

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4179S.01I
 Bill No.: SB 1051
 Subject: Education, Elementary and Secondary; Department of Elementary and Secondary Education; Teachers
 Type: Original
 Date: January 29, 2024

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 2025	FY 2026	FY 2027
General Revenue*	(\$112,060)	More or Less than (\$60,120,922 to \$60,371,512)	More or Less than (\$121,445 to \$366,078)
Total Estimated Net Effect on General Revenue	(\$112,060)	More or Less than (\$60,120,922 to \$60,371,512)	More or Less than (\$121,445 to \$366,078)

*The amount of fiscal impact to the state starting in FY 2026 depends upon the number of students that apply (and are accepted) to transfer to a different school district (beginning in FY 2026) and whether DESE withholds state aid for transfer improprieties (beginning in FY 2027). 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 2025	FY 2026	FY 2027
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 2026 net to zero.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue	0 FTE	0 FTE or 2 FTE	0 FTE or 2 FTE
Total Estimated Net Effect on FTE	0 FTE	0 FTE or 2 FTE	0 FTE or 2 FTE

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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

Officials from the **Office of Administration – Information Technology (OA-ITSD)** state 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 system would require an update/change in order to put this language into practice.

Section 167.1212

DESE assumes this section would create the "Parent Public School Choice Fund" with \$60,000,000 to be appropriated into this fund. DESE assumes this would be a transfer appropriation from General Revenue.

Section 167.1220

This section requires a hearing on the record to be conducted by the Commissioner of Education. 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 hearing appeals the State Board receives from students and families, include 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;
- Court reporter costs;

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

This section would require the process of auditing 10% of districts participating in the open enrollment. This would require additional FTE along with associated benefits, expenses and equipment. The FTE required would be a Director position along with an Assistant Director/Program Specialist to assist with oversight, payments and data collection/analysis as required throughout the legislation.

In response to a similar proposal, SB 5 (2023), **DESE** stated the process of auditing 10% of districts participating in the public-school open enrollment had 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.

There will be a fiscal/expenditure impact for creating/updating a data collection to account for the new required fields. The Core Data Web Application will also require updating to the appropriate pages to allow for adding/updating/displaying the new data fields. At a minimum, DESE will need to add if the school is participating, how many students applied and how many were rejected. The student enrollment status collection will require new fields to be added as well to identify the students for the program. DESE assumes a cost estimate of \$10,000.

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. ITSD assumes this has potential for massive impacts to the Foundation Formula (School Finance) application/calculations. It's unsure if these modifications would be able to be handled appropriately by the current/existing application in place today. ITSD estimates the project would take 972 hours at a contract rate of \$105 for a total cost of \$102,060 with on-going support costs of \$20,922 in FY 2026 and \$21,445 in FY 2027.

Officials from the **Office of the State Treasurer** assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

In response to a similar proposal, SB 5 (2023), officials from the **Office of the State Courts Administrator** assumed the proposal would have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for OSCA.

In response to a similar proposal, SB 5 (2023), officials from the **Gordon Parks Elementary Charter School** stated 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 a 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. The 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 a student to transfer beginning in the 2025-2026 school year (FY 2027). 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 2027 (Section B states the appropriate

sections shall become effective July 1, 2025). 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 on a similar proposal, SB 5 (2023), DESE indicated the potential need for FTE for various provisions of the bill but also note they indicated they may be able to absorb the additional duties. DESE indicated the need for 2 FTE for this proposal. Oversight is uncertain if DESE can absorb the additional duties in this proposal or will require the additional FTE. Therefore, Oversight will show a range of impact for the FTE of \$0 (DESE can absorb additional duties) to the cost of 2 FTE as estimated by DESE 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 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE			
<u>Costs</u> - OA-ITSD - foundation formula changes p. 4	(\$102,060)	(\$20,922)	(\$21,445)
<u>Transfer Out</u> – to the Parent Public School Choice Fund §167.1212.1 p. 4	\$0	(\$60,000,000)	\$0 to (Unknown)
<u>Costs or Cost Avoidance</u> – Difference in state funding for resident district and nonresident district for transferring students §167.1205 & §167.1210	\$0	(Unknown) or Unknown	(Unknown) or Unknown
<u>Costs</u> – DESE – to conduct hearings on appeals §167.1220 p. 4	\$0	Less than (\$100,000)	Less than (\$100,000)
<u>Costs</u> – DESE – create/update student enrollment status collection p.	(\$10,000)	\$0	\$0
<u>Costs</u> - DESE - to conduct annual audits - 167.1230.11 p. 4	\$0	\$0 or	\$0 or
Personnel Service	\$0	(\$142,302)	(\$145,148)
Fringe Benefits	\$0	(\$85,194)	(\$86,297)
Expense & Equipment	\$0	(\$23,094)	(\$13,188)
<u>Total Costs</u> – DESE	\$0	(\$250,590)	(\$244,633)
FTE Change	0 FTE	0 or 2 FTE	0 or 2 FTE
<u>Savings</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 GENERAL REVENUE	(\$112,060)	More or Less than (\$60,120,922 to \$60,371,512)	More or Less than (\$121,445 to \$366,078)
Net FTE Change for General Revenue	0 FTE	0 FTE or 2 FTE	0 FTE or 2 FTE

<u>FISCAL IMPACT – State Government</u> Continued	FY 2025 (10 Mo.)	FY 2026	FY 2027
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	\$0	(\$60,000,000)	\$0 or (Unknown)
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 2025 (10 Mo.)	FY 2026	FY 2027
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>	(Unknown) or <u>Unknown</u>	(Unknown) or <u>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.

MAGNET SCHOOLS (Section 163.161)

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.

PUBLIC SCHOOL OPEN ENROLLMENT ACT (Sections 167.1200 to 167.1230)

The act establishes the "Public School Open Enrollment Act" to enable students to transfer from their district of residence ("resident district") to a nonresident district. The Act shall become effective on July 1, 2025.

TRANSFER POLICY AND PARTICIPATION (Section 167.1205)

On or before October 1st of each year, each school district and charter school shall indicate whether it will participate in the open enrollment program during the subsequent school year. Participating districts and schools may accept transferring nonresident students from any other school district. For the 2025-26 and 2026-27 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 or charter school's particular needs. The model policy shall require each district or 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 transferring student who meets the nonresident district's graduation requirements.

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

A student seeking to transfer to a magnet school, an academically selective school, or a 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 that 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 to 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.

APPLYING FOR TRANSFER (Section 167.1210)

Students may transfer into only one nonresident district per school year. Transferring 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 who 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 transferring students may also enroll in the same nonresident district to which their sibling transfers, subject to limitations based on school capacity and the student's disciplinary record.

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

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 described in the act.

PARENT PUBLIC SCHOOL CHOICE FUNDS (Sections 167.1211 and 167.1212)

Nonresident districts shall receive reimbursement for the costs of certain special educational services for transferring students. Such reimbursement shall not exceed the district's current expenditure per average daily attendance. The reimbursement shall come from the Parent Public School Choice Fund established in the act. 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.

NUMBER OF TRANSFER STUDENTS (Section 167.1215)

By October 1st annually, each school district and charter school shall set the number of transferring students such district or charter school is willing to 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 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 school in the district or charter school 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.

APPLICATION PROCESS (Section 167.1220)

A student's transfer application 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 charter school governing body for review. Rejection decisions may be finalized only 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 Commission 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.

AUTHORIZED EXEMPTIONS (Section 167.1225)

The provisions of the Public School Open Enrollment Act shall not supercede 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 exemption is irrevocable for one year from the date the district gives notice to the Department. Notice of a district's exemption or intent to resume participation in open enrollment 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 an 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.

APPEAL PROCEDURE (Section 167.1230)

Transfer applicants who are rejected may file an appeal with the Department or a three member panel selected by the Missouri Charter Public School Commission. 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

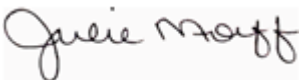
parent, nonresident district, and resident district of the basis for the Department's or panel's decision if it overturns the rejection.

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.

This legislation is not federally mandated and would not duplicate any other program.

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



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January 29, 2024



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