COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0309-07
Bill No.: Truly Agreed To and Finally Passed HCS for SS for SCS for SB 174
Subject: Banks and Financial Institutions; Boards, Commissions, Committees, Councils; Children and Minors; Higher Education; Elementary and Secondary Education; Disabilities; Health Care; State Treasurer; Tax Credits
Type: Original
Date: June 12, 2015

Bill Summary: This proposal establishes the Missouri Achieving a Better Life Experience Program.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	(Could exceed $2,425,536)	(Could exceed $2,897,510)	(Could exceed $2,950,662)
Total Estimated Net Effect on General Revenue	**(Could exceed $2,425,536)**	**(Could exceed $2,897,510)**	**(Could exceed $2,950,662)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Other State Funds	($1,178,559)	($1,441,141)	($1,468,523)
Total Estimated Net Effect on Other State Funds	**($1,178,559)**	**($1,441,141)**	**($1,468,523)**

Note: The fiscal note does not reflect the possibility that some of the tax credits could be utilized by insurance companies against insurance premium taxes. If this occurs, the loss in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Federal Funds*	$0	$0	$0
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

*Income and expenditures of approximately $7,500,000 annually net to zero.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed $100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Section 166.600 to 166.645

Officials from the **Department of Revenue (DOR)** assumed the proposal, which creates the Missouri Achieving a Better Life Experience (ABLE) program, allows for a subtraction of up to $8,000 (single) to determine Missouri Adjusted Gross Income or $16,000 if married filing combined for contributions made under a participation agreement. DOR states that the administrative impact of this proposal will require additional FTE as well as forms and programming changes to implement. DOR is requesting two Tax Collection Technicians ($26,652 each/annually) for collections and tax assistance, as well as 503 ($75/per hour) contract hours of IT costs.

Oversight assumes that DOR can absorb the increased administrative workload from this newly created tax deduction through the ABLE program. If DOR cannot handle the increase workload with existing staff additional FTE can be requested through the appropriations process.

In addition, Oversight assumes that with as few as 100 tax returns annually, total state revenue could be decreased by $100,000. For fiscal note purposes, Oversight will show a loss of income tax revenue that could exceed $100,000 per fiscal year.

Oversight also assumes the Missouri Achieving a Better Life Experience Board will contract with a non-government entity to administer the program.

Officials from the **Department of Social Services (DSS)** assume this legislation creates the Missouri Achieving a Better Life Experience (ABLE) program, in accordance with section 529A of the Internal Revenue Code. Under this legislation, a participant may make tax-deductible contributions to an account established for the purpose of financing the qualified disability expenses of a designated beneficiary. Designated beneficiaries are persons who are eligible individuals which are entitled to benefits based on disability or blindness under the Social Security Act and such blindness or disability occurred prior to turning 26. Persons who are certified as disabled also qualify as eligible individuals. "Eligible individual" and "designated beneficiary" are both defined by reference to federal law. This proposal also requires the board to enter into agreements with other states to allow residents of that state to participate in the ABLE program.

Family Support Division (FSD) would see a minimal increase in applications and caseload sizes in the local FSD offices due to this legislation. While, the proposal would make it easier to shelter assets from Medicaid eligibility tests, it is currently possible for individuals with assets to create a benefit trust to accomplish the same objective.

Due to this, the FSD's assumption of the increase in caseload sizes is based on the current percentage of individuals under the age of 26 who have already been found disabled and

ASSUMPTION (continued)

receiving MO HealthNet (MHN) benefits compared to individuals 26 through 64 who have been found disabled and receiving MHN benefits. If participants are located in other states the FSD assumes that they would not be eligible for programs administered by DSS, therefore there is no additional fiscal impact for these participants nor are they included in the calculations.

The FSD identified the cases that were rejected and closed in the SFY 14 whose resources exceeded the maximum of $999.99 for individuals and $2,000 for married couples by $8,000 (total resources of $9,000) and $16,000 (total resources of $18,000) respectively. We identified cases with resources up to $8,000 and $16,000 above the resource maximums as these are the annual contribution maximums allowed into the ABLE account without a tax penalty.

FSD determined there would be a total of 634 new cases for the MHN for Aged, Blind and Disabled (MHABD) program(s) if the Missouri Achieving a Better Life Experience (ABLE) program is passed as proposed, allowing assets to be diverted into these accounts.

The FSD arrived at 634 new cases in this manner:

In SFY 14, the FSD's population of disabled individuals under the age of 26 receiving MO HealthNet was 14,517. Individuals age 26-64 receiving MHN due to a disability was 139,739. The total population receiving MHN due to a disability is 154,256 (139,739+14,517). The percentage of the population under 26 is 9.41% of the total disabled population. In SFY14, the FSD rejected 3,934 MHN applications of individuals under the age of 65 claiming a disability due to excess resources. Of these rejected applications, 3,349 were rejected for all FSD MHN programs. The remaining 585(3,934-3,349) cases were eligible for Qualified Medicare Beneficiary (QMB)/Specified Low Income Medicare Beneficiary (SLMB), which have higher resource limits and are included in the QMB/SLMB population below. The FSD estimates that 2,342 of the 3,934 applications rejected for all FSD MO HealthNet programs would be eligible if excess resources up to the limits to be contributed to the ABLE accounts were diverted into the account. Using the same 9.41 percentage to identify the population under 26, the FSD estimates that 220 of the 2,342 applications rejected would be eligible (2342*.0941).

In the first six months of SFY14, 70 or 32% of applications rejected were for individuals under the age of 26 for all programs were eventually approved after they spent their assets down below the applicable resource limit. 43 became eligible within 1 month of rejection, 8 cases became eligible within 2 months of rejection, 6 cases became eligible within 3 months of rejection, 5 cases became eligible within 4 months of rejection, 5 cases became eligible within 5 months of rejection, and 3 cases became eligible within 6 months of rejection. Therefore, 70 of the 220 rejected applicants would become eligible incrementally during the first 6 months. The remaining 68% remained ineligible for resources, other reasons, or did not reapply.

If individuals are able to divert assets to an ABLE account, FSD expects the above trend will continue and approximately 32% of the rejected applications will ultimately be approved within

ASSUMPTION (continued)

similar time frames.

In SFY14, the FSD closed 529 MHN for the Aged, Blind, and Disabled (MHABD) cases due to resources. Of these closed cases, 3 were not eligible for other MHN programs. The remaining 526 (529-3) were eligible for QMB/SLMB and are included in the QMB/SLMB population below. The FSD estimates that 2 of the 3 cases closed and not eligible for other MHN programs would be eligible if excess resources up to the limits to be contributed to the ABLE accounts were diverted into the account. Using the same 9.41 percentage to identify the population under 26, the FSD estimates that 0 of the 2 applications rejected would be eligible (2*.0941=.18).

The FSD would also see an increase in MHN eligibles from the QMB/SLMB population. In SFY14, there was an average of 1,534 QMB persons under the age of 65. Of these, 1,527 live alone and 6 live with a spouse. Of those living alone, 579 would be eligible if the resource could be placed in an ABLE account. Of those living with a spouse, 3 would be eligible if the resource could be placed in an ABLE account. Using the same 9.41 percentage to identify the population under 26, the FSD estimates that 55 of the 581 applications rejected would be eligible (581*.0941=54.67).

Total new MHN cases from QMB:
579+3=581*.0941=55 (54.67)

In SFY14, there was an average of 4,396 SLMB persons under the age of 65. Of these, 4,025 live alone and 372 live with a spouse. Of those living alone, 580 would be eligible if the resource could be placed in an ABLE account. Of those living with a spouse, 20 would be eligible if the resource could be placed in an ABLE account. Using the same 9.41 percentage to identify the population under 26, the FSD estimates that 56 of the 600 applications rejected would be eligible (600*.0941=56).

Total new MHN cases from SLMB:
580+20=600*.0941=56

The FSD anticipates an increase in applications as a result of the creation of ABLE accounts. These applications would come from a previously unknown population who currently chooses not to apply due to the current resource limits. According to U.S. Census Bureau data, 12,886 Missouri individuals, age 19 or above, have a disability. FSD conducted analysis of the income levels of these individuals and concludes that it could be reasonably assumed that 25% of these individuals, or 3,222, would become eligible for MHN benefits if allowed to divert resources into an ABLE account. Using the same 9.41 percentage to identify the population under the age of 26, the FSD determined there would be an increase of 303 (3,222*.0941) as a result of the creation of ABLE accounts.

Total new cases:

ASSUMPTION (continued)

220 (rejections)
0 (closings)
55 (QMB)
56 (SLMB)
303 (unknown population)
____
634 new MHN cases

The FSD assumes existing staff will be able to complete necessary additional work as a result of this proposal. The FSD assumes OA-ITSD will include the FAMIS programming costs for the system changes as well as the system generated notice needed to implement provisions of this bill in their response.

Therefore, there is no fiscal impact to the Family Support Division.

MO HealthNet Division (MHD) assumes that there will be a fiscal impact if this legislation is passed. The trust will make more individuals eligible for Medicaid and there is no provision for Medicaid to recover money from the trust at the beneficiary's death.

FSD identified the populations. The populations that are being proposed for full medical assistance are Qualified Medicare Beneficiary (QMB) and Specified Low-Income Medicare Beneficiary (SLMB). The other population or "new" is currently not receiving Medicaid services.

There are a total of 634 new cases. There are 523 new cases (220 rejections + 303 unknown population). There are 55 QMB and 56 SLMB.

An annual cost per person was calculated for persons with disabilities FY 14 expenditures. Using the annual cost per person, a total cost was calculated for persons with disabilities $11,754,894. With the 55 QMB and 54 SLMB eligibles receiving full benefits, the total cost is reduced by ($413,676) for a total cost of $11,341,218.

To calculate the FY 16 cost, it is assumed there would only be 10 months of the total cost $9,451,015 ($11,341,218 * (10/12)). A 1.9% inflation factor was applied to FY 17 and FY 18.

The total costs for the new cases are:
FY 16 (10 months): $9,451,015 (GR $2,287,790 - Other $1,178,559)
FY 17: $11,556,701 (GR $2,797,510 - Other $1,441,141)
FY 18: $11,776,278 (GR $2,850,662 - Other $1,468,523)

Division of Legal Services (DLS) anticipates that this proposal would have a minimal fiscal impact upon the division in the process of promulgating the administrative rules or drafting proposed legislation required to best implement the legislation. Specifically, while the division

ASSUMPTION (continued)

believes the department could implement this program using current practices and procedures, DLS believe amendment of existing language in Chapter 208 RSMo. or, at the very least, to the language of Title 13 of the Code of State Regulations, Division 40, would be advisable to clarify program eligibility requirements and thereby diminish litigation concerning those requirements. This concern is especially true regarding the reimbursement for Medicaid costs discussed above. DLS anticipates the need for .02 staff attorney FTE to complete the rulemaking process necessitated by the bill which can be absorbed with current resources.

Officials from the **Office of the Secretary of State (SOS)** stated 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 $2,500. 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 the 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.

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

Officials from the **Joint Committee on Administrative Rules**, the **Department of Elementary and Secondary Education,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Office of Administration**, the **Department of Economic Development**, the **Department of Health and Senior Services**, and the **Department of Higher Education** each assume the current proposal would not fiscally impact their respective agencies.

Officials from the **Office of the Governor** stated that there should be no added cost to their office as a result of this provision. However, if additional duties are placed on the office related to appointments in other TAFP legislation, there may be the need for additional staff resources in future years.

This proposal could reduce Total State Revenue.

FISCAL IMPACT - State Government	FY 2016 (10 Mo.)	FY 2017	FY 2018
GENERAL REVENUE			
Costs - DSS			
Medicaid Program Distributions (§166.600)	($2,287,790)	($2,797,510)	($2,850,662)
Costs - DOR			
Contracted Programming Costs	($37,746)	$0	$0
Loss - DOR			
Decrease in income tax revenue (§166.620 allows contributions to be tax deductible - up to $8,000 per taxpayer or $16,000 for married filing jointly)	(Could exceed $100,000)	(Could exceed $100,000)	(Could exceed $100,000)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**(Could exceed $2,425,536)**	**(Could exceed $2,897,510)**	**(Could exceed $2,950,662)**
OTHER STATE FUNDS			
Costs - DSS			
Medicaid Program Distributions (§166.600)	($1,178,559)	($1,441,141)	($1,468,523)
ESTIMATED NET EFFECT ON OTHER STATE FUNDS	**($1,178,559)**	**($1,441,141)**	**($1,468,523)**
FEDERAL FUNDS			
Income - DSS			
Medicaid Program Distributions (§166.600)	$5,984,666	$7,318,050	$7,457,093
Costs - DSS			
Medicaid Program Distributions (§166.600)	($5,984,666)	($7,318,050)	($7,457,093)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	**$0**	**$0**	**$0**

Note: The fiscal note does not reflect the possibility that some of the tax credits could be utilized by insurance companies against insurance premium taxes. If this occurs, the loss in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

FISCAL IMPACT - Local Government	FY 2016 (10 Mo.)	FY 2017	FY 2018
	$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

This proposal creates the Missouri Achieving a Better Life Experience Program (ABLE). A participant can make tax-deductible contributions to an account established for the purpose of financing the qualified disability expenses of a designated beneficiary. Designated beneficiaries are persons who are eligible individuals which are entitled to benefits based on disability or blindness under the Social Security Act and such blindness or disability occurred prior to turning 26. Persons who are certified as disabled also qualify as eligible individuals. "Eligible individual" and "designated beneficiary" are both defined by reference to federal law.

The proposal creates the Missouri ABLE Board which is charged with establishing and administering the ABLE program. The Board is given power and authority similar to that delegated to the Missouri Higher Education Savings Program Board. The board can enter into participation agreements with participants on behalf of designated beneficiaries which are similar to those participation agreements entered into under the Missouri Higher Education Savings Program.

The proposal permits participants to cancel a participation agreement at any time. However, the assets distributed upon cancellation will be subject to a penalty equal to or greater than 10% of the earnings of the account if the distributions do not meet the requirements of this program.

The proposal exempts from taxation the assets of any ABLE account and any income therefrom. Participants may deduct up to $8,000 per participant ($16,000 if married filing jointly) from their adjusted gross income. The maximum annual and aggregate contribution amounts that can be contributed to an ABLE account may not be less than the amount established for qualified tuition savings accounts by the Missouri Higher Education Savings Program Board.

The proposal requires the Director of Investment of the State Treasurer's Office to conduct a semiannual review of the program and report his or her findings to the Board.

FISCAL DESCRIPTION (continued)

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 Insurance, Financial Institutions and Professional Registration
Department of Higher Education
Department of Elementary and Secondary Education
Office of the State Treasurer
Joint Committee on Administrative Rules
Department of Health and Senior Services
Office of Administration
Department of Economic Development
Missouri House of Representatives
Department of Revenue
Office of the Governor
Department of Social Services
Department of Mental Health
Department of Social Services
Office of Administration -
    Division of Budget and Planning
Office of Secretary of State
State Tax Commission

Mickey Wilson

Mickey Wilson, CPA	Ross Strope
Director	Assistant Director
June 12, 2015	June 12, 2015

LO:LR:OD