

**COMMONWEALTH OF KENTUCKY FISCAL NOTE STATEMENT  
LEGISLATIVE RESEARCH COMMISSION  
2019 REGULAR SESSION**

**MEASURE**

2019 BR NUMBER 0297

HOUSE BILL NUMBER 205

**TITLE** AN ACT relating to opportunities in education.

**SPONSOR** Representative John Carney

**FISCAL SUMMARY**

STATE FISCAL IMPACT:  YES  NO  UNCERTAIN

OTHER FISCAL STATEMENT(S) THAT MAY APPLY:  ACTUARIAL ANALYSIS  LOCAL MANDATE  CORRECTIONS IMPACT  HEALTH BENEFIT MANDATE

APPROPRIATION UNIT(S) IMPACTED: \_\_\_\_\_

FUND(S) IMPACTED:  GENERAL  ROAD  FEDERAL  RESTRICTED \_\_\_\_\_

<b>FISCAL ESTIMATES</b>	<b>2018-2019</b>	<b>2019-2020</b>	<b>ANNUAL IMPACT AT FULL IMPLEMENTATION</b>
<b>REVENUES</b>	(\$7,000,000)	(\$21,000,000)	(Negative impact increases through FY 2024-2025) See explanation below
<b>EXPENDITURES</b>			
<b>NET EFFECT</b>	(\$7,000,000)	(\$21,000,000)	(Negative impact increases through FY 2024-2025) See explanation below

( ) indicates a decrease/negative

**PURPOSE OF MEASURE:**

This proposal, if enacted, would create a new tax credit for taxable years beginning January 1, 2019, but before January 1, 2024, for taxpayers making contributions to a qualified scholarship-granting organization for the purpose of providing funding for educational scholarships for foster children, students from low- and middle-income families, and children with special needs, to attend certified nonpublic schools or to receive qualified special educational services. The credit may be claimed against the individual income tax, corporation income tax, limited liability entity tax, and the bank franchise tax. To qualify for the credit, the taxpayer shall claim a federal and Kentucky deduction associated with the contributions made to qualified scholarship-granting organizations that do not exceed an amount equal to the total contribution for the taxable year less the amount of credit allowed by this proposed legislation for the taxable year.

Taxpayers are eligible for a tax credit equal to the lesser of 95 percent of the contribution or \$1,000,000 if the contribution is made for one year. If a multi-year contribution commitment is made, the tax credit will increase to the lesser of 97 percent of the contribution or \$1,000,000 in each year

in which the commitment is made. The credit may be carried forward for up to five succeeding taxable years until the credit has been utilized.

Only contributions to qualified scholarship-granting organizations on the list maintained by the Department of Revenue for each calendar year shall be recognized for tax credits under this proposal. Prior to making the contribution, the taxpayer or qualified scholarship-granting organization acting on behalf of the taxpayer is required to apply to the Department of Revenue for preapproval.

The aggregate value of the tax credit awarded beginning in fiscal year 2019-2020 shall not exceed \$25,000,000. The aggregate value of the tax credit in subsequent fiscal years is increased by 25 percent if 90 percent of the annual credit cap is reached in the immediately preceding fiscal year.

To qualify for a scholarship under this proposed legislation, the eligible student must meet one of the following criteria:

1. The student must be a member of a household with an annual household income at the time of initially applying for the scholarship of not more than 200 percent of the amount of household income necessary to establish eligibility for federal reduced-price meals program;
2. The student has previously received a scholarship under this program;
3. The student is a member of the household of a student that is currently receiving a scholarship under this program; or
4. The student is currently in the Commonwealth's foster care program.

**FISCAL EXPLANATION:**

It is estimated that there will be a negative impact of (\$7,000,000) to the General Fund in the current fiscal year related to the reduction of June 2019 estimated payments made by individuals and corporations in anticipation of making the applicable contributions during the taxable year. As additional estimated payments are made and returns are filed during fiscal year 2019-2020, it is estimated that the maximum negative impact will be (\$21 million). Assuming that the cap trigger is utilized in each subsequent fiscal year and that no action is taken by the General Assembly to extend the amount of credits available, the estimated negative impact to the General Fund will be as follows:

FY 2020-2021 - (\$32 million)  
FY 2021-2022 - (\$40 million)  
FY 2022-2023 - (\$50 million)  
FY 2023-2024 - (\$43 million)  
FY 2024-2025 - (\$16 million)

The negative impacts listed above are the maximum reductions to the General Fund. There may be other impacts which would produce savings, thereby reducing the maximum amount each fiscal year. Those savings are indeterminable.

HB 205 does not provide a requirement that the scholarships be granted to students transferring from public school systems, but if students, who currently attend a public school system in Kentucky that receives SEEK funding, transfer to a private school system as a result of receiving scholarships from this program, the SEEK funding for that school district could be indirectly adjusted. SEEK funding is based on a specific formula, and in order to estimate the adjustment in SEEK funding specific information would be needed about the students who transfer and the school districts the students

left. Since it cannot be forecasted which students will transfer or which school district they will leave, the necessary information to determine if the SEEK funding will change is not obtainable.

If enough students leave to cause a school district's enrollment to decline, the school district's SEEK funding would reduce, which would result in lower state funds for the school district and excess SEEK funds for the state. In accordance with the current biennial budget bill, any excess in SEEK funds is added to the allocation for pupil transportation in that same fiscal year and distributed in accordance with KRS 157.370. Therefore, excess SEEK funds will not be returned to the General Fund during this biennial budget. Overall, due to the necessary information not being obtainable, the fiscal impact HB 205 has on SEEK funds is indeterminable.

**DATA SOURCE(S): LRC**

**PREPARER: Cynthia Brown NOTE NUMBER: 43 REVIEW: JAB DATE: 2/15/2019**