

HCS HB 1589 & 2307 -- EDUCATIONAL SCHOLARSHIPS

SPONSOR: Koenig

COMMITTEE ACTION: HB 1589 voted "Do Pass with Amendments" by the Standing Committee on Ways and Means by a vote of 9 to 2. HB 2307 voted "Do Pass with Amendments" by the Standing Committee on Ways and Means by a vote of 9 to 2. Voted "Do Pass with HCS" by the Select Committee on Financial Institutions and Taxation by a vote of 9 to 1.

FOSTER CHILD EDUCATION FUND (Sections 135.2000, 166.700, and 210.1500, RSMo)

Beginning January 1, 2017, this bill authorizes a tax credit equal to 65% of a taxpayer's cash donations to an agency approved by the Department of Social Services to receive the donations, oversee the tax credit process, and distribute scholarships to foster children. The donations received are to be used solely for providing scholarships to eligible recipients to attend a private elementary or secondary school in this state. For the donation to qualify for this credit, it must be at least \$100 and not more than \$50,000. The credit is limited to 50% of the taxpayer's state tax liability for the taxable year the credit is claimed, cannot exceed \$25,000 per taxpayer, per taxable year, and is capped at \$5 million per fiscal year and issued but not redeemed credit at \$15 million per fiscal year. The credit cannot be refunded, or sold, but can be carried forward for three years.

An eligible recipient is a school-aged child enrolled in grades K-12 in state protective custody for at least 12 of the last 48 months. The credit is available to individuals, firms, partners, limited liability company members, shareholders, corporations, insurance companies, financial institutions, political subdivisions, express companies, and charitable organizations with Missouri unrelated business taxable income.

A scholarship is an annual grant to eligible recipients to cover all or part of the applicable tuition and fees at a qualified school. The amount must be the lesser of the previous year's tuition and fees for non-scholarship students at the qualified school or 90% of the previous year's average current expenditure per average daily attendance for the student's district of residence or the tuition amount set by the voluntary interdistrict coordinating council for the student's district of residence, if applicable. Any scholarship recipient will continue to be eligible to receive his or her scholarship upon a legal adoption, or after graduation from the qualified school where he or she first received a scholarship if attending a new qualified school.

The Department of Elementary and Secondary Education will establish rules for the approved agencies to implement this credit, issue tax credit certificates, grant scholarships, and prepare and maintain an easy-to-search database containing statewide assessment scores of all scholarship recipients.

EMPOWERMENT SCHOLARSHIP ACCOUNTS (Sections 135.712 to 135.719 and 166.700 to 166.720)

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

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.

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.

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.

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. Qualified students also includes children without disabilities. 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 substantial misuse of moneys to the Attorney General.

A person commits a class A misdemeanor if they are found to have knowingly used moneys for any purposes other than those set forth in the bill. A financial institution is not liable in any civil action for providing the financial information of an account to the Department of Elementary and Secondary Education unless the information provided is false and provided knowingly and with malice.

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 Sections 166.700 to 166.720.

The provisions of the empowerment scholarships will sunset six years after the effective date.

This bill is similar to HB 841 (2015) and SB 609 (2016).

**PROPONENTS:** Supporters of HB 1589 say that school choice is important to everyone, but especially the children who are most at risk. Children in foster care move around too much to get a good education. This bill allows them to be eligible for a scholarship to cover tuition costs for K-12 education at a private school. It gives them some consistency and they can stay at the private school no matter the district in which they are placed. Tax credits will be issued for donations from individuals and businesses.

Testifying for HB 1589 were Representative Koenig and Michael McShane.

PROPONENTS: Supporters of HB 2307 say that this bill is a new concept for educational funding. Taxpayers can donate to education entities and receive tax credits, and students get scholarships for K-12 education at private schools, charter schools, for tutoring, or for a home school model with tutoring and on-line classes. This bill allows parents to determine how to tailor their child's education.

Testifying for HB 2307 were Representative Bahr; Missouri Alliance For Freedom; and Michael McShane.

OPPONENTS: Those who oppose HB 1589 say as students are moved from foster family to foster family and change districts, the state doesn't need vouchers to fix this problem. The law already allows the foster child to remain in his or her current school district (Section 167.019). This is public money going to private schools. Federal education is not the same in a private school. A public school is required to provide for all the needs of the child and provide an appropriate education based on the child's needs while a private school doesn't have the same requirements.

The benefit the donor gets is a tax credit. The overuse of tax credits reduces the state's ability to fund transportation, education, and other programs. Tax credit style vouchers divert public funds to private schools that are not subject to standards of accountability, transparency, and respect for the rights of students, parents, and staff as are applicable to district schools.

Testifying against HB 1589 was the Missouri Association of School Administrators and the Missouri National Education Association.

OPPONENTS: Those who oppose HB 2307 say that they are against voucher-like bills, and tax credits and other schemes that reduce state revenues or direct state revenues to private or home schools not subject to standards of accountability applied to public schools. The bill needs to ensure that kids get a free and appropriate education (ADA). Nothing in this bill says that a qualified school provide teachers that are eligible and qualified with a certificate in special education. Also, this may lead to students being discriminated against or segregated due to the severity of their disability as there is no requirement that the qualified school place a student in the least restrictive environment. Money can't be used for technology under this bill or transportation for the child. The bill releases the school district once the child is enrolled in a private school. There is a question regarding the constitutionality or legality of this bill

(e.g. child find obligations).

Testifying against HB 2307 were Missouri Council Of School Administrators; Missouri National Education Association; Missouri State Teachers Association; and AFT St. Louis Local 420.