

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5886-01
Bill No.: HB 2307
Subject: Education, Elementary and Secondary; Tax Credits
Type: Original
Date: February 12, 2016

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	(Could exceed \$50,265,520)	(Could exceed \$50,100,000)	(Could exceed \$50,100,000)
Total Estimated Net Effect on General Revenue	(Could exceed \$50,265,520)	(Could exceed \$50,100,000)	(Could exceed \$50,100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	2 FTE	2 FTE	2 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

§135.713 Educational Assistance Tax Credit

Oversight notes in §135.713 this proposal allows a taxpayer to claim a tax credit equal to the amount they contribute to an educational assistance organization. The cumulative annual amount of tax credits that can be issued is \$50 million starting on January 1, 2016. The cumulative amount can be inflated annually by the Consumer Price Index. Oversight will show a loss to General Revenue Up to \$50 million in FY 2017 and Could Exceed \$50 million in FY 2018 and each year thereafter.

In response to similar legislation filed this year, SB 609, officials at the **Office of Administration's Division of Budget and Planning** assumed this proposal creates the MO Empowerment Scholarship Accounts Program, which distributes grants to scholarship accounts of qualified students to cover all or part of tuition and fees at a qualified school. This proposal also provides a tax credit to a taxpayer who makes a qualifying contribution, to an educational assistance organization, of up to 75% of the amount of the contribution. This tax credit is capped at \$50 million per fiscal year, but it is to be adjusted for inflation. DED is to receive up to two percent of qualifying contributions for marketing and administrative expenses of such program.

This proposal may reduce General and Total State Revenues up to (\$50 million) annually starting in calendar year 2016. The tax credit may be carried forward for four subsequent tax years. The proposal also directs that this maximum be adjusted for inflation based on the CPI for all urban consumers in the Midwest region; therefore, this proposal may reduce General and Total State Revenues up to an amount greater than \$50 million in subsequent tax years.

Oversight notes that HB 2307 provides the tax credit up to 100% of the qualified contribution.

In response to similar legislation filed this year, SB 609, officials at the **Department of Elementary and Secondary Education (DESE)** assumed in §135.713 tax subsidies reduce the state's tax revenues and decrease the amount of money available for public schools and all public school students.

ASSUMPTION (continued)

In response to similar legislation filed this year, SB 609, officials at the **Department of Economic Development (DED)** assumed they would be required to administer the program. This would require reviewing and issuing credits, ensuring educational assistance organizations meet their obligations under the law, and promulgating rules to implement the program. This would require DED hire two FTE. The estimated FTE cost is \$146,486 in FY 2017.

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

In response to similar legislation filed this year, SB 609, officials at the **Department of Revenue (DOR)** assumed this would require form and programming changes. The Personal Tax Division would need two Revenue Processing Technician I for tax credit redemption and tax credit transfers. The Corporate Tax Division would require three Revenue Processing Technicians II for tax credit redemptions, tax credit transfers and correspondence. The Integrated Tax System would need \$65,520 in new cost to implement this proposal.

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

Oversight will include the costs for the changes to the Integrated Tax System in the fiscal note.

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

Oversight notes this proposal in §135.712 creates educational assistance organizations that receive money from tax payers and allocate the money into empowerment scholarship accounts for qualified students. Money in the empowerment scholarship accounts can be used by qualified students to pay tuition and fees at a qualified school (home school or private school) per §166.705.

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

ASSUMPTION (continued)

The educational assistance organization can not transfer more than the state adequacy target amount into any qualified student's empowerment scholarship account. The current state adequacy amount is \$6,716 per student. **Oversight** notes that with the maximum of \$50 million available and the payment maximum of \$6,716 per student, the maximum number of students that could participate would be 7,445 students.

§166.710 Audits

In response to similar legislation filed this year, SB 609, **DESE** assumed in §166.710 the frequency language of the audits is not clear. As written, it appears DESE would conduct random audits, quarterly audits, and annual audits. For each account, this could mean at least 7 audits per year (2 random, 4 quarterly, and 1 annual). \$5,000 per audit (7 per year) = \$35,000 per account. We cannot predict the potential number of accounts.

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

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

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

Bill as a Whole

In response to similar legislation filed this year, SB 609, officials at the **Office of the Attorney General** assumed that any potential costs arising from this proposal can be absorbed with existing resources.

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

In response to similar legislation granting rule making authority to an agency, officials at the Office of the Secretary of State responded as follows:

Officials from the **Office of the Secretary of State (SOS)** stated 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

ASSUMPTION (continued)

this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
GENERAL REVENUE			
<u>Revenue</u> - DED - collection of 2% fee	Unknown	Unknown	Unknown
<u>Revenue Reduction</u> - educational assistance tax credit	(Up to \$50,000,000)	(Could exceed \$50,000,000)	(Could exceed \$50,000,000)
<u>Cost - DED</u>			
Personal Service	(\$86,820)	\$1,052,260	(\$106,278)
Fringe Benefits	(\$40,539)	(\$48,932)	(\$49,219)
Equipment and Expenses	<u>(\$19,127)</u>	<u>(\$7,833)</u>	<u>(\$8,030)</u>
<u>Total Cost - DED</u>	(\$146,486)	(\$161,991)	(\$163,527)
FTE Change	2 FTE	2 FTE	2 FTE
<u>Cost - DOR - Integrated Tax System updates</u>			
	(\$65,520)	\$0	\$0
<u>Cost - DESE - audits</u>	(Could exceed \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)
<u>Cost - DESE - one time setup of on-line and telephone fraud reporting systems</u>	(Could exceed \$100,000)	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	(Could exceed <u>\$50,265,520</u>)	(Could exceed <u>\$50,100,000</u>)	(Could exceed <u>\$50,100,000</u>)
Estimated Net FTE Change on General Revenue	2 FTE	2 FTE	2 FTE
<u>FISCAL IMPACT - Local Government</u>			
	FY 2017 (10 Mo.)	FY 2018	FY 2019
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This bill establishes the "Missouri Empowerment Scholarship Accounts Program" to help ensure the education of students in Missouri.

Education Assistance Organization Tax Credit (§135.713) - Beginning in tax year 2016, a taxpayer may make a qualifying contribution to an educational assistance organization and claim a tax credit, as specified in the bill. The tax credit is for 100% of the amount of the contribution. The tax credit may be carried forward for four years and may be transferred, sold, or assigned. The annual cumulative amount of tax credits is limited at \$50 million, which will be adjusted for inflation. The Director of the Department of Economic Development must establish a procedure to apportion the amount of tax credits amongst all educational assistance organizations. The director may reapportion those tax credits to educational assistance organizations that have used all, or a certain percentage, of their tax credits.

Education Assistance Organization Requirements (§135.714) - An educational assistance organization must meet certain requirements, including notifying the Department of Economic Development of its intent to provide scholarship accounts; being a 501(c)(3) organization; providing a receipt to taxpayers for contributions; ensuring that funds are used as specified in the bill; distributing scholarship payments four times per year or in one lump sum as specified, in an amount not to exceed the state adequacy target; providing the Department of Economic Development, upon request, with criminal background checks on all employees and board members; and demonstrating financial accountability and viability, as described in the bill.

Each educational assistance organization must publicly report to the department, by June 1 each year, the name and address of the organization, the name and address of each student who opened a scholarship account, the total number and dollar amount of contributions during the previous calendar year, the total number and dollar amount of scholarship accounts opened during the previous calendar year, and the total number and dollar amount of scholarship accounts opened during the previous year to students eligible for free and reduced lunch. An educational organization can contract with private financial management firms with the supervision of the state.

Standardized Forms (§135.716) - The Department of Economic Development must provide standardized forms for program participants. It may conduct a financial review or audit of any educational assistance organization if it possesses evidence of fraud. In addition, the department may bar an educational assistance organization from participating if it has failed to comply with program requirements. The department will not receive more than 2% of the qualifying contributions for marketing and administrative expenses or the costs incurred in administering the program, whichever is less.

FISCAL DESCRIPTION (continued)

These provision will sunset six years after the effective date.

Missouri Empowerment Scholarship Account Requirements (§166.705, 166.710, 166.715, and 166.720) - A student is eligible to receive funds in a Missouri Empowerment Scholarship Account if he or she is identified as having a disability, as specified in the bill, or is a ward of the state. To be eligible, a student must also have attended a public school under certain circumstances or be eligible to begin kindergarten.

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

The scholarship accounts are renewable on an annual basis upon request of the parent of a qualified student. Qualified students shall remain eligible for renewal until the student completes high school. If a qualified student withdraws from the program by enrolling in a school other than a qualified school, or is disqualified from the program for violations specified in the bill, the scholarship account shall be closed and any remaining funds 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 may be used for the purposes of higher education as described in the bill. Any funds remaining in the account after graduation from an eligible postsecondary institution or after a period of four years following graduation, whichever occurs first, shall be returned to the educational assistance organization for redistribution to other qualified students. Funds received under Sections 166.700 to 166.700 do not constitute taxable income to the parent of the qualified student.

The Department of Elementary and Secondary Education must conduct or contract for an annual audit of accounts to ensure compliance. The department must also conduct or contract for random quarterly audits of empowerment accounts as needed. A parent or guardian may be disqualified from program participation, if after a hearing before the Commissioner of Education, the parent or guardian is found to have committed an intentional program violation. A parent may appeal the department's decision as described in the bill. The department may refer cases of

FISCAL DESCRIPTION (continued)

substantial misuse of moneys to the Attorney General.

A qualified school that accepts payment from a parent must not be an agent of the state or federal government. Sections 166.700 to 166.720 do not permit any governmental agency to exercise control or supervision over any qualified school as described in the bill. A qualified school does not have to alter its creed, practices, admissions policy, or curriculum to accept students whose parents make payments from a scholarship account. The state shall bear the burden of establishing that the law is necessary and does not impose any undue burden on a qualified school in any legal proceeding challenging the application of §166.700 to 166.720.

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

SOURCES OF INFORMATION

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



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