

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5544S.01I  
 Bill No.: SB 1392  
 Subject: Education, Elementary and Secondary; Treasurer, State; Department Of  
 Elementary And Secondary Education  
 Type: Original  
 Date: February 12, 2024

Bill Summary: This proposal modifies provisions of the Missouri Empowerment Scholarship Accounts program and authorizes charter schools to operate in boone county, st. Charles county, and st. Louis county.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue Fund*	\$0 to Could Exceed (\$271,213,853)	\$0 to Could Exceed (\$271,213,853)	\$0 to Could Exceed (\$271,213,853)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0 to Could Exceed (\$271,213,853)</b>	<b>\$0 to Could Exceed (\$271,213,853)</b>	<b>\$0 to Could Exceed (\$271,213,853)</b>

\*Oversight reflects changes to eliminate the 2 caps in the scholarship program and replacing them with a \$75 million cap that will be adjusted for inflation. Additionally, Oversight reflects potential savings to the foundation formula from students transferring to private schools. The fiscal impact to DESE, for Section 160.400, depends upon the number of charter schools created (if any) and the number of students attending the charter schools. DESE has provided a range of fiscal impact depending upon the number of students attending from 5% to 20% (p. 7).  
 5% of the population moving to a charter school - \$43,565,161  
 10% of the population moving to a charter school - \$104,562,521  
 15% of the population moving to a charter school - \$177,801,145  
 20% of the population moving to a charter school - \$262,039,773

\*Oversight also notes that school districts may still be allowed to count students that transferred out of their district 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 (no savings). This could result in the state paying the out the scholarship as well as the FWADA payment 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.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>
MO Empowerment Scholarship Accounts Fund	Up to \$866,069	Up to \$845,972	Up to \$843,492
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Up to \$866,069</b>	<b>Up to \$845,972</b>	<b>Up to \$843,492</b>

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>
MO Empowerment Scholarship Fund	Up to 2 FTE	Up to 2 FTE	Up to 2 FTE
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>Up to 2 FTE</b>	<b>Up to 2 FTE</b>	<b>Up to 2 FTE</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>
<b>Local Government</b>	<b>Could exceed \$221,213,853</b>	<b>Could exceed \$221,213,853</b>	<b>Could exceed \$221,213,853</b>

## FISCAL ANALYSIS

### ASSUMPTION

Due to time constraints, **Oversight** was unable to receive some agency responses in a timely manner and performed limited analysis. Oversight has presented this fiscal note on the best current information that we have or on information regarding a similar bill(s). Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

### Sections 135.713, 135.714, 135.715 and 166.700 Missouri Empowerment Scholarship Program

Officials from the **Department of Revenue (DOR)** note:

This proposal makes changes to the Missouri Empowerment Scholarship Program and tax credit. The program and credit were created in 2021. For informational purposes, DOR is providing the authorizations, issuances and redemptions since it began.

Year	Authorized	Issued	Total Redeemed
FY 2023	\$10,249,109.00	\$8,446,888.00	\$2,026,624.68
FY 2022	\$0.00	\$0.00	\$0.00
FY 2021	\$0.00	\$0.00	\$0.00
<b>TOTALS</b>	\$10,249,109.00	\$8,446,888.00	\$2,026,624.68

When the program was created, there were 2 bills establishing the program. HB 349 (2021) set the annual cap at \$50 million and allowed it to be inflated annually until reaching \$75 million where it would stay. SB 86 (2021) set the annual cap at \$25 million and allowed it to be inflated to \$50 million also, where it would stay. SB 86 and its cap language is the current cap on the program.

This program, while it was able to start the collection of the funding for the scholarships, it was not allowed to issue any of the scholarships until the state funded the school transportation funding aid formula at 40% or more. It should be noted that in FY 2022, the funding formula was at 42% and in FY 2023 it is at 97%. Therefore, the program was able to begin in FY 2022. The FY 2023 cap on the program is \$26,850,000.

This proposal is eliminating the 2 caps in the statutes and replacing it with a \$75 million cap that will be adjusted for inflation in future years. With this proposal becoming effective on August 28, 2024, the cap would increase \$48,150,000 (\$75m new cap - \$26,850,000 current cap).

Additionally, this makes the credit refundable which it was not before, so DOR assumes this will encourage the entire cap to be issued each year.

This proposal is requiring that the cap be annually adjusted by the CPI and by the percentage increase in the appropriated amount for school transportation. DOR assumes that the funding formula is already funded at the 90% rate outlined in this proposal and that the only inflation adjustment would be the CPI. For fiscal note purposes, DOR uses a 2% inflation factor when determining a fiscal impact. This proposal, starting in FY 2025, will be expected to result in additional loss to general revenue and that loss will continue outside the fiscal note period due to the inflation factor.

New Cap Inflated Annually

Fiscal Year	New Cap
2025	\$75,000,000
2026	\$76,500,000
2027	\$78,030,000
2028	\$79,590,600
2029	\$81,182,412

\*2% inflation factor

This will result in an additional loss to the state not calculated in the previous fiscal note.

Fiscal Year	Loss to General Revenue
2025	(\$48,150,000)
2026	(\$46,650,000)
2027+	(\$51,180,000)
2028	(\$52,740,600)
2029	(\$54,332,412)

The responsibility for the administering of the tax credit and program as well as setting the cap amount are those of the Office of the State Treasurer. DOR is only responsible for the redeeming of the credits. DOR will need to update their computer systems for the new caps, estimated \$1,785.

The other changes in this proposal modify how the scholarship program is administered and will not have a fiscal impact on DOR.

**Oversight** notes the General Assembly originally passed Truly Agreed and Finally Passed CCS for SB 86, that modified HB 349 (2021).

**Oversight** notes the CCS for SB 86 modified Section 135.715, when enacted, and reduced the cumulative amount of tax credits that could be authorized under the Missouri Empowerment

Scholarship Accounts Program from \$50 million to \$25 million (first year) and from \$75 million to \$50 million (fully implemented).

**Oversight** notes this proposal eliminates the 2 caps in the statutes and replaces it with a \$75 million cap that will be adjusted for inflation in future years.

**Oversight** also notes that in addition to CPI adjustment, the proposal allows for additional adjustment by the percentage increase in the appropriated amount for school transportation where the formula is not funded at 40% or more.

**Oversight** notes that DOR notes that transportation is currently funded at well over 90%. Therefore, assuming this increase would not be applicable at this time.

**Oversight** notes officials from the DOR assume that adjusting the cap with CPI would have an impact to the general revenue, as the cap is increasing throughout future years.

**Oversight** took the DORs calculation and adjusted both, \$75 and \$25 million cap, in order to gain the actual difference and approximate impact to the general revenue, as shown in table below:

Fiscal Year	\$75 Mill adjusted for CPI	\$25 Mill adjusted for CPI	Difference = Cost to the Gen. Revenue
2024	\$75,000,000	\$25,000,000	\$50,000,000
2025	\$76,500,000	\$26,010,000	\$52,020,000
2026	\$78,030,000	\$26,530,200	\$53,060,400
2027	\$81,182,412	\$27,060,804	\$54,121,608

Oversight assumes the transportation formula will be fully funded, thus the only adjustment used will be CPI of 2%. Therefore, Oversight will reflect a loss of revenue that could exceed \$50 million effective FY 2025 and thereafter.

**Oversight** notes the DOR assumes the need for \$1,785 to update their computer systems for the new caps. Oversight assumes DOR is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process.

In response to the similar proposal, SCS for SB 727 -2024, officials from the **Department of Elementary and Secondary Education (DESE)** assumed Section 135.713.3 RSMo, does not appear to modify Department of Elementary and Secondary Education's (DESE) responsibilities for the Empowerment Scholarship, but could increase the number of students qualified for the scholarship. DESE may have additional Formula Funds to pay out until this provision expires but there is no way to calculate what that impact could be at this time.

**Oversight** notes that DESE provided additional information via e-mail and note:

<b>Amount</b>	<b>FY 2025 SAT</b>	<b>Students obtaining scholarship</b>	<b>Avrg. FWADA Payment</b>	<b>Projected savings to formula</b>	<b>Projected net cost to the tax credit</b>
\$25 million	\$6,760	3,698	\$5,519	\$20,412,204	\$4,589,218

Average projected FY 2025 payment per FWADA is \$5,519.46.

The problem with assuming this is savings is the basic fact that the foundation formula law allows the LEA's to be paid on the higher of the first or second preceding year or an estimate of the current year. So there is the potential for these students' ADA to still actually be used by the district in their payment for a couple years depending on the district's enrollment trend. It's not as cut and dry as saying this much savings, as DESE's assumption would be there is not much savings at all. And of course the average per FWADA is for the whole state and not just for the districts who are in the area the MOScholars can apply to.

**Oversight** notes the DESE projections are based on \$25 million dollar change, therefore, at \$50 million potential impact the amounts would double for each category as follow:

<b>Amount</b>	<b>FY 2025 SAT</b>	<b>Students obtaining scholarships</b>	<b>Avrg. FWADA Payment</b>	<b>Projected savings to formula</b>	<b>Projected net cost to the tax credit</b>
\$25 million	\$6,760	3,698	\$5,519	\$20,412,204	\$4,587,796
\$50 million	\$6,760	7,396	\$5,519	\$40,818,524	\$9,175,592

**Oversight** notes DESE's estimate is the net impact of the cost of the scholarship and the savings from the foundation formula. Oversight notes the savings to the Foundation Formula estimated at \$40,825,920 (7,396 x \$5,520).

**Oversight** also notes that 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 out the scholarship as well as the FWADA payment 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.

In response to the similar proposal, SCS for SB 727 -2024, officials from the **Office of the State Treasurer (STO)** note:

Removing the student residency requirements could exponentially expand the program. Provided the EAOs raise enough donations to fund all applicants, the STO would require additional staff to manage daily program processing and required reporting. Depending on the expansion of the program, the need for the required additional staff could vary and STO could require 2 or 3 FTE.

**Oversight** notes the FY 2025 budget shows there are currently 4 budgeted FTEs for STO office and if the program continues to grow the STO will potentially require more FTE in future. Therefore, Oversight will show a cost to the MO Empowerment Scholarship Accounts Fund for up to 2 FTE (Research Analysts) each with an estimated annual salary of \$42,311.

**Oversight** notes 2% of qualifying contributions received by educational assistance organizations shall be deposited into the MO Empowerment Scholarship Accounts Fund. Based on the expansion of the cap by approximately \$50 million, Oversight estimates the MO Empowerment Scholarship Accounts Fund may receive up to \$1,000,000 in additional revenue.

Officials from the **Oversight Division** assume the proposal will have no fiscal impact on their organization.

#### Section 160.400 - Charter Schools in Boone, St Charles, and Saint Louis County

In response to other proposals this year, officials from **DESE** stated Section 160.400 RSMo, expanding charter schools into Boone, St. Charles, and St. Louis Counties would cause the Basic Formula Call to increase. DESE has assumed 5%, 10%, 15%, and 20% of the district populations would move to a charter school. Increase to the formula call could be as follows:

##### Boone County:

5% of the population moving to a charter school - \$3,227,859  
10% of the population moving to a charter school - \$6,919,924  
15% of the population moving to a charter school - \$10,990,467  
20% of the population moving to a charter school - \$15,569,828

##### St. Charles County:

5% Moved to Charter Schools - \$11,628,555  
10% Moved to Charter Schools - \$24,549,170  
15% Moved to Charter Schools - \$38,989,858  
20% Moved to Charter Schools - \$55,589,505

##### St. Louis County:

5% of the population moving to a charter school - \$28,706,747  
10% of the population moving to a charter school - \$73,093,427  
15% of the population moving to a charter school - \$127,820,820

20% of the population moving to a charter school - \$190,880,440

The increase is largely due to the changes passed in HB 1552 (2022 legislative session) to require the foundation formula to pay, in addition to any state aid remitted to the charter schools, an amount equal to the weighted average daily attendance of the charter schools multiplied by the differences of the amount of state aid and local aid per weighted average daily attendance received by the school district in which the charter school is located.

DESE has shown a range in the increase from the 5% to the 20% population change to charter schools. These amounts would continue to increase as enrollment in the charter schools increase.

**Oversight** notes, prior to the passage of Truly Agreed To and Finally Passed HB 1552 (2022), charter school per pupil funding was less than what the local district received. With the passage of HB 1552, the call to the foundation formula was increased to cover this difference. With the expansion of charter schools, this proposal would result in an increased call to the foundation formula based on the per pupil difference in local funds received by the school district and the local funds received by charter school.

Ultimately, **Oversight** is uncertain what number of public school students would transfer to charter schools. Oversight will show a range of impact to General Revenue of \$0 (no students transfer to charter schools) to the cost estimated by DESE that could exceed the 20% participation on the fiscal note.

In addition, **Oversight** will report the negative fiscal impact to School Districts equal to \$0 (no public school students transfer to charter school) to an unknown loss of local dollars and a corresponding positive fiscal impact to Charter Schools.

**Oversight**, for information purposes shows the increase to the formula call, per 20% participation, could be as follows:

County RSMo Section Amount (particip. at 20%)

County	RSMo Section	Cost at 20% Participation
Boone County	160.400 2. (4) (b) (5)	\$15,569,828
St. Charles County	160.400 2. (4) (b) (6)	\$55,589,505
St. Louis County	160.400 2. (4) (b) (7)	\$190,880,440
<b>Total</b>		<b>\$262,039,773</b>

**Oversight** notes, even as this proposed legislation may reduce the number of students educated by public school districts, public school districts may not be able to immediately reduce their fixed and variable costs proportionately, including buildings and staff.

#### Rule Promulgation



Officials from the **Joint Committee on Administrative Rules** assumed this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** noted many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
<b>GENERAL REVENUE</b>			
<u>Costs</u> – Section 135.715 – Empowerment Scholarship Tax Credit Cap – p.3-5	Could Exceed (\$50,000,000)	Could Exceed (\$50,000,000)	Could Exceed (\$50,000,000)
<u>Savings</u> – Section 135.715 – savings to the foundation formula from more students being eligible under the expanded cap – p.6	\$0 to Could exceed <u>\$40,825,920</u>	\$0 to Could exceed <u>\$40,825,920</u>	\$0 to Could exceed <u>\$40,825,920</u>
<u>Costs</u> – DESE – increased call to the foundation formula - §160.400.2(6) p.7, 8	\$0 to (Unknown, Could exceed <u>\$262,039,773</u> )	\$0 to (Unknown, Could exceed <u>\$262,039,773</u> )	\$0 to (Unknown, Could exceed <u>\$262,039,773</u> )
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>Could Exceed (\$271,213,853)</u></b>	<b><u>Could Exceed (\$271,213,853)</u></b>	<b><u>Could Exceed (\$271,213,853)</u></b>
<b>MO EMPOWERMENT SCHOLARSHIP ACCOUNTS FUND (0278)</b>			
<u>Revenue Gain</u> – 2% of qualifying contributions to educational assistance			

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
organizations from the expanded cap - §135.715 – p.6-7	Up to \$1,000,000	Up to \$1,000,000	Up to \$1,000,000
<u>Costs – STO - §135.715 - p.6-7</u>	Up to	Up to	Up to
Personnel Service	(\$70,000)	(\$85,680)	(\$87,394)
Fringe Benefits	(\$52,164)	(\$63,248)	(\$63,912)
Equipment and Expense	(\$11,767)	(\$5,100)	(\$5,202)
<u>Total Costs - STO</u>	(\$133,931)	(\$154,028)	(\$156,508)
FTE Change	Up to 2 FTE	Up to 2 FTE	Up to 2 FTE
<b>ESTIMATED NET EFFECT ON THE MO EMPOWERMENT SCHOLARSHIP ACCOUNTS FUND</b>	<b><u>Up to \$866,069</u></b>	<b><u>Up to \$845,972</u></b>	<b><u>Up to \$843,492</u></b>
Estimated Net FTE Change on General Revenue	Up to 2 FTE	Up to 2 FTE	Up to 2 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
<b>PUBLIC SCHOOLS</b>			
<u>Loss - Section 135.715 – from additional students transferring to private schools – p.6</u>	\$0 to Could exceed (\$40,825,920)	\$0 to Could exceed (\$40,825,920)	\$0 to Could exceed (\$40,825,920)
<u>Revenue Gain – §160.400 - Charter Schools – Additional Foundation Formula Call for Charter School Students (TAFP HB 1552) p.7-8</u>	\$0 to Unknown, Could exceed \$262,039,773	\$0 to Unknown, Could exceed \$262,039,773	\$0 to Unknown, Could exceed \$262,039,773
<u>Loss – §160.400 – Public School Districts – Transfer of Public School Students To Newly Implemented Charter Schools p.8</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
<u>Revenue Gain – §160.400 - Charter Schools – Increased Funding For New Charter Schools p.8</u>	\$0 to <u>Unknown</u>	\$0 to <u>Unknown</u>	\$0 to <u>Unknown</u>
<b>ESTIMATED NET EFFECT ON PUBLIC SCHOOLS</b>	<b><u>Could exceed</u> <u>\$221,213,853</u></b>	<b><u>Could exceed</u> <u>\$221,213,853</u></b>	<b><u>Could exceed</u> <u>\$221,213,853</u></b>

FISCAL IMPACT – Small Business

Small businesses that qualify for the credits, depending on size of the donation, will be positively impacted.

FISCAL DESCRIPTION

MISSOURI EMPOWERMENT SCHOLARSHIP ACCOUNTS PROGRAM

(Sections 135.713, 135.714, 135.715, and 166.700)

This act modifies provisions relating to the Missouri Empowerment Scholarship Accounts Program.

The act provides that all tax credits authorized under the program shall be refundable.

The act changes the maximum amount of tax credits that may be allocated in any year from \$50 million to \$75 million. Such maximum amount shall be increased annually by any percentage increase in the amount appropriated for student transportation over 90% of the projected amount necessary to fully fund transportation aid funding under current law. The act repeals a provision that the program shall be effective in any fiscal year immediately following any year in which the amount appropriated for pupil transportation equals or exceeds 40% of the projected amount necessary to fully fund transportation aid funding for fiscal year 2021. These provisions are substantially similar to provisions in SCS/SB 360 (2023).

The act modifies the total grant amount for students with an individualized education plan (IEP) or limited English proficiency or who receive free or reduced-price lunch. Students with limited English proficiency shall receive no more than 160% of the state adequacy target; students who receive free or reduced-price lunch shall receive no more than 125% of the state adequacy target; and students with an IEP shall receive no more than 175% of the state adequacy target. All other students shall receive a grant amount that does not exceed the state adequacy target. This provision is similar to a provision in HCS/HB 350 (2023).

Under the act, no parent of a student who attends a home school shall be required to undergo a background check in order to participate in the program. This provision is identical to a provision in SCS/SB 360 (2023).

The act repeals a provision that the annual increase to the cumulative amount of tax credits shall cease when the amount of tax credits reaches \$50 million.

If the total contributions to educational assistance organizations exceed \$25 million in any school year, the State Treasurer may certify one additional educational assistance organization to administer scholarship accounts. A maximum of seven, rather than six, educational assistance organizations may have their principal place of business in any one of the counties listed in the act.

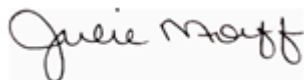
#### CHARTER SCHOOLS (Section 160.400)

This act adds all school districts located in Boone County, St. Charles County, and St. Louis County to the list of school districts in which a charter school may be operated by any entity currently authorized to operate a charter school under state law.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

#### SOURCES OF INFORMATION

Department of Elementary and Secondary Education  
Department of Revenue  
Office of the State Treasurer  
Office of the Secretary of State  
Joint Committee on Administrative Rules  
Oversight Division



Julie Morff  
Director  
February 12, 2024



Ross Strobe  
Assistant Director  
February 12, 2024