

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0526H.011  
 Bill No.: HB 253  
 Subject: Department of Elementary and Secondary Education; Education, Elementary and Secondary  
 Type: Original  
 Date: January 24, 2023

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Bill Summary: This proposal establishes transfer procedures to nonresident districts for students in public schools.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue*	(\$343,710)	More or Less than (\$80,076,127 to \$80,196,541)	More or Less than (\$77,889 to \$195,715)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$343,710)</b>	<b>More or Less than (\$80,076,127 to \$80,196,541)</b>	<b>More or Less than (\$77,889 to \$195,715)</b>

\*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.

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

\*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.

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

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

## 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.” DESE assumes the changes to this section would eliminate the inefficiency penalties that a district may incur as a result of transporting students to a magnet school. Because the transportation payment is not calculated by building within a district, changes to how data is collected and a change to the transportation calculation system would be necessary. These changes are reflected in the estimate from OA-ITSD.

#### Section 167.1200

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 would be without knowing what students were going to transfer and to which districts.

#### Section 167.1220

This section outlines requirements the process for a student to apply to attend a nonresident district, and the process by which a receiving district must determine whether to grant the request. If the resident district believes that the nonresident district is not in compliance with the outlined requirements, the nonresident district may submit an appeal to the Commissioner of the Missouri Department of Elementary and Secondary Education (§167.1220.5(5), RSMo). The Commissioner must first attempt to mediate the dispute, and if that is unsuccessful, the Commissioner will conduct a hearing and take testimony from both school boards.

DESE assumes that this Chapter 536, RSMo, hearing will be conducted by a designee of the Commissioner. 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 districts that are not able to be resolved through mediation, 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 167.1220.5(5)

This section states that within five days of the Commissioner’s decision, a school board may appeal the first-level decision to the Missouri State Board of Education “as provided in state law.” DESE assumes that the intent is to conduct another Chapter 536, RSMo, hearing, but would note that after conducting an initial Chapter 536, RSMo, hearing, this matter would now appear to be eligible for review at the circuit court level pursuant to § 536.100, RSMo.

However, were DESE to conduct a second Chapter 536 RSMo, hearing, the costs listed above would remain, with costs dependent on the number of second-level appeals that are made to the State Board of Education.

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 Courts Administrator** 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 for this office.

In response to a similar proposal, Perfected HCS HB 1814 (2022), officials from the **Office of the State Treasurer** 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 this agency.

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 an \$80 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.

In response to a similar proposal, SB 5 (2023), DESE stated they assume no more than ten hearings per year for an annual cost of \$5,665.50 for sections 167.1220 and 167.1230. **Oversight** will show an annual cost for hearings of \$5,666 beginning in FY 2025.

**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
<b>GENERAL REVENUE</b>			
<u>Costs</u> - OA-ITSD - foundation formula changes	(\$343,710)	(\$70,461)	(\$72,223)
<u>Transfer Out</u> – to the Parent Public School Choice Fund §167.1212.1	\$0	(\$80,000,000)	\$0 or (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 & §167.1230	\$0	(\$5,666)	(\$5,666)
<u>Costs</u> - DESE - to conduct annual audits - 167.1230.11	\$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</u> – DESE	\$0	(\$120,414)	(\$117,826)
FTE Change	0 FTE	0 or 1 FTE	0 or 1 FTE
<u>Savings</u> - DESE may withhold state aid for transfer improprieties identified by an audit - §167.1230.11	\$0	\$0	\$0 or Unknown
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b>(\$343,710)</b>	<b>More or Less than (\$80,076,127 to \$80,196,541)</b>	<b>More or Less than (\$77,889 to \$195,715)</b>
Estimated Net FTE Change on General Revenue	0 FTE	0 FTE or 1FTE	0 FTE or 1FTE

<u>FISCAL IMPACT – State Government</u> Continued	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>PARENT PUBLIC SCHOOL CHOICE FUND</b>			
<u>Transfer In</u> – from General Revenue	\$0	\$80,000,000	\$0 or Unknown
<u>Expenditures</u> – to parents/students or school districts for costs of transportation	<u>\$0</u>	<u>(\$80,000,000)</u>	\$0 or <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO THE PARENT PUBLIC SCHOOL CHOICE FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>



<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>SCHOOL DISTRICTS</b>			
<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 Parent Public School Choice Fund - to reimburse transportation costs - § 167.1210.6 (7)	\$0	\$0 or Unknown	\$0 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)
<b>ESTIMATED NET EFFECT ON SCHOOL DISTRICT FUNDS</b>	<b><u>\$0</u></b>	<b>(Unknown) or <u>Unknown</u></b>	<b>(Unknown) or <u>Unknown</u></b>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This bill establishes transfer procedures to nonresident districts for students in public schools.

## MAGNET SCHOOLS (Section 163.161)

This bill permits school districts that operate magnet schools included in a master desegregation settlement agreement to be exempt from transportation inefficiency requirements when transporting students to magnet schools.

## PUBLIC SCHOOL OPEN ENROLLMENT ACT (Sections 167.1200 to 167.1230)

The bill adds Sections 167.1200 to 167.1230, RSMo, establishing the "Public School Open Enrollment Act".

### DEFINITIONS (Section 167.1200)

This bill defines "nonresident district" and "resident district" among other definitions.

### TRANSFER POLICY AND PARTICIPATION (SECTION 167.1205)

The bill creates a public school open enrollment program with the design to improve quality instruction and increase parental involvement, provide access to programs and classes, and offer opportunity to align parental curriculum options to personal beliefs.

The bill specifies that any student beginning kindergarten or already enrolled in a public school may attend a public school in a nonresident district participating in the program. Districts must declare participation in the Open Enrollment Program by December 1 for the following school year. Participating districts are not required to add teachers, staff, or classrooms to accommodate transfer applicants. The bill includes a procedure for districts when a transferring student has special education needs. Schools may also establish standards for transfer applications and post the information on the school website and in the student handbook.

The Department of Elementary and Secondary Education (DESE) or an entity skilled in policy development shall develop a model open enrollment transfer policy as outlined in the bill. All public schools must adopt the model policy, regardless of participation in the program; however, each school board can modify the model policy based on the district's needs.

Students who wish to attend nonresident schools that have an academic or competitive entrance process shall furnish proof that they meet the admission requirements. Students that participate in open enrollment in high school may not participate in varsity sports during the first 365 days of enrollment in a nonresident district with exceptions outlined in the bill.

No transfers under this act can begin until the school year 2024-25. For school years 2024-25 through 2027-28 districts may restrict the number of transferring students to 4% of the previous school year's enrollment and the bill allows Hickman Mills school district to prevent or otherwise restrict the number of students leaving the district under this program until the 2026-27 school year.

### APPLYING FOR TRANSFER (Section 167.1210)

Any student that applies for a transfer may only accept one transfer per school year, although the student may return to their resident district and, if so, complete a full semester before applying

for another transfer. Students may complete all remaining school years in their nonresident district and any sibling may enroll if the district has the capacity as provided by the bill.

For the purposes of determining federal and state aid the student shall be counted as a resident pupil of the nonresident district, except for federal calculations of military impact aid. Parents will be responsible for transportation to the nonresident school or to an existing bus stop location in the nonresident district. Students that qualify for free and reduced meals may have transportation expenses reimbursed quarterly as outlined in the bill.

#### PARENT PUBLIC SCHOOL CHOICE FUND (Sections 167.1211 and 167.1212)

The bill allows districts to receive funding from the "Parent Public School Choice Fund" for special education services up to three times the current expenditure per average daily attendance and for transportation costs for students that qualify for free and reduced meals.

The bill establishes the "Parent Public School Choice Fund" with an \$80 million appropriation to be used to supplement open enrollment transfers from any resident district for transportation cost for students that qualify for free and reduced meals and to reimburse for special needs education as outlined in Section 167.1211.

#### NUMBER OF TRANSFER STUDENTS (Section 167.1215)

The bill specifies that annually, before December 1st, each school district shall set and publish the number of transfer students the district is willing to receive for the following school year. This number does not have to be more than zero. Districts will also develop a policy for a wait list.

#### APPLICATION PROCESS (Section 167.1220)

The processes for a transfer application and the details for notifications of acceptance or rejection are specified within the bill. Superintendents will review and reject applications in a timely manner and must present to the board any rejections for review. The bill explains the reasons that an eligible application may be rejected, and notification must be provided in writing by June 1st. The bill defines "good cause" and allows for consideration of applications that are submitted after February 1<sup>st</sup> and before July 1st. The Department of Elementary and Secondary Education shall be notified of all accepted students and will request an anonymous survey related to the reasons for participating in the open enrollment program. The Department will publish an annual report based on the survey results.

#### ALLOWED EXEMPTIONS (Section 167.1225)

This bill provides that prior to April 1st, a school district may annually declare an exemption for the upcoming school year, from the requirements set forth in this bill, provided that the school district is subject to a desegregation order or mandate of a federal court or agency remedying the

effects of past racial segregation or subject to a settlement agreement remedying the effects of past racial segregation. The bill requires that any student that transfers from a K-eight district enroll before the start of the student's sixth grade year, or the K-eight district must pay tuition as provided under Section 167.131. Additional exemptions are specified for students who qualify for transfers under other listed sections.

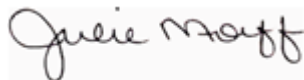
#### APPEAL AND ANNUAL REPORTING (Section 167.1230)

The bill determines when a student may be denied a transfer based on his or her discipline record and includes an appeal procedure. The Department shall collect and report data annually from school districts on the number of applications and study the effects of the public school choice program transfers. The report shall be submitted annually by December 1st to the Joint Committee on Education, the House Committee on Elementary and Secondary Education, and the Senate Committee on Education (Section 167.1230).


Some provisions of this bill have a delayed effective date of 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



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