

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0399-01
Bill No.: SB 32
Subject: Education, Elementary and Secondary; Education, Higher; Tax Credits
Type: Original
Date: January 12, 2017

Bill Summary: This proposal establishes the Missouri Empowerment Scholarship Accounts Program.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	(Could exceed \$25,465,845)	(Could exceed \$25,245,362)	(Could exceed \$25,246,737)
Total Estimated Net Effect on General Revenue	(Could exceed \$25,465,845)	(Could exceed \$25,245,362)	(Could exceed \$25,246,737)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	2 FTE	2 FTE	2 FTE

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 2018	FY 2019	FY 2020
Local Government	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

§135.713 Educational Assistance Tax Credit

Oversight notes in §135.713 this proposal allows a taxpayer to claim a tax credit equal to the amount they contribute to an educational assistance organization. The cumulative annual amount of tax credits that can be issued is \$25 million starting on January 1, 2017. The cumulative amount can be inflated annually by the Consumer Price Index. Oversight will show a loss to General Revenue (Up to \$25 million) in FY 2018 and (Could Exceed \$25 million) in FY 2019 and each year thereafter.

Officials at the **Department of Economic Development (DED)** assume this creates a new program called the Missouri Empowerment Scholarship Accounts Program. Beginning on or after January 1, 2017, any taxpayer who makes a qualifying contribution to an educational assistance organization may claim a credit against the tax otherwise due under chapter 143, other than taxes withheld under sections 143.191 to 143.265, and chapters 147 and 153, in an amount equal to 100% of the amount the taxpayer contributed during the tax year for which the credit is claimed. The cumulative amount of tax credits that can be allocated in one year shall not exceed \$25,000,000.

DED assumes this proposal requires DED to administer the program. This involves reviewing and issuing credits, ensuring that educational assistance organizations meet their obligations under the law, of which there are many, and promulgate rules to implement the program. This will require that DED hire two Economic Development Incentive Specialists III to accomplish the many requirements of the program.

Oversight has, for fiscal note purposes only, changed the starting salary for the Economic Development Incentive Specialists III to correspond to the second step above minimum for comparable positions in the state's merit system pay grid (from \$53,136 annually to \$44,352). This decision reflects a study of actual starting salaries for new state employees and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Officials at the **Department of Elementary and Secondary Education (DESE)** assume tax subsidies reduce the state's tax revenues and decrease the amount of money available for public schools and all public school students.

Officials at the **Office of Administration's Division of Budget and Planning** assume this proposal may reduce General and Total State Revenues up to \$25 million annually starting in calendar year 2017. The tax credit may be carried forward for four subsequent tax years. The

ASSUMPTION (continued)

proposal also directs that this maximum be adjusted for inflation based on the CPI for all urban consumers in the Midwest region; therefore, this proposal may reduce General and Total State Revenues up to an amount greater than \$25 million in subsequent tax years. This proposal may impact the calculation under Article X, Section 18(e).

Officials at the **Department of Revenue (DOR)** assume this proposal requires forms and programming support to implement the provisions of this legislation. The new integrated tax system will incur additional costs of \$131,040 to implement the provisions of this legislation. The Personal Tax Division will require two (2) Revenue Processing Technicians I for tax credit redemption and tax credit transfers. The Corporate Tax Division will require three (3) Revenue Processing Technicians I for tax credit redemptions, tax credit transfers, correspondence.

Oversight notes this proposal would implement a new state tax credit program. Oversight assumes this proposal would change a limited number of computations on individual income tax returns and assumes the proposal would not have a significant impact on the number of returns filed. Oversight also notes a high percentage of income tax returns are prepared online, electronically, or by paid preparers, and assumes there would not be a significant number of additional errors resulting from the changes in this proposal.

Oversight notes this proposal allows DED to receive up to 2% of the qualifying contributions for marketing and administration.

§135.712, §166.700, and §166.705 Empowerment Scholarship Account

Oversight notes this proposal in §135.712 creates educational assistance organizations that receive money from tax payers and allocate the money into empowerment scholarship accounts for qualified students. Money in the empowerment scholarship accounts can be used by qualified students to pay tuition and fees at a qualified school (private school or preschool for children with disabilities) per §166.700.

Oversight notes in order to receive an empowerment scholarship account you must be a qualified student. A qualified student is one who attended a public school for 100 days and is identified as having a disability or is a ward of the juvenile court [§166.700(10)]. Oversight is unable to determine how many potential qualified students there would be in the state.

The educational assistance organization can not transfer more than the state adequacy target amount into any qualified student's empowerment scholarship account. The current state adequacy amount is \$6,241 per student. **Oversight** notes that with the maximum of \$25 million available and the payment maximum of \$6,241 per student, the number of students that could

ASSUMPTION (continued)

participate would be 4,005 students.

Oversight notes that this proposal would allow the qualified student to transfer after 100 days, to a private school or be home schooled. Oversight notes the transfer of these students from the public school to a private school would save the foundation formula the state adequacy amount per student transferred. The foundation formula is currently not fully funded and DESE and the Office of Administration's Division of Budget and Planning were not able to provide Oversight with a projection of when the foundation formula may be fully funded. Oversight assumes that any savings from these qualified students would be redistributed to all schools through the formula. Oversight will not show an impact from this provision.

Oversight notes the transfer of these qualified students out of the public schools and into a private school or home schooled setting would save the local school district's local funding. A qualified student is one with a disability. The public school with these students is often required to spend more than the state adequacy target to provide educational services to the students. Transferring them out of the public school would result in savings of their local funding. Oversight will show an Unknown savings from the transfer.

§166.710 Audits

DESE assumes the frequency language in §166.710, of the audits is not clear. As written, it appears DESE would conduct random audits, quarterly audits, and annual audits. For each account, this could mean at least 7 audits per year (2 random, 4 quarterly, and 1 annual). \$5,000 per audit (7 per year) = \$35,000 per account. We cannot predict the potential number of accounts.

DESE assumes in §166.710.7 that DESE would incur unknown costs to create an online anonymous fraud reporting service, would incur unknown costs to create an anonymous telephone hotline for fraud reporting and would incur unknown costs to acquire surety bonds for account holders.

Oversight will show an impact of Could exceed \$100,000 for the audits annually.

Oversight will show one time cost of Could exceed \$100,000 to create the online anonymous fraud reporting service and the anonymous telephone hotline for fraud reporting.

ASSUMPTION (continued)

Bill as a Whole

Officials at the **Office of the Attorney General (AGO)** assume that §166.720.4 of the proposal states that in “any legal proceeding challenging the application of §166.700 to 166.720 to a qualified school, the state shall bear of the burden of establishing that the law is necessary and does not impose any undue burden on qualified schools.” AGO assumes that any potential costs arising from this proposal can be absorbed with existing resources. AGO may seek additional appropriations if the proposal results in a significant increase in cases.

Officials at the **Joint Committee on Administrative Rules** assume there is no fiscal impact from this proposal.

Officials from the **Office of the Secretary of State (SOS)** state 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.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
GENERAL REVENUE			
<u>Revenue</u> - DED - collection of 2% fee §135.716	Unknown	Unknown	Unknown
<u>Revenue Reduction</u> - educational assistance tax credit §135.713	(Up to \$25,000,000)	(Could exceed \$25,000,000)	(Could exceed \$25,000,000)
<u>Cost</u> - DED §135.713			
Personal Service	(\$73,920)	(\$89,591)	(\$90,487)
Fringe Benefits	(\$39,193)	(\$47,296)	(\$47,563)
Equipment and Expenses	<u>(\$21,692)</u>	<u>(\$8,475)</u>	<u>(\$8,687)</u>
<u>Total Cost</u> - DED	(\$134,805)	(\$145,362)	(\$146,737)
FTE Change	2 FTE	2 FTE	2 FTE
<u>Cost</u> - DOR - Integrated Tax System updates §135.713	(\$131,040)	\$0	\$0
<u>Cost</u> - DESE - audits §166.710	(Could exceed \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)
<u>Cost</u> - DESE - one time setup of on-line and telephone fraud reporting systems §166.710	(Could exceed <u>\$100,000</u>)	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	(Could exceed <u>\$25,465,845</u>)	(Could exceed <u>\$25,245,362</u>)	(Could exceed <u>\$25,246,737</u>)
Estimated Net FTE Change on General Revenue	2 FTE	2 FTE	2 FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
LOCAL SCHOOL DISTRICT'S LOCAL FUNDS			
<u>Savings</u> - transfer of qualified students out of the school district	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON LOCAL SCHOOL DISTRICT'S LOCAL FUNDS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

FISCAL IMPACT - Small Business

Small businesses that qualify for the tax credit would be positively impacted.

FISCAL DESCRIPTION

his act establishes the Missouri Empowerment Scholarship Accounts Program.

For all tax years beginning on or after January 1, 2017, a taxpayer may make a qualifying contribution to an educational assistance organization and claim a tax credit, as described in the act. The tax credit is for one hundred percent of the amount of the contribution. The tax credit may be carried forward for four years and may be transferred, sold, or assigned. The annual cumulative amount of tax credits is limited at \$25 million, which will be adjusted for inflation. The director of the Department of Economic Development must establish a procedure to apportion the amount of tax credits amongst all educational assistance organizations. The Director may reapportion those tax credits to educational assistance organizations that have used all, or a certain percentage, of their tax credits. (§135.713)

An educational assistance organization must meet certain requirements, including notifying the Department of Economic Development of its intent to provide scholarship accounts; being a 501(c)(3) organization; providing a receipt to taxpayers for contributions; ensuring that funds are used as specified in the act; distributing scholarship payments four times per year in an amount not to exceed the state adequacy target; providing the Department of Economic Development, upon request, with criminal background checks on all employees and board members; and demonstrating financial accountability and viability, as described in the act.

FISCAL DESCRIPTION (continued)

Each educational assistance organization must publicly report to the Department, by June first annually, the name and address of the organization, the name and address of each student who opened a scholarship account, the total number and dollar amount of contributions during the previous calendar year, the total number and dollar amount of scholarship accounts opened during the previous calendar year, and the total number and dollar amount of scholarship accounts opened during the previous year to students eligible for free and reduced lunch. (§135.714)

The Department of Economic Development must provide standardized forms for program participants. It may conduct a financial review or audit of any educational assistance organization if it possesses evidence of fraud. (§135.716)

These provisions shall sunset in six years unless re-authorized by the General Assembly.

A student is eligible to receive funds in a Missouri Empowerment Scholarship Account if he or she meets any of the following criteria: is identified as having a disability, as described in the act; or is a ward of the state. To be eligible, a student must also have attended a public school under circumstances set forth in the act or is eligible to begin kindergarten.

The student's parent or guardian shall only use the money in the account for certain expenses related to the qualified student's education, as described in the act.

The parent of a qualified student must sign an agreement to enroll the qualified student in a qualified nonpublic or home school to receive an education for the student in certain subjects; not enroll the student in a school operated by a district or in a charter school; release the district of residence from the obligation of educating the student; use the Missouri Empowerment Scholarship Account money for only specified purposes; and not use the funds for computer hardware, transportation, or consumable education supplies.

The scholarship accounts are renewable on an annual basis upon request of the parent of a qualified student. Qualified students shall remain eligible for renewal until the student completes high school. If a qualified student withdraws from the program by enrolling in a school other than a qualified school, or is disqualified from the program for violations specified in the act, the scholarship account shall be closed and any remaining funds shall be returned to the educational assistance organization for redistribution to other qualified students. When a student withdraws from the program, the responsibility for providing an education for that student transfers back to the student's district of residence.

FISCAL DESCRIPTION (continued)

The funds remaining in the scholarship account at the end of a school year shall remain in the account for the following school year. Any funds remaining in the account after graduation may be used for the purposes of higher education as described in the act. Any funds remaining in the account after graduation from an eligible post-secondary institution or after a period of four years following graduation, whichever occurs first, shall be returned to the educational assistance organization for redistribution to other qualified students. (§166.705)

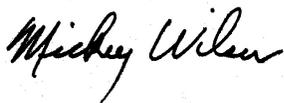
The Department of Elementary and Secondary Education must conduct or contract for an annual audit of accounts to ensure compliance. A parent or guardian may be disqualified from program participation, if after a hearing before the Commissioner of Education, the parent or guardian is found to have committed an intentional program violation. The Department may refer cases of substantial misuse of moneys to the Attorney General. (§166.710)

A person commits a Class A misdemeanor if they are found to have knowingly used moneys for any purposes other than those set forth in the act. (§166.715)

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 Economic Development
Department of Elementary and Secondary Education
Department of Revenue
Joint Committee on Administrative Rules
Office of Administration
Division of Budget and Planning
Office of the Attorney General
Office of the Secretary of State



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