

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0713S.03I
Bill No.: SB 25
Subject: Auditor, State; Banks And Financial Institutions; Boards, Commissions,
Committees And Councils; Children And Minors; Education, Elementary And
Secondary; Elementary And Secondary Education, Department Of; Tax Credits;
Taxation And Revenue - General; Teachers; Treasurer, State
Type: Original
Date: January 19, 2021

Bill Summary: This proposal establishes the Missouri Empowerment Scholarship Accounts Program and modifies provisions related to charter schools.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue**/**	(\$304,623)	Up to (\$14,561,681) to (\$50,000,000)	Up to (\$14,564,828) to (\$50,000,000)
Total Estimated Net Effect on General Revenue	(\$304,623)	Up to (\$14,561,681) to (\$50,000,000)	Up to (\$14,564,828) to (\$50,000,000)

* The range in the 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 private schools, home schools, charter schools, public schools outside student's district of residence, or virtual schools who would otherwise attend public schools.

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*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

* Transfer of funding of \$0 to approximately \$100.8 million annually net \$0. Cost avoidance and loss of \$0 to approximately \$35.8 million annually 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
General Revenue	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.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government – Local Political Subdivisions	\$0	Less than (\$35,759,769)	Less than (\$35,759,769)

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 to Section(s) 135.712 to 135.719.

Section 135.713 – Tax Credit For Contribution(s) to Educational Assistance Organization

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.

A qualified student is any resident of Missouri that: attended a public school as a full-time student; must have previously participated in the Missouri Empowerment Scholarship Accounts Program; is a child eligible to begin kindergarten; is attending school for the first time; or is a child of a parent in active military service.

A qualified school is a charter school, a home school, a private school, or a public or private virtual school that is incorporated in Missouri.

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.

The scholarship may only be used for: tuition or fees at a qualified school; textbooks; educational therapies or services; tutoring services; curriculum; tuition or fees for private virtual school; fees for nationally standardized tests; fees for management of the scholarship account by firms; services provided by a public school; computer hardware and other technological devices; fees for summer or after-school educational programs; and other expenses related to home school instruction.

Beginning with Tax Year 2022, 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 proposed legislation provides, to a taxpayer who makes a qualifying contribution to an educational assistance organization, a tax credit not to 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.

This proposed legislation may reduce General Revenue (GR) and Total State Revenue (TSR) up to a minimum of \$50 million annually.

This proposed legislation may impact the calculation under Article X, Section 18(e).

To the extent any fines are levied under 166.715, as the recipient of fines, localities may gain revenue.

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
(\$5,000,000)	10% of Contributions for Administration and Marketing by Educational Assistance Organizations
\$45,000,000	Amount Available for Scholarship Grants
\$6,375	State Adequacy Target (Maximum Grant Amount)
7,059	Maximum Number of Available Scholarships (\$45,000,000 / \$6,375)

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 provides the first scenario that could occur:

Public School to Private School or Non-Resident Public School

If scholarship recipients are public school students who use the scholarship at non-public schools or a public school outside of their district of residence, the cost to the state would be \$14,240,231.

	7,059	Scholarships Available
x	\$1,309	Difference Between Average State Funding and Scholarship
=	\$9,240,231	New State Funding
+	\$5,000,000	(Costs for Admin. And Marketing Subtracted From \$50 Mil Cap
=	\$14,240,231	New Cost To State

Oversight provides the following calculation that supports DESE’s estimate provided above:

\$50,000,000	Tax Credit Cap
\$5,066	State Revenue Per Pupil
7,059	Number of Scholarship(s) Available (\$45,000,000 / \$6,375)
\$35,760,894	Total State Revenue Spent on Future Scholarship Recipients
\$14,239,106	Tax Credit Cap Less State Revenue No Longer Spent For Scholarship Recipients

*Difference in DESE estimate and Oversight is due to rounding

DESE provides the second scenario that could occur:

Non-Public School to Non-Public School

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.

DESE provides the third scenario that could occur:

Proportionate Distribution of Students From Public (87.7%) and Non-Public (12.3%) All Go To Non-Public

Total scholarships available –7,059
 Public – 6,194
 Non-public – 865

Public - \$1,309 per pupil new cost to state (difference between scholarship amount and current average state aid per pupil)
 Non-public - \$6,375 per pupil new cost to state

6,194 × \$1,309 = \$8,107,946
 865 × \$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

The total new cost to the state if a proportionate distribution of students from public and non-public schools use the scholarship at a non-public school = \$18,622,321

This scenario assumes that any non-public students using the scholarship meet the requirement in the legislation of having previous enrollment in public school or are incoming kindergartners.

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 schools who continue to attend non-public schools).

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 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.

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 private school and high among qualified students who currently attend private schools who continue attending private schools. This assumption provides the notion that DESE’s second assumption, a cost to the state of \$50,000,000 annually, 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-granting 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) FTE is required 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. Therefore, Oversight will report the administrative cost(s) reported by STO being paid from GR.

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 equal to 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 per calendar year. The loss to GR is the \$50 million cap annually.

This tax credit begins on July 1, 2022, and therefore the first year in which the returns claiming the credit can be filed would be in January 2023 (Fiscal Year 2023). This credit is not refundable but can be carried forward four (4) years.

Fiscal Year	Loss to GR
2022	\$0
2023	Up to \$50,000,000
2024	Up to \$50,000,000

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 certified by the Missouri State Treasurer, 2) allocates all of its annual revenue for educational assistance except otherwise stated, and 3) does not discriminate on the basis of race, color, or national origin.

The tax credit created under this section shall be for all fiscal years beginning on or after July 1, 2022 (Fiscal Year 2023). Oversight notes contributions made during in Calendar Year 2022, after July 1, 2022, will qualify for a tax credit to be claimed on the taxpayer's Tax Year 2022 tax return which will not be filed until after January 1, 2023 (Fiscal Year 2023).

The tax credit shall be equal to one hundred percent (100%) of the amount such taxpayer contributed to the 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 which the tax credit is claimed. Any amount of tax credit that exceeds the taxpayer's state tax liability may be carried forward to any four (4) subsequent tax years.

The tax credits created under this section may **not** be transferred, sold, or assigned and are **not** refundable.

This proposed legislation states the Missouri State Treasurer shall certify the amount(s) of tax credit 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) in any one calendar year.

The tax credits created shall be allocated to taxpayers on a first come, first served basis.

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 of fifty million dollars (\$50,000,000) will be reached each calendar year.

Oversight notes individuals can begin contributing and receiving tax credits under this section beginning July 1, 2022 (Fiscal Year 2023). Contributions made in Tax Year 2022 will not be claimed until such taxpayers file their Tax Year 2022 tax return after January 1, 2023 (Fiscal Year 2023)

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 by an amount "Up to \$50,000,000" each fiscal year beginning in Fiscal Year 2023 as a result of the tax credit created.

Section 135.714 – Educational Assistance Organization and Missouri State Treasurer Requirements

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, state/national test(s) administration, test result(s) reporting, graduation rate(s) reporting, and parental satisfaction survey reporting.

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.

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 notes this section establishes requirements of the Missouri State Treasurer in regards to: compliance of student privacy laws, collection of test results, public reporting of state/national test(s) results, and public reporting of graduation rate(s).

Section 135.716 – State Treasurer Requirements

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.

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 160.400 – Student Transfer(s) to Charter School(s)

Oversight notes Section 160.400 currently allows charter schools to operate in the St. Louis City School District, Kansas City Public School District, and school districts with an unaccredited or provisionally accredited status. Oversight assumes the changes to this section would allow charter schools to operate in any county with a charter form of government or in any municipality with a population greater than 30,000 inhabitants.

This section further removes specific procedures relating to changes in a school district’s accreditation status that impact charter schools.

In response to similar legislation (SB 603 – 2020), information was obtained from the Missouri Department of Elementary and Secondary Education that indicated charters would be permitted to open in the following districts:

Affton 101	Hazelwood	Pattonville R-III
Bayless	Hickman Mills C-1	Raytown C-2
Blue Springs R-IV	Hillsboro-R-III	Ritenour
Brentwood	Independence 30	Riverview Gardens
Cape Girardeau 63	Jefferson City	Rockwood R-VI
Center 58	Jefferson Co. R-VII	Springfield R-XII
Clayton	Jennings	St. Charles R-VI
Columbia 93	Joplin Schools	St. Joseph
Crystal City 47	Kirkwood R-VII	Sunrise R-IX
Desoto 73	Ladue	University City
Dunklin R-V	Lee’s Summit R-VII	Valley Park
Ferguson-Florissant R-II	Lindbergh Schools	Webster Groves
Festus R-VI	Lone Jack C-6	Wentzville R-IV
Fort Osage R-I	Maplewood-Richmond Heights	Windsor C
Fort Zumwalt R-II	Mehlville R-IX	
Fox C-6	Normandy Schools	
Francis Howell R-III	Collaborative	
Grain Valley R-V	NorthWest R-I	
Grandview C-4	Oak Grove R-VI	
Grandview R-II	Orchard Farm R-V	
Hancock Place	Parkway C-2	

In response to similar legislation (SB 603 – 2020), information from the Missouri Department of Elementary and Secondary education indicated the overall average daily attendance for these school districts was 376,161 and, in total, \$1,680,758,690 was spent in state aid.

The [National Center for Education Statistics](#) suggests, as of 2017, three percent (3%) of Missouri’s public school students are enrolled in public charter schools. The National Center for Education Statistics further suggests there are six (6) states that do not have charter school laws, eight (8) states that have less than one percent (1%) of each state’s public school students enrolled in public charter schools, fourteen (14) states that have one percent (1%) but less than five percent (5%) of each state’s public school students enrolled in public charter schools, fifteen (15) states that have five percent (5%) but less than ten percent (10%) of each state’s public

school students enrolled in public charter schools, and seven (7) states and one (1) district that have ten percent (10%) or more of each state's/district's public school students enrolled in public charter schools. The National Center for Education Statistics state the United States' average percent of public school students enrolled in public charter schools per state is six percent (6%).

Oversight estimates six percent (6%) of the students in these districts will transfer to charter schools that could open as a result of this proposed legislation.

If the districts mentioned above experience a six percent (6%) shift of students from public schools to charter schools, approximately 22,570 students would transfer from public schools to charter schools ($376,161 * 6\%$).

If the districts mentioned above experience a six percent (6%) shift of students from public schools to charter schools, local public schools would recognize a negative net direct fiscal impact of state aid to local public school districts equal to \$100,845,521 ($(\$1,680,758,690 / 376,161) * 22,570$ or $\$1,680,758,690 * 6\%$).

If six percent (6%) of the students from public schools shift to charter schools, charter schools would recognize a positive net direct fiscal impact to local charter school districts equal to \$100,845,521.

Oversight notes the negative and positive amount(s) reported above could be either low or high.

The amount(s) reported above are likely to be low, as: 1) it does not include the local effort approximation that the Missouri Department of Elementary and Secondary Education distributes to each charter school on the basis of historical property tax valuation, 2) it does not include federal money distributed to charters, and 3) it does not include non-resident students who might enroll.

The amount(s) reported above are likely to be high because it is unlikely that charter schools would open immediately after implementation and it is unlikely that charter schools would open in the same proportion in every district.

Oversight notes the amount(s) reported above could be low, as the United States' average percent of public school students enrolled in public charter schools is calculated including states that have no charter schools.

Due to the uncertainty of the number of students that would shift from public schools to charter schools, Oversight will report the negative fiscal impact to Local Political Subdivisions – Public School Districts equal to \$0 (no public school students transfer to charter school) to an amount that “Could Exceed \$100,845,521.” Oversight will report the positive fiscal impact to Local Political Subdivisions – Charter Schools equal to \$0 (no public school students transfer to charter school) to an amount that “Could Exceed \$100,845,521.”

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.

Section 160.422 – Property Transfers to Charter Schools

Oversight notes this section would prohibit the City of St. Louis from adopting, enforcing, imposing, or administering any ordinances, local policies, or local resolutions that prohibits property sold, leased, or transferred by the City of St. Louis from being used for any lawful educational purpose by a charter school.

This section prohibits the City of St. Louis from imposing, enforcing, or applying any deed restrictions that prohibits property sold, leased, or transferred by the City of St. Louis from being used for any lawful educational purpose by a charter school.

This section states if the City of St. Louis offers property of the City of St. Louis for sale, lease, or rent, the City of St. Louis shall not refuse to sell, lease, or rent such property to a charter school.

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 a resident of this state who: attended a public school as a full-time student for at least one semester from the previous twelve months, previously participated in the Missouri Empowerment Scholarship Accounts Program, is a child who is eligible to begin kindergarten, is attending school for the first time, or a child of a parent in active military service.

This section states that the qualified student shall not be enrolled in a school operated by the qualified student’s district of residence or a charter school except for qualified students that are in the custody of the state. 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.

Oversight notes this section states that the qualified student shall not be enrolled in a charter school, except for qualified students that are in the custody of the state. Oversight further notes “Qualifying School” is defined as a charter school, a home school, a private school, a public school, or public or private virtual schools that are incorporated in Missouri.

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, computer hardware or other technological devices, fees for summer education and after-school education programs, and other expense related to home school instruction.

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 requires educational assistance organizations to conduct or contract for annual audits of Missouri Empowerment Scholarship accounts beginning in the 2023-2024 school year.

Officials from **STO** state, beginning in Fiscal Year 2023, STO is required to conduct random, quarterly, and annual audits of the Missouri Empowerment Scholarship accounts. STO anticipates the need for one (1) FTE, beginning in Fiscal Year 2023.

Oversight notes STO anticipates the need for one (1) FTE Analyst (\$39,708 annual salary) to conduct random, quarterly, and annual audits of the Missouri Empowerment Scholarship accounts.

Oversight notes this section states “Beginning in the 2023-2024 school year, the educational assistance organization[s] shall conduct or contract for annual audits of empowerment scholarship accounts to ensure compliance....” and “The educational assistance organization shall also conduct or contract for random, quarterly, and annual audits of empowerment scholarship accounts to ensure compliance....”.

Furthermore, this section provides that STO shall promulgate rules for conducting random, quarterly and annual reviews of accounts.

Therefore, Oversight does not anticipate that STO will be conducting or contracting audits. For purposes of this fiscal note, Oversight will not report an administrative (FTE) fiscal impact for STO auditing/contracting audits.

Officials from the **Administrative Hearing Commission (AHC)** anticipate a need for one (1) FTE Senior Office Support Assistant at a cost reported of \$3,576 annually.

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.

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 **State Public Defender's Office (SPD)** state, 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.

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.

Section 166.725 – Participation Confidentiality

Oversight notes this section states that all information concerning eligible students and parents within the Missouri Empowerment Scholarship Accounts Program shall be confidential.

Legislation As A Whole

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 Commerce and Insurance**, the **Missouri Department of Higher Education and Workforce Development**, the **Missouri State Highway Patrol**, the **Missouri Department of Social Services**, the **Office of Administration**, the **State Auditor's Office**, the **Office of State Courts Administrator**, and **High Point R-III School District** do not anticipate this proposed legislation will have a fiscal impact on their organization(s). 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
GENERAL REVENUE FUND			
<u>Revenue Reduction – Section 135.713 – Tax Credit For Donations To Educational Assistance Organizations – p. 3-8</u>	\$0	Up to (\$50,000,000)	Up to (\$50,000,000)
<u>Savings/Cost Avoidance – Section(s) 135.714 & 166.705 – State Schools Money Fund Transfers Decreased Due To Qualified Students – p. 9 & 12-13</u>	\$0	\$0 to \$35,759,769	\$0 to \$35,759,769
<u>Costs – STO – Section 135.713 - p. 6-7</u>			
Personnel Services	(\$157,571)	(\$190,976)	(\$192,886)
Fringe Benefits	(\$90,052)	(\$108,638)	(\$109,220)
Equipment & Expense	(\$57,000)	(\$21,836)	(\$22,491)
<u>Total Cost – STO</u>	<u>(\$304,623)</u>	<u>(\$321,450)</u>	<u>(\$324,597)</u>
<u>FTE Change – STO</u>	4 FTE	4 FTE	4 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$304,623)</u>	<u>Up to (\$14,561,681) to (\$50,000,000)</u>	<u>Up to (\$14,564,828) to (\$50,000,000)</u>

STATE SCHOOL MONEYS FUND (0616)			
<u>Savings/Cost Avoidance</u> – Section(s) 135.714 & 166.705 – General Revenue Decreased ADA For Transfer of Qualified Students - p. 9 & 12-13	\$0	\$0 to \$35,759,769	\$0 to \$35,759,769
<u>Loss</u> – Section(s) 135.714 & 166.705 – Schools Decreased ADA for Transfer of Qualified Students p. 9 & 12-13	<u>\$0</u>	<u>\$0 to (\$35,759,769)</u>	<u>\$0 to (\$35,759,769)</u>
ESTIMATED NET EFFECT ON STATE SCHOOLS MONEY FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL POLITICAL SUBDIVISIONS			
<u>Savings</u> – Section(s) 135.714 & 166.705 – Transfer of Qualified Students Out of School District Or To Non-Public School - p. 9 & 12-13	\$0	Unknown	Unknown
<u>Loss</u> – Section(s) 135.714 & 166.705 – State Funding Schools Decreased ADA For Transferred Students - p. 9 & 12-13	\$0	\$0 to (\$35,759,769)	\$0 to (\$35,759,769)
<u>Loss</u> – Public School Districts - Section 160.400 – Transfer of Public School Students to Newly Implemented Charter Schools – p. 10-12	\$0 to could exceed (\$100,845,521)	\$0 to could exceed (\$100,845,521)	\$0 to could exceed (\$100,845,521)
<u>Revenue Gain</u> – Charter Schools - Section 160.400 – Increased Funding for New Charter Schools p. 10-12	\$0 to could exceed \$100,845,521	\$0 to could exceed \$100,845,521	\$0 to could exceed \$100,845,521
ESTIMATED NET EFFECT ON LOCAL POLITICALS SUBDIVISIONS	<u>\$0</u>	<u>Less than (\$35,759,769)</u>	<u>Less than (\$35,759,769)</u>

FISCAL IMPACT – Small Business

This proposed legislation could impact any small business that makes a contribution to an educational assistance organization as such small business could receive a tax credit that would reduce or eliminate such small business's tax liability.

FISCAL DESCRIPTION

For all fiscal years beginning on or after July 1, 2022, a taxpayer may make a qualifying contribution to an educational assistance organization and claim a tax credit equal to the contribution. The amount of the tax credit claimed shall not exceed 50% of the taxpayer's state tax liability for the tax year for which the credit is claimed, and a taxpayer may carry the credit forward to any of the next four tax years. Tax credits authorized under the program may not be transferred, sold, or assigned, and are not refundable.

The annual cumulative amount of tax credits that may be allocated shall not exceed \$50 million. The State Treasurer shall establish a procedure to allocate the tax credits to the educational assistance organizations on a first come, first served basis. (Section 135.713)

An educational assistance organization shall meet certain requirements set forth in the act, including notifying the State Treasurer 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; carry forward no more than 25% of the revenue from contributions into the following fiscal year; providing the State Treasurer, upon request, with criminal background checks on all employees and board members; annually administer either the state achievement tests or nationally norm-referenced tests and provide such results to the parents of participating students and to the State Treasurer; conduct an annual parental satisfaction survey; and demonstrate financial accountability and viability, as described in the act.

Each educational assistance organization shall publicly report to the State Treasurer, by June first annually, the name and address of the organization, the total number and dollar amount of contributions during the previous calendar year, and the total number and dollar amount of scholarship accounts opened during the previous calendar year. (Section 135.714)

The State Treasurer shall provide standardized forms for program participants, and shall require a taxpayer to provide a copy of such receipt if claiming a tax credit under the program.

The State Treasurer or State Auditor may conduct an investigation of any educational assistance organization if it possesses evidence of fraud. In addition, the State Treasurer may bar an educational assistance organization from participating if the organization has failed to comply with program requirements.

The State Treasurer shall issue a report on the state of the program five years after it goes into effect, including information regarding the finances of the educational assistance organization, and educational outcomes of qualified students. (Section 135.716)

The provisions of the Missouri Sunset Act shall not apply to the program. (Section 135.719)

A student is eligible to receive funds in a Missouri Empowerment Scholarship Account if he or she attended public school full-time for at least one semester in the last year, previously participated in the program, is eligible to begin kindergarten, is attending school for the first time, or is the child of active duty military members. (Section 166.700)

A parent of a qualified student 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 shall sign an agreement with an educational assistance organization to enroll the qualified student in a qualified school to receive an education for the student in certain subjects; not enroll the student, other than a student that is in the custody of the state, in a school operated by the qualified student's district of residence or in a charter school; release the district of residence from the obligation of educating the student while the student is enrolled in the program; use the Missouri Empowerment Scholarship Account money for only specified purposes; and not use the funds for consumable education supplies or tuition at a private school located outside of the state.

The scholarship accounts are renewable on an annual basis upon request of the parent of a qualified student. A qualified student 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.

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 shall be returned to the educational assistance organization for redistribution to other qualified students. (Section 166.705)

Beginning in the 2023-2024 school year, the educational assistance organization shall conduct or contract for an annual audit of accounts to ensure compliance. A parent may be disqualified from program participation if the State Treasurer determines that the parent is found to have committed an intentional program violation. The State Treasurer may refer cases of substantial misuse of moneys to the Attorney General. (Section 166.710)

A person commits a Class A misdemeanor if he or she is found to have knowingly used moneys for any purposes other than those set forth in the act. (Section 166.715)

CHARTER SCHOOLS

Under this act, charter schools may be operated in any school district located within a charter county as well as in any municipality with a population greater than 30,000.

Procedures relating to changes in a school district's accreditation status that affect charter schools are repealed under this act. (Section 160.400)

Under this act, St. Louis City shall not adopt, enforce, impose, or administer an ordinance, local policy, or local resolution that prohibits property sold, leased, or transferred by the city from being used for any lawful education purpose by a charter school.

St. Louis City may not impose, enforce, or apply any deed restriction that expressly, or by its operation, prohibits property sold, leased, or transferred by the city from being used for any lawful educational purpose by a charter school.

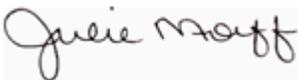
If St. Louis City offers property of the city for sale, lease, or rent, St. Louis shall not refuse to sell, lease, or rent to a charter school solely because the charter school intends to use the property for an educational purpose.

Any deeds that have been executed and recorded prior to the effective date of this act shall be exempt from this provision.
(Section 160.422)

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

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 Higher Education and Workforce Development
Missouri Department of Revenue
Missouri Department of Public Safety – Highway Patrol
Missouri Department of Social Services
Office of Administration
Secretary of State's Office
State Public Defender's Office
State Auditor's Office
State Treasurer's Office
Joint Committee on Administrative Rules
Office of State Courts Administrator
High Point R-III School District



Julie Morff
Director
January 19, 2021



Ross Strobe
Assistant Director
January 19, 2021