

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5543S.01I  
Bill No.: SB 1391  
Subject: Education, Elementary and Secondary; State Treasurer  
Type: Original  
Date: February 12, 2024

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Bill Summary: This proposal modifies provisions of the Missouri Empowerment Scholarship Accounts program.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>
General Revenue Fund*	Could Exceed (\$9,174,080)	Could Exceed (\$9,174,080)	Could Exceed (\$9,174,080)
<b>Total Estimated Net Effect on General Revenue</b>	<b>Could Exceed (\$9,174,080)</b>	<b>Could Exceed (\$9,174,080)</b>	<b>Could Exceed (\$9,174,080)</b>

\*Oversight reflects changes to eliminate the 2 caps in the statutes and replacing it with a \$75 million cap that will be adjusted for inflation in future years. Additionally, Oversight reflects potential savings to the foundation from students transferring to private schools.

\*Oversight also notes that school districts may still be allowed to count students that transferred out in their weighted average daily attendance (ADA) count used in the foundation formula calculation. 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 state paying the out the scholarship as well as the FWADA payment in the same year for a student. 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.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>
MO Empowerment Scholarship Accounts Fund	Up to \$866,069	Up to \$845,972	Up to \$843,492
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Up to \$866,069</b>	<b>Up to \$845,972</b>	<b>Up to \$843,492</b>

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>
MO Empowerment Scholarship Fund	Up to 2 FTE	Up to 2 FTE	Up to 2 FTE
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>Up to 2 FTE</b>	<b>Up to 2 FTE</b>	<b>Up to 2 FTE</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- 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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>
<b>Local Government</b>	<b>\$0 to Could exceed (\$40,825,920)</b>	<b>\$0 to Could exceed (\$40,825,920)</b>	<b>\$0 to Could exceed (\$40,825,920)</b>

## 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.

Officials from the **Department of Revenue (DOR)** note:

This proposal makes changes to the Missouri Empowerment Scholarship Program and tax credit. The program and credit were created in 2021. For informational purposes, DOR is providing the authorizations, issuances and redemptions since it began.

Year	Authorized	Issued	Total Redeemed
FY 2023	\$10,249,109.00	\$8,446,888.00	\$2,026,624.68
FY 2022	\$0.00	\$0.00	\$0.00
FY 2021	\$0.00	\$0.00	\$0.00
<b>TOTALS</b>	\$10,249,109.00	\$8,446,888.00	\$2,026,624.68

When the program was created there were 2 bills establishing the program. HB 349 (2021) set the annual cap at \$50 million and allowed it to be inflated annually until reaching \$75 million where it would stay. SB 86 (2021) set the annual cap at \$25 million and allowed it to be inflated to \$50 million also to where it would stay. SB 86 and its cap language is the current cap on the program.

This program while it was able to start the collection of the funding for the scholarships, it was not allowed to issue any of the scholarships until the state funded the school transportation funding aid formula at 40% or more. It should be noted that in FY 2022, the funding formula was at 42% and in FY 2023 it is at 97%. Therefore, the program was able to begin in FY 2022. The FY 2023 cap on the program is \$26,850,000.

This proposal is eliminating the 2 caps in the statutes and replacing it with a \$75 million cap that will be adjusted for inflation in future years. With this proposal becoming effective on August 28, 2024, the cap would increase \$48,150,000 (\$75 m new cap - \$26,850,000 current cap).

Additionally, this makes the credit refundable which it was not before, so they assume this will encourage the entire cap to be issued each year.

This proposal is requiring that the cap be annually adjusted by the CPI and by the percentage increase in the appropriated amount for school transportation. DOR assumes that the funding formula is already funded at the 90% rate outlined in this proposal and that the only inflation adjustment would be the CPI. For fiscal note purposes, DOR uses a 2% inflation factor when determining a fiscal impact. This proposal starting in FY 2025 will be expected to result in additional loss to general revenue and that loss will continue outside the fiscal note period due to the inflation factor.

New Cap Inflated Annually

Fiscal Year	New Cap
2025	\$75,000,000
2026	\$76,500,000
2027	\$78,030,000
2028	\$79,590,600
2029	\$81,182,412

\*2% inflation factor

This will result in an additional loss to the state not calculated in the previous fiscal note.

Fiscal Year	Loss to General Revenue
2025	(\$48,150,000)
2026	(\$46,650,000)
2027+	(\$51,180,000)
2028	(\$52,740,600)
2029	(\$54,332,412)

The responsibility for the administering of the tax credit and program as well as setting the cap amount are those of the Office of the State Treasurer. DOR is only responsible for the redeeming of the credits. DOR will need to update their computer systems for the new caps, estimated \$1,785.

The other changes in this proposal modify how the scholarship program is administered and will not have a fiscal impact on DOR.

**Oversight** notes the General Assembly originally passed Truly Agreed and Finally Passed CCS for SB 86, that modified HB 349 (2021).

**Oversight** notes the CCS for SB 86 modified Section 135.715, when enacted, and reduced the cumulative amount of tax credits that could be authorized under the Missouri Empowerment

Scholarship Accounts Program from \$50 million to \$25 million (first year) and from \$75 million to \$50 million (fully implemented).

**Oversight** notes this proposal eliminates the 2 caps in the statutes and replaces it with a \$75 million cap that will be adjusted for inflation in future years.

**Oversight** also notes that in addition to CPI adjustment the proposal allows for additional adjustment by the percentage increase in the appropriated amount for school transportation where the formula is not funded at 40% or more.

**Oversight** notes that DOR notes that transportation is currently funded at well over 90%. Therefore, assuming this increase would not be applicable at this time.

**Oversight** notes officials from the DOR assume that adjusting the cap with CPI would have a impact to the general revenue, as the cap is increasing throughout future years.

**Oversight** took the DORs calculation and adjusted both, \$75 and \$25 million cap, in order to gain the actual difference and approximate impact to the general revenue, as shown in table below:

Fiscal Year	\$75 Mill adjusted for CPI	\$25 Mill adjusted for CPI	Difference = Cost to the Gen. Revenue
2024	\$75,000,000	\$25,000,000	\$50,000,000
2025	\$76,500,000	\$26,010,000	\$52,020,000
2026	\$78,030,000	\$26,530,200	\$53,060,400
2027	\$81,182,412	\$27,060,804	\$54,121,608

**Oversight** assumes the transportation formula will be fully funded, thus the only adjustment used will be CPI of 2%. Therefore, Oversight will reflect a loss of revenue that could exceed \$50 million effective FY 2025 and thereafter.

**Oversight** notes the DOR assume need for \$1,785 to update their computer systems for the new caps. **Oversight** assumes DOR is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process.

In response to the similar bill, SB 727 – 2024, officials from the **Department of Elementary and Secondary Education (DESE)** assumed Section 135.713.3 RSMo, does not appear to modify Department of Elementary and Secondary Education's (DESE) responsibilities for the Empowerment Scholarship, but could increase the number of students qualified for the scholarship. DESE may have additional Formula Funds to pay out until this provision expires but there is no way to calculate what that impact could be at this time.

**Oversight** notes that DESE provided additional information via e-mail and note:

<b>Amount</b>	<b>FY 2025 SAT</b>	<b>Student obtain scholarship</b>	<b>Avrg. FWADA Payment</b>	<b>Projected Payment to Formula</b>	<b>Projected Savings to Formula</b>
\$25 million	\$6,760	3,698	\$5,519	\$20,412,204	\$4,589,218

DESE noted that any students that attend a private or public school that is not their resident district DESE cannot pay state aid too. Students who receive this scholarship fall out of the pot of money for the normal foundation formula payments and they only pay on these students the amount owed due to the MOScholars laws till it expires on that piece of the legislation.

Average projected FY 2025 payment per FWADA is \$5,519.46.

But all these students that DESE is required to pay on left a public school and DESE is required to pay this payment on them, so attending a private school does not change the fact DESE has to pay the public school they left.

The problem with assuming this is savings is the basic fact that the foundation formula law allows the LEA's to be paid on the higher of the first or second preceding year or an estimate of the current year. So there is the potential for these students' ADA to still actually be used by the district in their payment for a couple years depending on the district's enrollment trend. It's not as cut and dry as saying this much savings, as their assumption would be there is not much savings at all. And of course the average per FWADA is for the whole state and not just for the districts who are in the area the MOScholars can apply to.

**Oversight** notes the DED projections are based on \$25 million dollar change, therefore, at \$50 million potential impact the amounts would double for each category as follow:

<b>Amount</b>	<b>FY 2025 SAT</b>	<b>Student obtain scholarship</b>	<b>Avrg. FWADA Payment</b>	<b>Projected Payment to Formula</b>	<b>Projected Savings to Formula</b>
\$25 million	\$6,760	3,698	\$5,519	\$20,412,204	\$4,587,796
\$50 million	\$6,760	7,396	\$5,519	\$40,818,524	\$9,175,592

**Oversight** notes DESE's estimate is the net impact of the cost of the scholarship and the savings from the foundation formula. Oversight notes the savings to the Foundation Formula estimated at \$40,825,920 (7,396 x \$5,520).

**Oversight** also notes that school districts may still be allowed to count students that transferred out in their weighted average daily attendance (ADA) count used in the foundation formula calculation. 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 state paying the out the scholarship as well as the FWADA payment in the same year for a student. 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.

In response to the similar proposal, SB 727 (2024), officials from the **Office of the State Treasurer (STO)** noted:

Removing the student residency requirements could exponentially expand the program. Provided the EAOs raise enough donations to fund all applicants, the STO would require additional staff to manage daily program processing and required reporting. Depending on the expansion of the program, the need for the required additional staff could vary and STO could require 2 or 3 FTE.

**Oversight** notes the FY 2025 budget shows there are currently 4 budgeted FTEs and that if the program continues to grow more will be required. It's difficult to exactly state what might be required, but 2 additional FTE would be a fair estimate depending on the growth.

**Oversight** will show a cost to the MO Empowerment Scholarship Accounts Fund for up to 2 FTE (Research Analyst) with an estimated annual salary of \$42,311.

**Oversight** notes 2% of qualifying contributions received by educational assistance organizations shall be deposited into the MO Empowerment Scholarship Accounts Fund. Based on the expansion of the cap by approximately \$50 million, Oversight estimates the MO Empowerment Scholarship Accounts Fund may receive up to \$1,000,000 in additional revenue.

Officials from the **Oversight Division** assume the proposal assume the proposal will have no fiscal impact on their organization.

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

In response to the similar proposal, HB 350 (2023), 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. The 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 the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the 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 the office can sustain with its core budget. Therefore, the 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.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
<b>GENERAL REVENUE</b>			
<u>Costs</u> – Section 135.715 – Empowerment Scholarship Tax Credit Cap – p.3-5	Could Exceed (\$50,000,000)	Could Exceed (\$50,000,000)	Could Exceed (\$50,000,000)
<u>Savings</u> – Section 135.715 – savings to the foundation formula from more students being eligible under the expanded cap – p.6	\$0 to Could exceed \$40,825,920	\$0 to Could exceed \$40,825,920	\$0 to Could exceed \$40,825,920
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>Could Exceed (\$9,174,080)</u></b>	<b><u>Could Exceed (\$9,174,080)</u></b>	<b><u>Could Exceed (\$9,174,080)</u></b>
<b>MO EMPOWERMENT SCHOLARSHIP ACCOUNTS FUND (0278)</b>			
<u>Revenue Gain</u> – 2% of qualifying contributions to educational assistance organizations from the expanded cap - §135.715 – p.6	Up to \$1,000,000	Up to \$1,000,000	Up to \$1,000,000
<u>Costs</u> – STO - §135.715 - p.6	Up to	Up to	Up to
Personnel Service	(\$70,000)	(\$85,680)	(\$87,394)
Fringe Benefits	(\$52,164)	(\$63,248)	(\$63,912)
Equipment & Expense	(\$11,767)	(\$5,100)	(\$5,202)
<u>Total Costs - STO</u>	<u>(\$133,931)</u>	<u>(\$154,028)</u>	<u>(\$156,508)</u>
FTE Change	Up to 2 FTE	Up to 2 FTE	Up to 2 FTE
<b>ESTIMATED NET EFFECT ON THE MO EMPOWERMENT SCHOLARSHIP ACCOUNTS FUND</b>	<b><u>Up to \$866,069</u></b>	<b><u>Up to \$845,972</u></b>	<b><u>Up to \$843,492</u></b>
Estimated Net FTE Change on General Revenue	Up to 2 FTE	Up to 2 FTE	Up to 2 FTE



<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
<b>SCHOOL DISTRICTS</b>			
<u>Loss - Section 135.715 – from additional students transferring to private schools – p.6</u>	\$0 to Could exceed <u>(\$40,825,920)</u>	\$0 to Could exceed <u>(\$40,825,920)</u>	\$0 to Could exceed <u>(\$40,825,920)</u>
<b>ESTIMATED NET EFFECT ON SCHOOL DISTRICTS</b>	<b><u>\$0 to Could exceed</u></b> <b><u>(\$40,825,920)</u></b>	<b><u>\$0 to Could exceed</u></b> <b><u>(\$40,825,920)</u></b>	<b><u>\$0 to Could exceed</u></b> <b><u>(\$40,825,920)</u></b>

FISCAL IMPACT – Small Business

Small businesses that qualify for the credits will be positively impacted.

FISCAL DESCRIPTION

The act provides that all tax credits authorized under the program shall be refundable.

The act changes the maximum amount of tax credits that may be allocated in any year from \$50 million to \$75 million. Such maximum amount shall be increased annually by any percentage increase in the amount appropriated for student transportation over 90% of the projected amount necessary to fully fund transportation aid funding under current law. The act repeals a provision that the program shall be effective in any fiscal year immediately following any year in which the amount appropriated for pupil transportation equals or exceeds 40% of the projected amount necessary to fully fund transportation aid funding for fiscal year 2021. These provisions are substantially similar to provisions in SCS/SB 360 (2023).

The act modifies the total grant amount for students with an individualized education plan (IEP) or limited English proficiency or who receive free or reduced-price lunch. Students with limited English proficiency shall receive no more than 160% of the state adequacy target; students who receive free or reduced-price lunch shall receive no more than 125% of the state adequacy target; and students with an IEP shall receive no more than 175% of the state adequacy target. All other students shall receive a grant amount that does not exceed the state adequacy target. This provision is similar to a provision in HCS/HB 350 (2023).

Under the act, no parent of a student who attends a home school shall be required to undergo a background check in order to participate in the program. This provision is identical to a provision in SCS/SB 360 (2023).

The act repeals a provision that the annual increase to the cumulative amount of tax credits shall cease when the amount of tax credits reaches \$50 million.

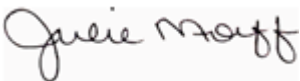
If the total contributions to educational assistance organizations exceed \$25 million in any school year, the State Treasurer may certify one additional educational assistance organization to administer scholarship accounts. A maximum of seven, rather than six, educational assistance organizations may have their principal place of business in any one of the counties listed in the act.

Finally, the act modifies the definition of "qualified student" by including any student who is a resident of this state, rather than only those students who live in a charter county or a city with at least 30,000 inhabitants. Such definition is further modified by including any student who is a member of a household whose total annual income is 400% or less than the income standard used to qualify for free and reduced-price lunch, rather than only those students whose household income is 200% or less than such standard.

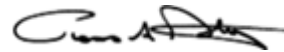
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

#### SOURCES OF INFORMATION

Department of Elementary and Secondary Education  
Department of Revenue  
Office of the State Treasurer



Julie Morff  
Director  
February 12, 2024



Ross Strobe  
Assistant Director  
February 12, 2024