

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0711H.03C
Bill No.: HCS for HB 349
Subject: Education, Elementary and Secondary; Tax Credits
Type: Original
Date: February 12, 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
General Revenue Fund*	Up to (\$15,034,667) to (\$50,000,000)	Up to (\$16,538,133) to (\$55,000,000)	Up to (\$18,191,947) to (\$60,500,000)
Total Estimated Net Effect on General Revenue	Up to (\$15,034,667) to (\$50,000,000)	Up to (\$16,538,133) to (\$55,000,000)	Up to (\$18,191,947) to (\$60,500,000)

*The range in 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 a charter schools, home schools, private schools, public schools outside the district of residence of the qualifying student, or public/private 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.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
State School Moneys Fund* (0616)	\$0	\$0	\$0
Missouri Empowerment Scholarship Accounts Fund	Up to \$695,377	Up to \$778,500	Up to \$885,403
Total Estimated Net Effect on <u>Other</u> State Funds	Up to \$695,377	Up to \$778,500	Up to \$885,403

*Cost avoidance and loss of approximately \$0 to \$34.9 million to \$42.3 million net \$0

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
Missouri Empowerment Scholarship Accounts Fund – STO	4 FTE	4 FTE	4 FTE
Total Estimated Net Effect on 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
Local Government	Up to (\$34,965,333)	Up to (\$38,461,867)	Up to (\$42,308,053)

FISCAL ANALYSIS

ASSUMPTION

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.

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state 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

Officials from **B&P** state, 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).

Officials from the **Missouri Department of Elementary and Secondary Education (DESE)** state 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.

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)).

Thus, Oversight assumes, for at least the first year after implementation, this proposed legislation could have a **net cost** of \$15,034,667 to \$50,000,000; compared to DESE's \$14,240,231 to \$50,000,000.

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. This assumption provides the notion that DESE's second assumption, a cost to the state of \$50,000,000 is most applicable.

Officials from the **Missouri State Treasurer's Office (STO)** state 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 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.

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%). 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 this section creates a tax credit for taxes due under Chapters 143 and 153 in an amount to equal 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 \$50 million in the first year and this proposal allows that if more than 90% of the credits are claimed in a year, then the cap on the credit can increase ten percent (10%). The loss to GR is the cap amount annually. This credit is not refundable but can be carried forward four (4) years.

DOR notes that this proposed legislation requires the Missouri Department of Revenue to certify the credit to the taxpayer. It should be noted that the Office of the State Treasurer is responsible for this program and DOR is not involved until the processing of the tax returns. DOR is unsure what additional administrative costs would be required by DOR if DOR were to certify the credits instead of the State Treasurer.

Additionally, this proposed legislation would become effective August 28, 2021. However, this proposal states that the credits are to be issued starting July 1, 2021. It is customary that changes to the tax laws begin on January 1st after the August effective date to allow DOR time to update their forms and computer programs. It is unclear with these proposed dates how much additional administrative impact could be expected.

Given the July 1, 2021 start day, the first returns claiming the credit could be filed starting January 2022 (Fiscal Year 2022).

Fiscal Year 2022	Up to the \$50 million loss to GR
Fiscal Year 2023	Up to the \$55 million loss to GR
Fiscal Year 2024	Up to the \$60.5 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). However, should “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 subsequent year”.

Oversight notes the aforementioned language that specifies whether or not tax credits shall be increased and by how much does not specifically provide a value to be measured. The language states “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 subsequent year”.

Oversight assumes the intent of the language is to suggest, if the amount of tax credits **claimed** in any tax year exceeds ninety percent of the tax credits available, the amount of tax credits available shall increase by ten percent (10%) in the subsequent year. For purposes of this fiscal note, Oversight will assume, should the amount of tax credits claimed in any tax year exceed ninety percent (90%) of the tax credits available, the amount of tax credits available shall increase by ten percent (10%) in the subsequent year.

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

Fiscal Year	2022	2023	2024
Tax Credit Cap	\$50,000,000	\$55,000,000	\$60,500,000

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, at some point, the cap may increase to such an amount that it becomes unlikely that ninety percent (90%) of the tax credits available are claimed in one year. This would be a result of the cap placed on the amount each taxpayer may claim (50% of a taxpayer's tax liability).

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 lucrateness 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 ten percent (10%) each fiscal year reported beginning in Fiscal Year 2022.

However, Oversight notes scholarships will be awarded to qualifying students which could result in a cost savings to GR by an amount equal to the savings in GR transfers to the State School Moneys Fund.

Below, Oversight estimates the amount of savings(s) that would be recognized as a result of the scholarship program. The savings are shown in green.

Oversight also nets the net cost to GR as a result of the combination of the tax credit program and the scholarships program. The net cost is shown in yellow.

Program Year		Year 1	Year 2	Year 3
Fiscal Year		2022	2023	2024
Tax Credit Cap		\$50,000,000	\$55,000,000.0	\$60,500,000.0
Amount Available (Less EAO & STO Admin. Costs - 12%)		\$44,000,000	\$48,400,000	\$53,240,000
State Adequacy Target		\$6,375	\$6,375	\$6,375
Estimated Number of Scholarships		6902	7592	8351
Average State Aid Paid Per Pupil (2019-2020)		\$5,066	\$5,066	\$5,066
Total Savings From Qualified Student Transfers		\$34,965,333	\$38,461,867	\$42,308,053
Net Cost to State	Tax Credit Cap - Savings	\$15,034,667	\$16,538,133	\$18,191,947
	up to	up to	up to	up to
	Tax Credit Cap	\$50,000,000	\$55,000,000	\$60,500,000

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.

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 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: 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 educational assistance organizations. 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 as the total tax credit claims exceed ninety percent (90%) of the tax credits available.

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 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 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, insurance or surety bond payments required by the State Treasurer, 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.

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.

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 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.

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

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.

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.

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 State Highway Patrol**, the **Missouri Department of Social Services**, the **Missouri Department of Commerce and Insurance**, 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
GENERAL REVENUE FUND			
<u>Revenue Reduction –</u> Section 135.713 – Tax Credit For Donations To Educational Assistance Organizations	Up to (\$50,000,000)	Up to (\$55,000,000)	Up to (\$60,500,000)
<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 to \$34,965,333</u>	<u>\$0 to \$38,461,867</u>	<u>\$0 to \$42,308,053</u>
ESTIAMTED NET EFFECT ON GENERAL REVENUE FUND	<u>Up to (\$15,034,667)</u> <u>to (\$50,000,000)</u>	<u>Up to (\$16,538,133)</u> <u>to (\$55,000,000)</u>	<u>Up to (\$18,191,947)</u> <u>to (\$60,500,000)</u>
STATE SCHOOL MONEYS FUND (0616)			
<u>Savings/Cost</u> <u>Avoidance –</u> Section(s) 135.714 & 166.705 – Reduced Transfer to Local Public School Districts for Qualifying Students	\$0 to \$34,965,333	\$0 to \$38,461,867	\$0 to \$42,308,053
<u>Loss – Section(s)</u> 135.714 & 166.705 –	<u>\$0 to (\$34,965,333)</u>	<u>\$0 to (\$38,461,867)</u>	<u>\$0 to (\$42,308,053)</u>

Reduced GR Transfer To State School Money Fund – Decreased ADA As Result Of Transfer Of Students			
ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	<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 \$1,100,000	Up to \$1,210,000
Cost – STO – audits	\$0	\$0	(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)
Fringe Benefits	(\$90,052)	(\$108,638)	(\$109,220)
Equipment & Expense	(\$57,000)	(\$21,836)	(\$22,491)
Total Cost	(\$304,623)	(\$321,450)	(\$324,597)
FTE Change – STO	4 FTE	4 FTE	4 FTE
ESTIMATED NET EFFECT ON MISSOURI EMPOWERMENT SCHOLARSHIP ACCOUNTS FUND	<u>Up to \$695,377</u>	<u>Up to \$778,500</u>	<u>Up to \$885,403</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL POLITICAL SUBDIVISIONS			
<u>Savings – Section(s) 135.714 & 166.705 – Reduced Fixed Costs For Transfer of Qualified Students Out Of School District Or To Non- Public School</u>	Unknown	Unknown	Unknown
<u>Loss – Section(s) 135.714 & 166.705 – Decreased State Funding For Schools Decreased ADA From Transfer Of Students</u>	\$0 to (\$34,965,333)	\$0 to (\$38,461,867)	\$0 to (\$42,308,053)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>Up to (\$34,965,333)</u>	<u>Up to (\$38,461,867)</u>	<u>Up to (\$42,308,053)</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" and specifies that any taxpayer may claim a tax credit, not to exceed 50% of the taxpayer's state tax liability, for any qualifying contribution to an educational assistance organization for all fiscal years beginning on or after July 1, 2021. The cumulative amount of tax credits issued in any one calendar year shall not exceed \$50 million. In any year that the total tax credits issued is 90% of

the total the cap on credits will be raised by 10% in the subsequent year. Each educational assistance organization (EAO) shall meet certain requirements and provide specified information during an annual audit.

The State Treasurer shall provide a standardized format for a receipt to be issued by the EAO to indicate the value of a contribution received as well as a standardized format for EAOs to report the information. The State Treasurer or State Auditor may conduct an investigation if he or she possesses evidence of fraud committed by the educational assistance organization. The EAO may be barred from participating in the program if it is found to have intentionally and substantially failed to comply with certain requirements. In addition, the State Treasurer shall issue a report on the Missouri Empowerment Scholarship Accounts program five years after its effective date. Each EAO shall ensure that student recipients are tested to measure learning gains in math and English, and report these results along with graduation rates, college attendance, and a parental survey as specified in the bill. The state treasurer shall provide this data to the public via a state website after the 3rd year of collection.

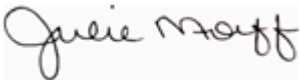
A qualified student may receive a grant to be deposited in the student's Missouri Empowerment Scholarship Account if he or she is a resident of Missouri, and has an individualized education plan (IEP) or has attended a public school as specified in the bill, is entering Kindergarten or first grade, or is attending school for the first time. Missouri Empowerment Scholarship Accounts are renewable on an annual basis. Moneys deposited into the account shall be used for specified services and fees. If a qualified student withdraws from the program, is disqualified from the program, or graduates, the student's account shall be closed and remaining funds shall be returned to the educational assistance organization for redistribution to other qualified students. Beginning in the 2023-24 school year the bill requires the State Treasurer to conduct or contract for annual audits of empowerment scholarship accounts to ensure compliance.

Any person who is found to have knowingly used moneys granted under the provisions of this bill other than the purposes provided, shall be guilty of a class A misdemeanor.

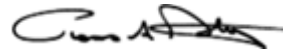
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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 12, 2021



Ross Strobe
Assistant Director
February 12, 2021