

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0854S.01I
 Bill No.: SB 5
 Subject: Education, Elementary and Secondary; Department of Elementary and Secondary Education; Teachers
 Type: Original
 Date: January 23, 2023

Bill Summary: This proposal allows the enrollment of nonresident students in public school districts.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue*	(\$343,710)	More or Less than (\$60,076,127 to \$60,196,541)	More or Less than (\$77,889 to \$195,715)
Total Estimated Net Effect on General Revenue	(\$343,710)	More or Less than (\$60,076,127 to \$60,196,541)	More or Less than (\$77,889 to \$195,715)

*The amount of fiscal impact to the state starting in FY 2025 depends upon the number of students that apply (and are accepted) to transfer to a different school district (beginning in FY 2025) and whether DESE withholds state aid for transfer improprieties (beginning in FY 2026). Oversight notes a difference in state aid paid to separate school districts (ranges from under \$1,000 per student to over \$8,000 per student). Therefore, Oversight assumes the net impact to General Revenue could be more or less than the costs estimated for other provisions in this proposal.

*Oversight also notes that resident school districts may still be allowed to count students that transferred out in their weighted average daily attendance (ADA) count used in the foundation formula calculation. Section 163.036 states school districts **may** use an estimate of the weighted ADA for the current year, or the weighted ADA for the immediately preceding year, or the weighted ADA attendance for the second preceding year, whichever is greater. This could result in the state paying the resident district and the transfer district in the same year for a student. However, since Oversight is unable to determine which year each school district will use in future years to determine the amount of state aid each school district is entitled to (weighted ADA), Oversight will, for purposes of this fiscal note, assume the savings/losses will occur immediately.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Parent Public School Choice Fund*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

*For simplicity, Oversight assumes all funds will be used within the year they are received. Transfer In and expenditures to parents and school districts in FY 2025 net to zero.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue	0 FTE	0 FTE or 1 FTE	0 FTE or 1 FTE
Total Estimated Net Effect on FTE	0 FTE	0 FTE or 1 FTE	0 FTE or 1 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 2024	FY 2025	FY 2026
Local Government	\$0	(Unknown) to Unknown	(Unknown) to Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from **Department of Elementary and Secondary Education (DESE)** assume the following:

Section 163.161

The language states “Any school district that operates magnet schools as part of a master desegregation settlement agreement shall not be considered inefficient for purposes of state aid for transportation of pupils attending such magnet schools and shall not receive a financial penalty for the magnet school transportation portion of the overall transportation budget as a result thereof.” The transportation payment is not calculated by building within a district at this time. Without a major change to how data is collected and changes to the transportation calculation system the state would not be able to know if the buildings transportation is considered inefficient. If this is mandated, then this would be an entire system change to determine if the penalty would apply. These changes are reflected in the estimate from OA-ITSD.

Section 167.1205

The legislation could have a minimal impact on the foundation formula as students would be allowed to transfer to districts that receive more state aid per pupil. DESE is not able to estimate what this cost could be without knowing what students were going to transfer and to which districts. DESE would also be required to collect data regarding if a district or charter will participate in open enrollment and create a model policy. DESE expects to absorb these duties, however if multiple pieces of legislation pass requiring additional duties FTE may be required to meet the needs of the department. If additional FTE are required DESE will seek authority through the appropriations process.

Section 167.1212

DESE assumes the Treasurer will make payments out of the new "Parent Public School Choice Fund" based upon the language in the legislation. If DESE is to be required to make the payments, there will be additional staff time to track and make the payments. DESE expects to absorb these duties, however if multiple pieces of legislation pass requiring additional duties FTE may be required to meet the needs of the department. If additional FTE are required DESE will seek authority through the appropriations process.

Section 167.1230.1 and 167.1230.2

These sections require the State Board of Education to accept appeals of rejected transfer requests. Based on this proposed language, the Office of Governmental Affairs estimates costs of less than \$100,000. These costs which will be dependent on the number of hearings and appeals the State Board receives, including but are not limited to hearing officer time for hearing and drafting recommendations for the State Board; administrative assistant time to schedule hearings,

provide notice to parties and any settlement negotiations; and court reporter costs. DESE assumes no more than ten hearings per year for an annual cost of \$5,665.50.

- For cost explanation purposes, the average cost for a teacher discipline hearing is \$566.55/hearing:
- Average of 3 hours of hearing officer time x average of \$58.08/hour
- Average of 7 hours administrative assistant time x \$31.08/hour
- Average of \$174.75 in court reporter costs/hearing.

Section 167.1230.11

The process of auditing 10% of districts participating in the public-school open enrollment has the potential to require additional FTE. It is difficult to predict as DESE has no way to estimate the number of districts or students who will participate. At minimum this would be a Director position and computer and monitors would be necessary. Funding for this would be the “Parent Public School Choice Fund” as created in 167.1212 in this bill. If not funded, DESE would assume General Revenue would be required to be used. At this time, DESE will absorb the additional duties and evaluate the need for FTE based on participation. If and when additional FTE are needed, DESE will seek appropriation authority through the annual process.

Officials from the **Office of Administration – Information Technology** state it is assumed that every new IT project/system will be bid out because all ITSD resources are at full capacity. This project would have to be prioritized by DESE to be worked among DESE's other projects. ITSD assumes this has potential for massive impacts to the Foundation Formula (School Finance) application/calculations. It's unsure if these modification would be able to be handled appropriately by the current/existing application in place today. It is assumed the Foundation Formula is where these changes would be needed, in order to provide proper funding per provisions for transporting pupils, and state aid. It is assumed these changes/modifications are able to be programmed into the existing school finance/foundation formula application/code. ITSD estimates the project would take 3,618 hours at a contract rate of \$95 for a total cost of \$343,710 with on-going support costs of \$70,461 in FY 2025 and \$72,223 in FY 2026.

Officials from the **Office of the State Treasurer** and **Office of the State Courts Administrator** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from the **Gordon Parks Elementary Charter School** state this proposal may increase ADA funding and at the same time, may decrease enrollment and ADA funding.

In response to a similar proposal, HB 543 (2021), officials from the **Kansas City School District** stated the cost of this bill is undeterminable until families make the election. The cost of children in district moving out is greater than the cost for those receiving. Loss of local and state revenue for a pupil in KC is roughly \$9,000. Loss of a child or even two or three from a classroom does not allow the sending district to reduce costs of teachers, transportation, etc., causing the revenue hit to not be balanced with reduced expenditures.

Holding up housing inside boundaries for children who attend a neighboring district eliminates the opportunity for traditional and charter schools to fill seats that provide adequate trailing revenues.

In response to a similar proposal, HB 543 (2021), officials from the **Springfield Public Schools** estimated a cost of \$150,000 annually.

In response to a similar proposal, HB 543 (2021), officials from the **Afton School District** assumed the proposal would fiscally impact their school district, but did not elaborate.

In response to a similar proposal, HB 543 (2021), officials' from **Malta Bend R-V School District** and **High Point R-III School District** each assumed the proposal would not fiscally impact their respective districts.

In response to a similar proposal from 2020 (HB 2310), officials from the **Shell Knob School District** assumed this would have a negative fiscal impact.

In response to a similar proposal from 2020 (HB 2310), officials from the **Wellsville-Middletown R-1 School District** assumed this bill has the potential to have a substantial negative fiscal impact on Missouri public schools. It will make long range planning virtually useless if a school can't realistically predict its enrollment figures for the coming years due to the vagaries of this bill that would allow students to transfer with no usable notice to the districts.

Oversight notes this proposal allows student to transfer beginning in the 2024-2025 school year (FY 2025). Because DESE assumes the number of transfers cannot be estimated, and the amount of state funding is district specific (can vary from under \$1,000 per student to over \$8,000 per student, depending upon the school district), this note will reflect a potential (Unknown) cost (if students transfer into districts that receive more state aid) to an Unknown positive impact (if students generally transfer into districts that receive less state aid) for both general revenue and school districts. Oversight assumes that some districts would see a net negative direct fiscal impact, while others would see a net positive direct fiscal impact.

Oversight will reflect a \$60 million appropriation from the General Revenue fund to the new Parent Public School Choice Fund (§167.1212) in FY 2025 (Section B states the appropriate sections shall become effective July 1, 2024). Oversight assumes the funds will be used to reimburse parents and school districts for transportation costs. For simplicity, Oversight assumes all funds will be used within the year they are received.

Oversight notes DESE indicated the potential for an FTE for various provisions of this bill but also notes they indicated they may be able to absorb the additional duties. Oversight is uncertain if DESE can absorb the additional duties in this proposal. Therefore, Oversight will show a range of impact for the FTE of \$0 (DESE can absorb additional duties) to the cost of a Director position to conduct audits.

Oversight assumes section 167.1230 states DESE may withhold state aid payments for transfer improprieties identified in annual audits conducted by DESE. Oversight will show a range of impact of \$0 (no withholds) or an unknown savings to General Revenue.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE			
<u>Costs - OA-ITSD - foundation formula changes p. 4</u>	(\$343,710)	(\$70,461)	(\$72,223)
<u>Transfer Out – to the Parent Public School Choice Fund §167.1212.1 p. 5</u>	\$0	(\$60,000,000)	\$0 or (Unknown)
<u>Costs or Cost Avoidance – Difference in state funding for resident district and nonresident district for transferring students §167.1205 & §167.1210</u>	\$0	(Unknown) or Unknown	(Unknown) or Unknown
<u>Costs – DESE – to conduct hearings on appeals §167.1220 p. 4</u>	\$0	(\$5,666)	(\$5,666)
<u>Costs - DESE - to conduct annual audits - 167.1230.11 p. 4</u>	\$0	\$0 or	\$0 or
Personnel Service	\$0	(\$63,912)	(\$65,190)
Fringe Benefits	\$0	(\$39,495)	(\$39,974)
Expense & Equipment	\$0	(\$17,007)	(\$12,662)
<u>Total Costs – DESE</u>	\$0	(\$120,414)	(\$117,826)
<u>FTE Change</u>	0 FTE	0 or 1 FTE	0 or 1 FTE
<u>Savings - DESE may withhold state aid for transfer improprieties identified by an audit - §167.1230.11</u>	\$0	\$0	\$0 or Unknown
ESTIMATED NET EFFECT ON GENERAL REVENUE	(\$343,710)	More or Less than (\$60,076,127 to \$60,196,541)	More or Less than (\$77,889 to \$195,715)
<u>Net FTE Change for General Revenue</u>	0 FTE	0 FTE or 1 FTE	0 FTE or 1 FTE

<u>FISCAL IMPACT – State Government</u> Continued	FY 2024 (10 Mo.)	FY 2025	FY 2026
PARENT PUBLIC SCHOOL CHOICE FUND			
<u>Transfer In</u> – from General Revenue	\$0	\$60,000,000	\$0 or Unknown
<u>Expenditures</u> – to parents/students or school districts for costs of transportation	<u>\$0</u>	<u>(\$60,000,000)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT TO THE PARENT PUBLIC SCHOOL CHOICE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
SCHOOL DISTRICTS			
<u>Nonresident Districts</u> - additional State funding for non-resident transfers but also additional costs to educate those students	\$0	Unknown or (Unknown)	Unknown or (Unknown)
<u>Resident Districts</u> – reduced state funding, but also possible reduction in costs to educate those students	\$0	(Unknown) or Unknown	(Unknown) or Unknown
<u>Transfer In</u> - from the Parent Public School Choice Fund - to reimburse nonresident districts for the costs of special educational services - §167.1211	\$0	\$0 or Unknown	\$0 or Unknown
<u>Loss</u> - DESE may withhold state aid for transfer improprieties identified by an audit - §167.1230.11	\$0	\$0	\$0 or (Unknown)
ESTIMATED NET EFFECT ON SCHOOL DISTRICT FUNDS	<u>\$0</u>	<u>(Unknown) or Unknown</u>	<u>(Unknown) or Unknown</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This act establishes provisions allowing enrollment of nonresident students in public school districts and modifies provisions regarding transportation costs for certain school districts.

TRANSPORTATION AID

Under this act, any school district that operates magnet schools as part of a master desegregation settlement agreement shall not be considered inefficient for purposes of state aid for transportation of pupils attending such magnet schools and shall not receive a financial penalty for the magnet school transportation portion of the overall transportation budget. (Section 163.161)

PUBLIC SCHOOL OPEN ENROLLMENT ACT

This act establishes the Public School Open Enrollment Act to enable K-12 students to attend school in a nonresident school district or charter school ("nonresident district"). On or before October 1st of each year, each school district and charter school shall indicate whether it will participate in the program during the subsequent school year. Participating districts and schools may accept transfer nonresident students from any other school district. For the 2024-25 and 2025-26 school years, a district may restrict the number of students who may transfer away from the school district to a maximum of 5% of the district's enrollment for the prior year.

The act shall not be construed to require any school to add teachers, staff, or classrooms. The Department of Elementary and Secondary Education shall develop a model policy for districts and charter schools to determine such standards and the number of transfers they may accept. The model policy shall be adopted by all districts and charter schools, whether or not they participate in the program, and may be modified to meet each district's and charter school's particular needs. The model policy shall require each district and charter school to define "insufficient classroom space" and may provide additional standards for evaluating transfer applications.

Nonresident districts shall accept credits toward graduation from other districts and shall award a diploma to any transfer student meeting such nonresident district's graduation requirements.

Superintendents shall cause information regarding the open enrollment program to be posted on his or her school district's and charter school's website and in the district's and charter school's student handbooks.

A student seeking to transfer to a magnet school, academically selective school, or school with a competitive entrance process shall submit proof that the student meets all admission requirements. A student may be denied transfer if, in the most recent school year, he or she has been suspended from school two or more times, was suspended for an act of school violence, or expelled for acts school administrators are required to report to law enforcement under current law. Such student may alternatively be permitted to transfer on a provisional, probationary basis subject to no further disruptive behavior based on standards that shall be developed by the nonresident district. Students denied transfer shall have the right to an in-person meeting with the nonresident district's superintendent.

A 9th-12th grade transfer student shall be ineligible to participate in varsity sports during the first 365 days of such student's enrollment, unless the student meets certain conditions as provided in the act. A statewide activities association may provide additional penalties if the student was unduly influenced to transfer for reasons related to participation in sports. (Sections 167.1200 and 167.1205)

Students may transfer into only one nonresident district per school year. Such students shall commit to attending and taking all courses through the nonresident district for at least one school year, and at least one such course shall be in-seat. Students that transfer back to their resident districts shall reapply in order to transfer back into a nonresident district and shall first remain in the resident district for at least one full semester.

Siblings of transfer students may also enroll in the nonresident district, subject to limitations based on school capacity and such sibling having no disciplinary issues.

Except for students who qualify for reimbursement of transportation costs as described in the act and for agreements allowing such student to be picked up at an existing bus stop, transferring students or their parents shall be responsible for transportation to nonresident districts. By agreement with the nonresident district, parents of transfer students may waive requirements for such district to provide transportation required under the student's Individualized Education Program plan.

Any student who qualifies for free and reduced price lunch and transfers to an adjacent school district or charter school shall be reimbursed quarterly by the Parent Public School Choice Fund established in this act, based on calculations as described in the act. (Section 167.1210)

Transfer students who receive special education services shall be reimbursed by the Parent Public School Choice Fund for the costs of providing such services in excess of applicable state and federal funds. Such reimbursement shall not exceed the district's current expenditure per average daily attendance. (Section 167.1211)

This act establishes the Parent Public School Choice Fund. The Fund shall consist of an appropriation of \$60 million and any subsequent appropriations. The Department shall annually evaluate the availability and use of moneys from the fund. If additional moneys are needed to

fulfill the purposes of the act, the Department shall request such moneys by a specific line item appropriation. (Section 167.1212)

By October 1st annually, each school district and charter school shall set the number of transfer students such district will accept for the following school year. The district or charter school may set criteria, including limits on the number of students to be accepted to particular buildings, grades, classrooms, or programs. Districts and charter schools shall publish and notify the Department of such information.

Each district and charter school shall develop a procedure for creating a waiting list for all transfer applications when applications exceed the district's or charter school's maximum. In accepting transfer students from the waiting list, nonresident districts shall give additional priority to students in the following order: siblings of transfer students, children of active duty military personnel, children of district or charter school employees, students who previously attended as resident students, and students whose parents' employment circumstances would cause transfer to be in the student's best interest. Nonresident districts may also include other priority factors. Parents of applicants shall be informed of how the waiting list shall operate and may be required to reapply to remain on the waiting list. (Section 167.1215)

Transfer applications shall be submitted to the nonresident and resident districts on a form approved by the Department before December 1st in the year prior to the school year in which the student seeks to transfer. Nonresident districts shall mark the date and time of receipt on each such application. Applications shall be reviewed and decided upon by the superintendent. Reasons for any rejection shall be submitted to the school board or governing body for a charter school for review, and rejection decisions may only be finalized by a majority vote of the board or governing body.

School boards and governing bodies of charter schools may adopt a policy granting the superintendent authority to approve transfer applications submitted after the December 1st deadline if conditions described in the act are met, including a finding of good cause. The act provides additional procedures related to the timing of late applications. Resident districts may appeal the decisions of nonresident districts for suspected violations of the late application provisions of the act. The Commissioner of Education or a three member panel selected by the Missouri Charter Public School Association shall mediate such disputes and shall conduct a hearing if the mediation is unsuccessful. A decision shall be issued within 10 days of such hearing and may be appealed within 5 days.

The superintendents of nonresident districts shall notify the parents of transfer applicants by February 1st whether the application has been accepted or rejected. Such notice shall include, if the application is rejected, the reason for a rejection, or, if the application is accepted, an enrollment deadline and instructions for renewing the transfer enrollment. (Section 167.1220)

The provisions of the Public School Open Enrollment Act shall not supersede any provision of an enforceable desegregation court order or a court-approved desegregation plan. A school

district may declare an exemption from the Act if the district is subject to such an order or desegregation plan, or if the district is subject to a settlement agreement to remedy past segregation. Such an exemption is irrevocable for one year from the date the district gives notice to the Department. Notice of an exemption or to resume participation in the Act for the next school year shall be issued to the Department by April 1st.

By June 1st of each year, the Department shall report to each school district the maximum number of transfers under the Public School Open Enrollment Act for the next school year.

When students are unable to transfer due to an exemption declared by a school district due to a court order, desegregation plan, or segregation-related settlement agreement, such students shall be given priority for any transfers in the subsequent school year by the resident district in the order application notices were received from such students.

A school district with an approved or voluntary diversity plan may deny a Public School Open Enrollment Act transfer if the district determines that such transfer conflicts with such plan. Such denials shall be deemed to be made in good faith.

Students transferring to nonresident districts pursuant to provisions of current law allowing transfer if the resident district does not offer high school instruction, under the Elementary and Secondary School District Enrollment Option Act, or through the Metropolitan Schools Achieving Value in Transfer Corporation, shall not be subject to the requirements of the Open Enrollment Act. School districts participating in such programs shall also not be subject to such requirements. Students transferring pursuant to the Open Enrollment Act shall not be considered transfer students for purposes of other provisions of current law allowing transfer. (Section 167.1225)

Transfer applicants who are rejected may file an appeal with the Department or a three member panel selected by the Missouri Charter Public School Association. The appeal shall be sent in writing within 10 business days after the student or the student's parent receives notice of rejection. A copy shall also be sent to the superintendent of the nonresident district where the applicant seeks to transfer. The appeal shall state the basis for appeal, shall include a copy of the notice of rejection, and may include documentation to show that transfer would be in the student's best interest. The nonresident district may submit additional documentation or arguments supporting the rejection decision to the Department or the three member panel, and shall submit copies of any such response to the student or student's parent, no later than 10 days after receiving a copy of the appeal. The Department or the three member panel shall notify the parent, nonresident district, and resident district of the basis for the Department's or panel's decision if it overturns the rejection.

The Department shall collect data from school districts and each charter school sponsor shall collect data from each sponsored charter school on the number of applications made under the act to study its effects. The Department shall consider the maximum number of transfers and exemptions for up to two years to determine whether a significant racially segregative impact has

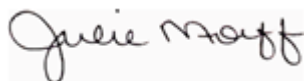
occurred in any district. Before October 1st of each year, the Department and each charter school sponsor shall report its findings to the Joint Committee on Education, the House Committee on Elementary and Secondary Education, the Senate Committee on Education, and any other education committee designated by the Speaker of the House of Representatives or the President Pro Tempore of the Senate.

(Section 167.1230)

These provisions shall become effective on July 1, 2024.

SOURCES OF INFORMATION

Department of Elementary and Secondary Education
Office of Administration – Information Technology
Office of the State Courts Administrator
Office of the State Treasurer
Gordon Parks Elementary Charter School
Kansas City Public Schools
Springfield Public Schools
Afton School District
Malta Bend R-V School District
High Point R-III School District
Shell Knob School District
Wellsville-Middleton R-I School District



Julie Morff
Director
January 23, 2023



Ross Strobe
Assistant Director
January 23, 2023