

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5879-01  
Bill No.: HB 1740  
Subject: Elementary and Secondary Education Department; Boards, Commissions, Committees, Councils; Elementary and Secondary Education Department  
Type: Original  
Date: February 20, 2012

---

Bill Summary: This proposal modifies provisions relating to school operations.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	(\$160,447) or \$17,300,312 to \$29,439,029	(\$265,917) or \$17,094,642 to \$29, 339,029	(\$243,979,791) or (\$214,374,038 to \$266,619,142)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$160,447) or \$17,300,312 to \$29,439,029</b>	<b>(\$265,917) or \$17,094,642 to \$29, 339,029</b>	<b>(\$243,979,791) or (\$214,374,038 to \$266,619,142)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 15 pages.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
State School Moneys Fund*	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>Other</u> State Funds*</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*Offsetting Savings/Transfers In and Loss/Transfers Out range from \$0 or \$17,460,559 to \$69,539,029 in FY 13 and FY 14 and \$0 or \$17,360,559 to \$313,152,096 in FY 15

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
General Revenue	1 FTE	1 FTE	1 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>1 FTE</b>	<b>1 FTE</b>	<b>1 FTE</b>

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
<b>Local Government</b>	<b>\$0 or (\$17,460,559 to \$69,439,029)</b>	<b>\$0 or (\$17,360,559 to \$69,439,029)</b>	<b>\$243,713,067 or \$174,274,038 to \$226,352,508</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** and the **Office of State Treasurer** state there would be no fiscal impact to their respective agencies.

Officials from the **Joint Committee on Administrative Rules (JCAR)** stated this proposed legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

According to officials from the **Office of Secretary of State (SOS)**, many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the proposal. 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 \$2,500.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal with core funding. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

In response to similar proposals from this session, the **State Tax Commission** indicated no fiscal impact and officials from the **Office of Administration - Division of Budget and Planning (BAP)** assume the proposed legislation should not result in additional costs or savings to BAP. BAP deferred to the Department of Elementary and Secondary Education on the fiscal impact of all the education sections in this proposed legislation.

ASSUMPTION (continued)

§135.712 - 135.719 Passport Scholarship Program

Officials from the **Department of Elementary and Secondary Education (DESE)** assume that these sections appear to enact a tax subsidy which in any one fiscal year shall not exceed \$40 million dollars. Tax subsidies reduce the state's tax revenues and decrease the amount of money available for public schools and all public school students.

According to officials from the **Department of Economic Development (DED)**, this proposal establishes the Passport Scholarship Program to be administered by the DED's Division of Business and Community Services. The cumulative amount of tax credits which may be allocated in any one fiscal year is capped at \$40 million. Any taxpayer who makes a qualified contribution to a qualified educational assistance organization may claim a 60% tax credit based on the amount of the qualified contribution. Tax credits may be carried forward and transferred or sold.

DED assumes an unknown negative impact over \$100,000 as a result of the proposal. DED would require one additional FTE to administer the program due to the anticipated amount of administration involved. The FTE would be an Economic Development Incentive Specialist III and be responsible for reviewing and approving the applications for the program to determine eligibility, establishing procedures, and ensuring compliance with the program.

**Oversight** assumes that donations of \$66,666,667 could be accepted to equal \$40 million in credits. DED is entitled to charge and receive no more than two percent of the qualifying contributions received by any educational assistance organization (\$1,333,333) for the department's marketing and expenses or the costs incurred in administering the program, whichever is less.

Officials from the **Department of Revenue - Division of Taxation (DOR)** estimated the following fiscal impact to DOR resulting from §135.713 of this proposed legislation:

Personal Tax:

The proposal creates a tax credit that can be carried forward for four years, sold, transferred, or assigned. DOR would need one (1) Revenue Processing Technician per 6,000 credits claimed.

Corporate Tax:

The proposal creates a new tax credit to be applied to chapter 143 and 147 taxes. DOR would

ASSUMPTION (continued)

need one Revenue Processing Technician I (Range 10 Step L) per 6,000 additional tax credit redemptions. DOR would also need CARES equipment and license.

**Oversight** assumes DOR could administer the provisions of this proposal with existing resources or request additional staff through the budget process if the volume of tax credits warrants.

DOR also assumes this proposal would reduce state revenues.

**Oversight** has made the following assumptions regarding the transfer of students from unaccredited school districts to accredited districts or private schools:

Saint Louis

Average Daily Attendance	20,880
State Funding (as of January, 2012)	\$136, 375,704
State Funding per ADA	\$6,531

Riverview Gardens

Average Daily Attendance	5,466
State Funding (as of January, 2012)	\$35, 015,958
State Funding per ADA	\$6,406

Kansas City

Average Daily Attendance	14,052
State Funding (as of January, 2012)	\$106,374,197
State Funding per ADA	\$7,570

Assuming 50% of the students opt to transfer out of the unaccredited school district and 50% of those student elected to attend private schools using the Passport Scholarship Program, a savings of \$69,439,029 result in school funding needs. If 25 % of the students opted to transfer out of the unaccredited school district and 25% of those students would attend private schools, the savings would total \$17,360,559.

**Oversight** assumes a range in savings to General Revenue between \$17,360,559 to \$69,439,029 as a result of this proposed legislation. The maximum potential savings of \$69,439,029 assumes that the proposal would actually result in a reduced payment from the state to the local school

ASSUMPTION (continued)

districts and not just a change in the distribution of the same amount of funds. It also assumes that all of the students who receive a scholarship through this program had been enrolled in the public school system, and now will be attending a private institution.

**Oversight** is not able to determine if there would be staff reductions, closing of buildings, reduction in transportation costs or other savings that would occur as a result of this proposed legislation.

§135.717

Officials from **Legislative Research** state that the Joint Committee on Education (JCE) estimated contract costs from one source for the study of the program with funds donated to the education assistance organizations used for tuition scholarships could range anywhere from \$80,000 per year to an average of \$273,000 per year with higher costs in the first and fifth years for a total cost for the five years of the study to be between \$400,000 to \$1,365,000. Another source provided JCE estimated ranges from about \$250,000-\$300,000 per year (years one and five are higher due to survey development and final analysis), for a total cost of between \$1.25 - \$1.5 million over the five years of the study.

For fiscal note purposes, **Oversight** will assume contract costs to exceed \$100,000 for the next three fiscal years.

§162.081 -Alternative governing structure for failing school districts.

DESE assumes there would be no additional cost to the state under these provisions. The revenue flow to the district would not be altered and modifying the governance structure would not increase the cost of the operation of the district. All actions taken by the State Board would be within the normal business operations of the State Board. The changes in governance structure would be covered by the budget of the impacted district.

§163.011 & 163.031 - School Funding

§163.011 (2)

According to officials from **DESE**, the statutory change introducing the "aggregate proration factor" into the current Missouri School Foundation Formula serves to create a variable in methodology for the distribution of state funds appropriated for distribution to Missouri school districts. The "aggregate proration factor" is only used when the amount of the appropriation is

ASSUMPTION (continued)

insufficient to provide a proration factor of one (1), and does not increase the cost of funding of the formula.

§163.011 (4)

This provision would result in savings to the state. Without this language, the State Adequacy Target (SAT) would have been \$6,423 in FY13, which would increase the Foundation Formula call by approximately \$218,135,595. In FY14 the SAT would have increased to \$6,716 and would have resulted in an additional Formula call of approximately \$238,173,702.

The language in this section results in a recalculated SAT of \$6,196 for FY13 and \$6,260 in FY14. With the lower SAT, the call on the Formula would increase by approximately \$48,041,316 thereby reducing the call by \$170,094,279 for FY13 as the result of this amended language. In FY14 the increase to the Formula would increase by approximately \$47,572,604, thereby saving approximately \$190,601,097 as the result of this amended language.

The approximate combined net reduction in cost to the state for FY13 & FY14, would be \$360,695,376 and each year thereafter.

§163.011 (6)

The "dollar value modifier", is an index of the relative purchasing power of a dollar, calculated as one plus fifteen percent of the difference of the regional wage ratio minus one, provided that the dollar value modifier shall not be applied at a rate less than 1.0 provided further that the dollar-value modifier shall be recalculated every fiscal year, beginning in fiscal year 2013, using a three-year simple moving average of the wage data from the fourth, fifth, and sixth years preceding the payment year from the Bureau of Economic Analysis of the United States Department of Commerce.

Initial calculations indicate that implementation of this statute change would not cause the state to increase the cost to the formula for FY13, but would rather result in a reduction to the formula cost in excess of \$100,000. While the cost could increase in future years, it would spread the cost increase over three years rather than one. Districts would see less radical shifts in increases and decreases from year to year.

§163.011 (13) & (14)

The "modified formula payment" and the "modified hold harmless payment" are also only used

LMD:LR:OD

ASSUMPTION (continued)

when the amount of the appropriation is insufficient to provide a proration factor of one (1). Both terms specify the amount of proration for “formula districts” and “hold harmless districts”, but do not increase the cost of funding the formula.

§163.031

Based upon the most current data available, and assuming that data as a constant, this proposal does have additional cost built into the future. That cost is as follows:

FY 2014

For fiscal year 2014, the general assembly shall appropriate an amount under subsections 1, 2, and 8 of this section that equals or exceeds the formula appropriation under subsections 1, 2, and 4 of this section as it existed in fiscal year 2011;

Since the amount called for is that of the fiscal year of 2011, \$3,004,388,410, and the other changes with this proposal do not increase the formula call, the fiscal note for FY14 would be **\$0.00**.

FY 2015

For fiscal year 2015, the general assembly shall appropriate an amount under subsections 1, 2, and 8 of this section that is sufficient to produce an aggregate proration factor of at least .93.

Since the amount called for in FY15 must be sufficient to achieve an aggregate proration factor of .93 (or 93% of what it would take to fully fund the formula) additional cost, calculated based upon the most current data available and assuming that data as a constant, there would be a fiscal note for FY15.

FY14 Formula Call:	\$3,353,043,813
FY15 Formula Call:	\$3,118,330,746
Cost for FY15:	<b>\$ 243,713,067</b>



ASSUMPTION (continued)

FY 2016

For fiscal year 2016, the general assembly shall appropriate an amount under subsections 1, 2, and 8 of this section that is sufficient to produce an aggregate proration factor of at least .96;

Since the amount called for in FY16 must be sufficient to achieve an aggregate proration factor of .96 (or 96% of what it would take to fully fund the formula) additional cost, calculated based upon the most current data available and assuming that data as a constant, there would be a fiscal note for FY16.

FY15 Formula Call:	\$3,353,043,813
FY16 Formula Call:	\$3,218,922,061
Cost for FY16:	<b>\$ 100,000,000</b>

2017

For fiscal year 2017, the general assembly shall appropriate an amount under subsections 1, 2, and 8 of this section that is sufficient to produce an aggregate proration factor of at least 1.0;

Since the amount called for in FY17 must be sufficient to achieve an aggregate proration factor of 1.0 (or 100% of what it would take to fully fund the formula) additional cost, calculated based upon the most current data available and assuming that data as a constant, there would be a fiscal note for FY17.

FY16 Formula Call:	\$3,353,043,813
FY17 Formula Call:	\$3,353,043,813
Cost for FY17:	<b>\$ 134,121,752</b>

DESE notes that calculations were based upon the SAT that will be in place for FY13 and FY14. By statute, a new SAT will be recalculated in 2014 to be applied in FY15 and FY16, with a subsequent recalculation in 2016 to be used in FY17. It is not possible to reflect what those numbers might be, nor is it possible to reflect the impact should they increase.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
<b>GENERAL REVENUE</b>			
<u>Savings</u> - Education costs the state would not pay to local school districts for students receiving scholarships provided in this proposal (§135.712 - 135.716)	\$0 or \$17,360,559 to \$69,439,029	\$0 or \$17,360,559 to \$69,439,029	\$0 or \$17,360,559 to \$69,439,029
<u>Savings</u> - Up to 2% of contributions may be used to offset expenses incurred by DED (§135.716.5)	\$0 or \$160,447	\$0 or \$165,917	\$0 or 166,634
<u>Savings</u> - Elementary and Secondary Education (DESE) - Reduction in foundation formula funding (§163.011 & 163.031)	\$100,000	\$0	\$0
<u>Cost</u> - Department of Economic Development (DED)			
Personal Costs (1 FTE)	(\$33,510)	(\$40,614)	(\$41,020)
Fringe Benefits	(\$17,740)	(\$21,501)	(\$21,716)
Expense and Equipment	(\$9,197)	(\$3,802)	(\$3,898)
Marketing and Administration	<u>(\$100,000)</u>	<u>(\$100,000)</u>	<u>(\$100,000)</u>
Total Costs - DED (§135.712 - 135.716)	(\$160,447)	(\$165,917)	(\$166,634)
<u>Cost</u> - Legislative Research - Contractor costs (§135.717)	(Unknown- Expected to exceed \$100,000)	(Unknown - Expected to exceed \$100,000)	(Unknown - Expected to exceed \$100,000)
Cost - DESE - Foundation formula funding (§163.011 & 163.031)	\$0	\$0	(\$243,713,067)

<u>FISCAL IMPACT - State Government</u>	FY 2013	FY 2014	FY 2015
	(10 Mo.)		
<b>GENERAL REVENUE (Continued)</b>			
<u>Loss - Tax Credits for Contributions to educational assistance organizations (\$135.713)</u>	\$0 to (\$40,000,000)	\$0 to (\$40,000,000)	\$0 to (\$40,000,000)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>(\$160,447) or</u> <u>\$17,300,312 to</u> <u>\$29,439,029</u></b>	<b><u>(\$265,917) or</u> <u>\$17,094,642 to</u> <u>\$29,339,029</u></b>	<b><u>(\$243,979,791)</u> <u>or</u> <u>(\$214,374,038)</u> <u>to</u> <u>\$266,619,142)</u></b>
ESTIMATED NET EFFECT ON GENERAL REVENUE FTE	1 FTE	1 FTE	1 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
<b>STATE SCHOOL MONEYS FUND</b>			
<u>Savings</u> - Reduced fund distribution to schools due to decrease in students (§135.712 - 135.716)	\$0 or \$17,360,559 to \$69,439,029	\$0 or \$17,360,559 to \$69,439,029	\$0 or \$17,360,559 to \$69,439,029
<u>Savings</u> - Reduced distribution of foundation formula funding to school districts (§163.011 & 163.031)	\$100,000	\$0	\$0
<u>Transfer In</u> - DESE - Foundation formula funding (§163.011 & 163.031)	\$0	\$0	\$243,713,067
<u>Loss</u> - Reduced foundation formula funding (§135.712 - 135.716)	\$0 or (\$17,360,559 to \$69,439,029)	\$0 or (\$17,360,559 to \$69,439,029)	\$0 or (\$17,360,559 to \$69,439,029)
<u>Loss</u> - Reduced foundation formula funding (§163.011 & 163.031)	(\$100,000)	\$0	\$0
<u>Transfer Out</u> - Distribution of foundation formula funding to school districts (§163.011 & 163.031)	<hr/> \$0 <hr/>	<hr/> \$0 <hr/>	<hr/> (\$243,713,067) <hr/>
<b>ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Transfer In</u> - School Districts - Increase in foundation formula payments from State School Moneys Fund (§163.011 & 163.031)	\$0	\$0	\$243,713,067
<u>Loss</u> - Reduced foundation formula funding due to decrease in students (§135.712 - 135.716)	\$0 or (\$17,360,559 to \$69,439,029)	\$0 or (\$17,360,559 to \$69,439,029)	\$0 or (\$17,360,559 to \$69,439,029)
<u>Cost</u> - School Districts - Reduction in formula payments from State School Moneys Fund (§163.011 & 163.031)	(\$100,000)	\$0	\$0
<b>ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS</b>	(\$100,000) or (\$17,460,559 to \$69,439,029)	\$0 or (\$17,360,559 to \$69,439,029)	\$243,713,067 or \$174,274,038 to \$226,352,508

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

§135.712 - 135.719 - Passport Scholarship Program

This proposed legislation establishes the Passport Scholarship Program to grant scholarships to students residing in an unaccredited school district to attend a qualified nonpublic school.

Beginning in tax year 2012, a taxpayer may make a qualifying contribution to an educational assistance organization and claim a tax credit. The annual cumulative amount of tax credits is limited to \$40 million, which will be modified based on the consumer price index. The tax credit is for sixty percent of the amount of the contribution, is nonrefundable, and may be carried

DESCRIPTION (continued)

forward for four years. The Director of the Department of Economic Development must establish a procedure to apportion the amount of tax credits among all educational assistance organizations and may reapportion credits to educational assistance organizations that have used all, or a certain percentage, of their tax credits.

The Joint Committee on Legislative Research must contract with a qualified researcher to conduct a study of the program. The study must begin within one year of commencement of the program and must cover a period of six years.

The provisions of the proposal will expire six years after the effective date of the bill.

§163.011 & 163.031 - School Funding

This proposal changes the laws regarding the elementary and secondary education funding formula. In its main provisions, the proposal:

(1) Specifies that in any year in which appropriations do not equal the amount necessary to fully fund the formula, payments to school districts will be modified to accommodate available appropriations. Reductions and increases will be calculated differently for hold-harmless and formula districts. If the formula is underfunded, payments to hold-harmless districts will be decreased at one-third of the rate of the decrease to formula districts. If the formula is over funded, payments to hold-harmless districts will be increased at one-third of the rate of the increase to formula districts;

(2) Requires the dollar-value modifier to be recalculated every fiscal year, beginning in Fiscal Year 2013, using a three-year rolling average of the wage data from the Bureau of Economic Analysis of the United States Department of Commerce for the fourth, fifth, and sixth years before the payment year.

Currently, the definition uses only the fourth previous year's information and the dollar value modifier has not been recalculated since the adoption of the formula in 2005;

(3) Requires, for Fiscal Year 2014, the General Assembly to appropriate an amount for school funding that equals or exceeds the appropriation in Fiscal Year 2011. Each fiscal year thereafter through Fiscal Year 2017, an increasing factor will be used to determine the target school funding appropriation until the factor is at least 1.0;

(4) Repeals the provision which allows the state adequacy target to be adjusted to accommodate

DESCRIPTION (continued)

available appropriations once the phase-in is completed; and

(5) Repeals several obsolete provisions regarding the formula's phase-in period.

(6) Restores the five percent cap on current operating expenses per recalculation of the SAT.

§162.081, 163.011, and 163.031 of the proposal contain an emergency clause.

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 Economic Development

Division of Business and Community Services

Department of Revenue

Joint Committee on Administrative Rules

Office of Secretary of State

Administrative Rules Division

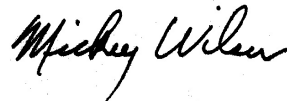
Department of Insurance, Financial Institutions and Professional Registration

Office of State Treasurer

State Tax Commission

Office of Administration

Division of Budget and Planning



Mickey Wilson, CPA

Director

February 20, 2012