

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1169H.011
 Bill No.: HB 442
 Subject: Taxation and Revenue - General; Taxation and Revenue - Income; Tax Credits;
 Revenue, Department of; Education, Elementary and Secondary; Science and
 Technology
 Type: Original
 Date: March 8, 2021

Bill Summary: This proposal would authorize a tax credit for parents of certain children receiving virtual or remote education.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue Fund*	\$0	(Unknown) - Up to (\$1,044,051,483)	Could exceed (\$91,359)
Total Estimated Net Effect on General Revenue	\$0	(Unknown) - Up to (\$1,044,051,483)	Could exceed (\$91,359)

*Oversight is unsure what educational expenditures would qualify for this tax credit. Oversight will list the fiscal impact of the proposal as an (Unknown) amount, ranged up to the estimate provided by the Department of Revenue.

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

Numbers within parentheses: () indicate costs or losses.

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue Fund – DOR	0 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	0 FTE	2 FTE	2 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	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state this proposed legislation would grant a non-refundable tax credit for costs incurred related to a qualifying dependent's remote learning, beginning in Tax Year 2022. The maximum tax credit claimed is equal to a taxpayer's local property tax liability for the year(s) in which remote costs were incurred. Based on data from the U.S. Census Bureau, B&P estimates that the median local property tax liability is approximately \$1,461 per year.

In order for a dependent to qualify, they must meet the federal definition of a qualifying child and be eligible to attend public school within Missouri. B&P notes that dependents attending private schools would qualify under this proposed legislation, as long as they would have been allowed to attend a public school but for the choice of enrolling in private school.

Qualifying expenses are defined as:

- Tuition and fees
- Tutoring
- Computer software
- Textbooks and workbooks
- Curricula
- School supplies, other than personal computers
- Other written material used for instruction and tutoring

In addition, in order for expenses to qualify under this proposed legislation, they would have to be incurred between March 7, 2020 and the tax year in which the taxpayer is claiming this tax credit. For the purpose of this fiscal note, B&P assumes that all eligible taxpayers will claim their full credit for Tax Year 2022. However, B&P notes that some taxpayers may choose to delay their credit claim or may choose to claim the credit over multiple years.

For the purpose of this fiscal note, B&P estimated a low and high impact. The low impact assumes that qualifying expenses were primarily incurred before the start of the 2019-2020 school year and that the majority of students are not required to attend remote learning for a prolonged period during the 2020-2021 school year. The high estimate assumes that additional qualifying expenses for the 2019-2020 school year were incurred as a result of remote learning and that the majority of students are required to attend remote learning for at least a portion of the 2020-2021 school year.

Based on research, B&P determined that the average amount spent on school supplies in 2019 (the most recent year data is available) was \$117 per student, the average cost of internet access is \$60 per month, the average cost of tutoring is \$150 per month, and that the majority of digital subscriptions have or had waived their fees during the COVID-19 pandemic. B&P notes that there are 879,845 public school students and 123,314 private school students within the state.

In addition, because this proposed legislation allows for the cost of tuition, B&P assumes that if a private school ever required a student to attend virtually (through a closure or quarantine period), taxpayer's would subsequently be allowed to claim the cost of tuition as an eligible expense. Based on publicly available data, the average cost of private elementary school in Missouri is \$8,183 and the average cost of private secondary school is \$12,181. There are 87,553 children enrolled in private elementary school and 35,761 children enrolled in private secondary school.

Based on numbers above, B&P estimates that total qualifying costs could range between \$1,385,933,568 (\$1,382 per qualifying child) and \$2,398,772,946 (\$2,391 per qualifying child).

However, B&P notes that a taxpayer may have more than one qualifying child. Using the number of children claimed per tax return, B&P estimates that single returns claim an average of 1.42 children, married filing joint returns claim an average of 2.02 children, and head of household returns claim an average of 1.48 children.

Therefore, B&P estimates that the amount claimed per tax return will be at the tax credit cap of \$1,461 (medial local property tax liability) and the total qualifying expenses that may be claimed would total approximately \$1,647,530,066.

However, because this tax credit is non-refundable, the allowable credit per taxpayer would further be limited by their state income tax liability. Therefore, based on 2018 tax year data (the most recent, complete year available) B&P estimates that the total amount of tax credits granted would be \$1,043,940,367 during Fiscal Year 2023.

B&P notes that some taxpayers could choose to claim part of their credit in one tax year and part of the credit in another tax year, thus maximizing the total amount of credit they receive. Subsequently, over time the total amount of tax credits claimed could approach the full amount of \$1,647,530,066.

This credit shall sunset on December 31, 2027. B&P notes that some qualifying dependents may continue to incur qualifying expenses beyond the COVID-19 pandemic. Therefore, this proposed legislation may have an unknown negative impact on Total State Revenue (TSR) and General Revenue (GR) beyond Fiscal Year 2023.

Officials from the **Missouri Department of Revenue (DOR)** state this proposed legislation, for all tax years beginning January 1, 2022, allows a taxpayer a tax credit equal to the cost of qualified education expenses for children having to use virtual or remote learning. Qualifying expenses are those expenditures made in connection with the enrollment, attendance or participation in virtual or remote-learning. The total amount of qualifying expenses per this proposal cannot exceed the amount of local property tax liability of the taxpayer. This credit is non-refundable.

DOR notes this proposed legislation allows for certain expenses to be considered qualifying expenses. Those include tuition, fees, school supplies, computer software, academic materials and textbooks as well as tutoring services. However, the purchase of computers does not qualify.

Pulling data from various sources, DOR assumed a low amount of qualifying expenses to be \$1,382 and a high amount to be \$2,391. Using the median local tax rate of \$1,461, this would set the maximum amount of credit at \$1,461. Per this proposed legislation, the qualifying expenditures cannot exceed the amount of property tax liability, so DOR will use the current property tax rate of \$1,461 as the maximum rate of the credit when calculating the fiscal impact.

DOR notes there are 879,845 children in public schools and 123,314 in private schools. Pursuant to the Governor's Executive Order 20-02 dated March 13, 2020, all schools in Missouri were to close as a result of COVID.

Therefore, it is assumed that all 1,003,159 (879,845 + 123,314) children could potentially be eligible for this credit for 2019-2020 school year and, due to the continuation of closures, could be eligible for some expenses during the 2020-2021 school year.

Since this proposed legislation grants the taxpayer (parent) the credit and not the students, DOR decided to use an Internal Income Tax Model that contains confidential taxpayer data to determine how many taxpayers may be eligible to claim the credit. DOR used the model to determine the average number of kids per filing status.

Using DOR's Internal Income Tax Model that contains confidential taxpayer data, DOR was able to determine the average number of kids per filing status.

Estimated # Dependents (TY17)	Avg. per filing status
Single	1.42
MFJ	2.02
HOH	1.48

After determining the number of kids per filing status, DOR was able to distribute the kids by the taxpayer's filing status to determine the number eligible for the credit.

Filing Status	Total Kids	# Returns
Single	45,803	32,256
MFJ	638,997	316,335
HOH	318,358	215,107
		563,698

This proposed legislation allows taxpayers to file for the credit starting January 1, 2022. This proposed legislation has a sunset date that would allow taxpayers to claim the credit until December 31, 2027. DOR notes this proposed legislation's qualifying period began **when the Governor signed Executive Order 20-02 on March 13, 2020 and ends in the year a taxpayer claims the credit**. While it may appear this credit could be claimed for 6 years, a taxpayer can only claim the credit for expenditures due to virtual or remote learning. Since many districts have returned to in-person classes, it is assumed fewer taxpayers will be eligible for this credit past the 2020-2021 school year.

DOR notes that, should some of the taxpayers chose to leave their kids in remote learning in the near future, they might be able to claim the credit in future years. While DOR notes a taxpayer could save up a couple of years before claiming the credit, due to the cap of \$1,461 per taxpayer, DOR assumes the majority of the credits will be claimed in the Tax Year 2022. Tax Year 2022 will have such returns filed starting January 1, 2023 (Fiscal Year 2023). Since this is a non-refundable tax credit, the projected amount of the full amount of the credit was run through our Income Tax Model to determine the amount that would actually be issued. DOR will show the impact for the future as \$0 to Unknown.

Fiscal Year	
2022	\$0
2023	(\$1,043,940,367)
2024	\$0

DOR assumes one (1) FTE Associate Customer Service Representative would be required for every 6,000 tax credits redeemed, one (1) FTE Associate Customer Service Representative would be required for every 7,600 errors/correspondence generated and additional expense funding for a one time update to forms and programming.

For purposes of this fiscal note, since the estimated number of tax credit claimants exceed DOR's threshold(s) for additional FTE, **Oversight** will include DOR's administrative cost(s), as reported by DOR.

However, **Oversight** notes the first tax year in which taxpayers would qualify for the tax credit created is Tax Year 2022. Oversight notes individuals would not file their Tax Year 2022 tax returns until after January 1, 2023 (6 months **after** the beginning of Fiscal Year 2023). Therefore, Oversight will report DOR's administrative cost(s) beginning in Fiscal Year 2023 assuming DOR can hire and train such FTE(s) within the first six (6) months of Fiscal Year 2023; before Tax Year 2022 tax returns would begin to be filed claiming the tax credit created.

Oversight notes that it **does not currently have the resources and/or access to state tax data** to produce an independent revenue estimate and is unable to verify the revenue estimates provided by B&P and DOR.

Oversight notes a "Dependent Child" is defined as "any individual who: is eligible to attend the system of free public schools in this state..., qualifies as a dependent of the taxpayer... and is the natural or adopted child of the taxpayer or is an individual for whom the taxpayer has been court-appointed as a legal guardian or custodian".

Oversight assumes the majority of the children in this state, if not all, are eligible to attend the system of free public schools in the state. Therefore, Oversight assumes the estimated reduction to GR, as estimated by B&P and DOR, could accurately reflect the **maximum** (every parent of a Missouri student incurs expenses and claims the tax credit) impact of this proposed legislation.

Oversight notes, without knowing how many taxpayers would qualify for the tax credit, the amount of educational expenditures that were recognized during the qualifying period, and other factors unknown, the difficulty in determining the actual impact(s) of this proposed legislation is assumed to be substantial.

For purposes of this fiscal note, **Oversight** will report a reduction to GR equal to an amount "Up to" \$1,043,940,367 as estimated by B&P and DOR in Fiscal Year 2023, and a revenue reduction equal to "Unknown" in Fiscal Year 2024. Oversight notes, though, that the negative Unknown impact reported in Fiscal Year 2024 could be significant.

Officials from the **University of Missouri's Economic & Policy Analysis Research Center (EPARC)** state, if enacted, this proposed legislation would create an income tax credit, up to the amount of the taxpayers' local property tax, for education expenditures made for the taxpayer's dependent child to support their education in a virtual or remote-learning private school program or public school program.

Currently, EPARC is unable to determine a taxpayers' local property tax burden within EPARC's income tax simulation. Therefore, EPARC is unable to know each taxpayer's credit limit for this proposed legislation.

Officials from the **Greene County Assessor's Office (Greene County)** state the impact on local tax revenue is unknown. Greene County states the Missouri Department of Revenue may collaborate with local assessors and with local government officials, as necessary, to administer the provisions of this proposed legislation and to verify information relating to a taxpayer's local property tax liabilities.

Greene County notes that assessors do not calculate, bill, or collect taxpayer's local property taxes; it is a function of county clerks and county collectors.

Officials from the **Howell County Assessor's Office (Howell County)** state this proposed legislation states the Missouri Department of Revenue may collaborate with local assessors and with local government officials, as necessary, to administer the provisions of this proposed legislation and to verify information relating to a taxpayer's local property tax liabilities.

Howell County notes that assessors are not involved with property tax amounts and are not responsible for the collection thereof.

Officials from the **St. Genevieve County Assessor's Office (St. Genevieve County)** state this proposed legislation states the Missouri Department of Revenue may collaborate with local assessors and with local government officials, as necessary, to administer the provisions of this proposed legislation and to verify information relating to a taxpayer's local property tax liabilities.

St. Genevieve notes that assessors are not involved with property tax amounts and are not responsible for the collection thereof.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to SOS for administrative rules is less than \$5,000. SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what SOS can sustain with SOS's core budget. Therefore, SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

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

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

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

Officials from the **Missouri Department of Elementary and Secondary Education** and the **Missouri State Tax Commission** do not anticipate this proposed legislation will cause a fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will not report a fiscal impact for these organizations.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<u>Revenue Reduction – Section 135.1130 – Tax Credit For Remote Learning Expenses</u>	\$0	(Unknown) - Up to (\$1,043,940,367)	(Unknown)
<u>Cost – DOR – Section 135.1130 – Administration of Tax Credit Program</u>			
Personnel Services	\$0	(\$49,207)	(\$49,699)
Fringe Benefits	\$0	(\$40,487)	(\$40,653)
Equipment & Expense	\$0	(\$21,422)	(\$1,007)
Total Cost – DOR	\$0	(\$111,116)	(\$91,359)
FTE Change – DOR	0 FTE	2 FTE	2 FTE
ESTIAMTED NET EFFECT ON GENERAL REVENUE FUND	\$0	(Unknown) - Up to (\$1,044,051,483)	Could exceed (\$91,359)

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	\$0	\$0	\$0

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

Beginning January 1, 2022, any individual may claim an income tax credit for the costs of expenditures made in connection with the enrollment, attendance, or participation of the taxpayer's dependent child in a virtual or remote-learning private school program or public school program for the period beginning on the date on which the Governor signed Executive Order 20–02 and ending on December 31st of the tax year for which a taxpayer claims the tax credit.

Qualifying expenditures include, but are not limited to, tuition, fees, tutoring, computer software, textbooks, workbooks, curricula, school supplies other than personal computers, and other written materials used primarily for academic instruction or academic tutoring.

The amount of the tax credit is the amount spent by a taxpayer on education expenditures during the period beginning on the date on which the Governor signed Executive Order 20–02 and ending on December 31st of the tax year for which a taxpayer claims the tax credit, up to the total amount of local property tax for which the taxpayer was liable over the same period, less the total amount of all tax credits previously claimed by the taxpayer under this section in all previous tax years.

The amount of the tax credit may not exceed the taxpayer's income tax liability for the year in which the taxpayer claims the tax credit.

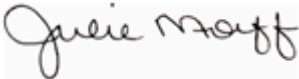
The tax credit is nonrefundable and may not be assigned, transferred, sold, or otherwise conveyed.

The provisions of this bill sunset on December 31st six years after the effective date unless reauthorized by the General Assembly.

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

Office of Administration – Budget & Planning Division
Missouri Department of Elementary and Secondary Education
Missouri Department of Revenue
Missouri Secretary of State’s Office
Joint Committee on Administrative Rules
State Tax Commission
University of Missouri’s Economic & Policy Analysis Research Center
Greene County Assessor’s Office
Howell County Assessor’s Office
St. Genevieve County Assessor’s Office



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