined by the State Treasurer, of its allocated tax credits during this period, the State Treasurer may reallocate these unused tax credits to those educational assistance organizations that have used all, or some percentage to be determined by the State Treasurer, of their allocated tax credits during this period.

Oversight assumes that a tax credit equal to one hundred percent (100%) of the qualifying contribution provides enough incentive to contributors that the maximum cap(s), as reported above, could be reached each calendar year for the first several years of the tax credit program.

Oversight notes individuals can begin contributing and receiving tax credit verification beginning July 1, 2021. Contributions made in Calendar Year 2021 will not be claimed until such taxpayers file their Tax Year 2021 tax returns after January 1, 2022 (Fiscal Year 2022).

Oversight notes tax credits reduce GR by an amount equal to the amount of tax credit redemptions each year. Therefore, due to the lucrativeness of the tax credit created (100% of a taxpayer's contribution), Oversight will report a reduction to GR, as a result of the tax credit program, by an amount "Up to \$50,000,000", increased by CPI each fiscal year thereafter beginning in Fiscal Year 2022.

Below, Oversight estimates the: tax credit cap, amount retained by educational assistance organizations, the amount deposited into the Missouri Empowerment Scholarship Accounts Fund for STO's administration, the estimated amount available for scholarships, the estimated number of scholarships, the savings (fully implemented) and the net cost to GR.

Oversight notes House Amendment No. 3 states that any qualified student receiving a Missouri Empowerment Scholarship who leaves a public school or charter school, as such terms are defined in Chapter 160, in the qualified student's resident school district shall continue to be counted in the resident public school or charter school's weighted average daily attendance as a resident student for purposes of determining state and federal aid for the qualified student's resident school district.

However the provisions of House Amendment No. 3 will terminate five years after the effective date of this section. Therefore, Oversight assumes **savings to GR (loss to local public school districts) could occur as a result of qualified students transferring from resident school district(s) to qualified schools beginning five years after the effective date of this section.**

| Calendar Year | 2021 | 2022 | 2023 | 2042 |
|---|--------------|-----------------|-----------------|-----------------|
| Fiscal Year | 2022 | 2023 | 2024 | 2043 |
| Tax Credit Cap | \$50,000,000 | \$51,000,000.00 | \$52,020,000.00 | \$75,000,000.00 |
| Amount Retained By Educational Assistance Organizations | \$5,000,000 | \$5,100,000 | \$5,202,000 | \$7,500,000 |
| Amount Available For Scholarships | \$45,000,000 | \$45,900,000 | \$46,818,000 | \$67,500,000 |
| Amount Deposited Into Missouri Empowerment Scholarship Accounts Fund For STO Admin. | \$1,000,000 | \$1,020,000 | \$1,040,400 | \$1,500,000 |
| Estimated Amount Available For Scholarships | \$44,000,000 | \$44,880,000 | \$45,777,600 | \$66,000,000 |
| State Adequacy Target | \$6,375 | \$6,375 | \$6,375 | \$6,375 |
| Number of Scholarships Available | 6902 | 7040 | 7181 | 10353 |
| Average State Aid Per Pupil | \$5,066 | \$5,066 | \$5,066 | \$5,066 |
| Potential Savings To State From Reduced Transfer To School District Moneys Fund | \$0 | \$0 | \$0 | \$52,448,000 |
| Estimated Net Cost To GR | up to | up to | up to | \$22,552,000 |
| | | | | up to |
| | \$50,000,000 | \$51,000,000 | \$52,020,000 | \$75,000,000 |

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 in Fiscal Year 2043 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.

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 135.714 – Requirements of Educational Assistance Organizations

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, audits, test administration, use of scholarships, test result reporting, student information reporting, parental satisfaction survey reporting, and reporting of statistics of the Missouri Empowerment Scholarship Accounts program.

Oversight notes this section establishes requirements of the State Treasurer in regards to: student privacy compliance, collection of test results, test result and associated learning gain(s) reporting, graduation rate reporting.

Oversight notes this section establishes the requirements of educational assistance organizations in regards to: priority in scholarships intent, financials/financial accountability/financial viability, distribution of moneys in scholarship accounts, criminal background checks, audits, and reporting of statistics of the Missouri Empowerment Scholarship Accounts program.

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.

Section 135.716 – Requirements of Missouri State Treasurer

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.

Oversight notes this section establishes the Missouri Empowerment Scholarship Accounts Fund (the Fund). The Fund shall consist of no more than two percent (2%) of the qualifying contributions made to each educational assistance organization. The funds deposited into the Fund shall be used by the Missouri State Treasurer's Office for marketing and administrative expenses or costs incurred in administrating the program, whichever is less.

Oversight estimates approximately \$1,000,000 will be deposited into the Fund during the first year (2% of tax credit cap of \$50,000,000), which may increase by CPI each year thereafter.

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 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 any elementary or secondary school student who is a resident of this state and resides in any county with a charter form of government or any city with at least thirty thousand (30,000) inhabitants who: has an approved "individual education plan" (IEP) developed under the Federal Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 et seq., as amended or, is a member of a household whose total annual income does not exceed an amount equal to two hundred percent (200%) of the income standard used to qualify for free and reduced price lunches, and meets at least one of the following qualifications: 1) attended a public school as a full-time student for at least one semester during the previous twelve months, 2) is a child who is eligible to begin kindergarten or first grade under Section(s) 160.051 to 160.055 or, 3) is attending public school in Missouri for the first time.

This section states that the qualified student, except for qualified students who are in the custody of the state, shall not be enrolled in a public school operated by, or a charter school located within, the qualified student's district of residence. 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.

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, transportation costs for mileage to and from a qualified schools.

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 and payments or reimbursements to any person related within the third degree of consanguinity or affinity to a qualified student.

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.

Section 166.710 – Auditing of Missouri Empowerment Scholarship Accounts

Oversight notes this section states, beginning in the 2023-2024 school year and each year thereafter, the Missouri State Treasurer shall conduct or contract for annual audits and may conduct or contract for random and quarterly audits of Missouri Empowerment Scholarship 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 AHC.

In response to the previous version of this proposed legislation, officials from the **Administrative Hearing Commission (AHC)** do not anticipate this proposed legislation will significantly alter its caseload. However, should multiple bills pass resulting in many more cases, AHC anticipates there could be a fiscal impact.

Oversight does not anticipate such appeal(s) to be excessive. Therefore, for purposes of this fiscal note, Oversight will not report an administrative (FTE) fiscal impact for this organization. Should the number of appeals to AHC be significant, AHC may seek additional FTE through the appropriation process.

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.

In response to the previous version of this proposed legislation, officials from the **Missouri Office of Prosecution Services (MOPS)** does not anticipate a measureable fiscal impact. The enactment of a new crime under this section creates additional responsibilities for county prosecutors and the circuit attorney which may in turn result in additional costs which are difficult to determine.

Legislation As A Whole

In response to the previous version of this proposed legislation, 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.

In response to the previous version of this proposed legislation, officials from the **State Public Defender's Office (SPD)** stated, 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.

In response to the previous version of this proposed legislation, officials from the **Office of the Secretary of State (SOS)** noted 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.

In response to the previous version of this proposed legislation, 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 Social Services**, the **Missouri Department of Commerce and Insurance** state this proposed legislation will not have a fiscal impact on their

organization. Oversight does not have any information to the contrary. Therefore, Oversight will not report a fiscal impact for these organizations.

In response to the previous version of this proposed legislation, officials from the **Missouri State Highway Patrol** the **Missouri State Auditor's Office**, the **Office of Prosecution Services**, and the **Office of State Courts Administrator** state this proposed legislation will not have a fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will not report a fiscal impact for these organizations.

| <u>FISCAL IMPACT –</u> <u>State Government</u> | FY 2022 (10 Mo.) | FY 2023 | FY 2024 | FY 2043 |
|--|---|---|---|---|
| GENERAL REVENUE FUND | | | | |
| <u>Revenue Reduction</u> – Section 135.713 – Tax Credit For Donations To Educational Assistance Organizations – enactment is dependent upon transportation formula funding (HA 2) | \$0 up to (\$50,000,000) | \$0 up to (\$51,000,000) | \$0 up to (\$52,020,000) | \$0 up to (\$75,000,000) |
| <u>Savings/Cost-</u> <u>Avoidance</u> – Section(s) 135.714 & 166.705 – State School Moneys Fund Transfers Decreased Due To Qualified Students | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0 up to</u> <u>\$52,448,000</u> |
| ESTIAMTED NET EFFECT ON GENERAL REVENUE FUND | <u>\$0 up to</u> <u>(\$50,000,000)</u> | <u>\$0 up to</u> <u>(\$51,000,000)</u> | <u>\$0 up to</u> <u>(\$52,020,000)</u> | <u>\$0 up to</u> <u>(\$22,552,000)</u> <u>to</u> <u>(\$75,000,000)</u> |

| | | | | |
|---|------------|------------|------------|------------------------------|
| STATE SCHOOL MONEYS FUND (0616) | | | | |
| <u>Savings/Cost Avoidance</u> – Section(s) 135.714 & 166.705 – Reduced Transfer to Local Public School Districts for Qualifying Students | \$0 | \$0 | \$0 | \$0 to \$52,448,000 |
| <u>Loss</u> – Section(s) 135.714 & 166.705 – Reduced GR Transfer To State School Money Fund – Decreased ADA As Result Of Transfer Of Students | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0 to (\$52,448,000)</u> |
| ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

| | | | | |
|--|------------------------|------------------------|------------------------|---------------------------------|
| MISSOURI EMPOWERMENT SCHOLARSHIP ACCOUNTS FUND | | | | |
| <u>Transfer In</u> – Section 135.716 – 2% of Qualifying Contributions | Up to \$1,000,000 | Up to \$1,020,000 | Up to \$1,040,400 | Up to \$1,500,000 |
| Cost – STO – audits | \$0 | \$0 | (Unknown) | (Unknown) |
| <u>Cost</u> – STO – Section(s) 135.713 & 135.716 – Tax Credit Program and Program Responsibilities | | | | |
| Personnel Services | (\$157,571) | (\$190,976) | (\$192,886) | Greater than (\$192,886) |
| Fringe Benefits | (\$90,052) | (\$108,638) | (\$109,220) | Greater than (\$109,220) |
| Equipment & Expense | <u>(\$57,000)</u> | <u>(\$21,836)</u> | <u>(\$22,491)</u> | <u>Greater than (\$22,491)</u> |
| Total Cost | <u>(\$304,623)</u> | <u>(\$321,450)</u> | <u>(\$324,597)</u> | <u>Greater than (\$324,597)</u> |
| FTE Change – STO | 4 FTE | 4 FTE | 4 FTE | 4 FTE |
| ESTIMATED NET EFFECT ON MISSOURI EMPOWERMENT SCHOLARSHIP ACCOUNTS FUND | <u>Up to \$695,377</u> | <u>Up to \$698,550</u> | <u>Up to \$715,803</u> | <u>Less than \$1,175,403</u> |

| <u>FISCAL</u> <u>IMPACT – Local</u> <u>Government</u> | FY 2022 (10 Mo.) | FY 2023 | FY 2024 | FY 2043 |
|---|-----------------------|-----------------------|-----------------------|---|
| LOCAL POLITICAL SUBDIVISIONS | | | | |
| <u>Savings –</u> Section(s) 135.714 & 166.705 – Reduced Fixed Costs For Transfer of Qualified Students Out Of School District Or To Non- Public School | Unknown | Unknown | Unknown | Unknown |
| <u>Loss – Section(s)</u> 135.714 & 166.705 – Decreased State Funding For Schools Decreased ADA From Transfer Of Students | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>Up to</u> <u>(\$52,448,000)</u> |
| ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS | <u>Unknown</u> | <u>Unknown</u> | <u>Unknown</u> | <u>Up to</u> <u>(\$52,448,000)</u> |

FISCAL IMPACT – Small Business

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

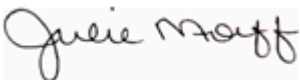
FISCAL DESCRIPTION

This bill creates the "Missouri Empowerment Scholarship Accounts Program."

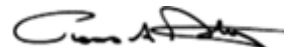
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Missouri Attorney General's Office
Administrative Hearing Commission
Office of Administration – Budget & Planning Division
Missouri Department of Commerce and Insurance
Missouri Department of Elementary and Secondary Education
Missouri Department of Revenue
Missouri Highway Patrol
Missouri Department of Social Services
Missouri Secretary of State's Office
Missouri State Public Defender's Office
Missouri State Auditor's Office
Missouri State Treasurer's Office
Joint Committee on Administrative Rules
Missouri Office of Prosecution Services
Missouri Office of State Courts Administrator



Julie Morff
Director
February 24, 2021



Ross Strobe
Assistant Director
February 24, 2021