

**COMMONWEALTH OF KENTUCKY FISCAL NOTE STATEMENT  
LEGISLATIVE RESEARCH COMMISSION  
2021 REGULAR SESSION**

**REVISED**

**MEASURE**

2021 BR NUMBER 1716

HOUSE BILL NUMBER 563/HCS 1

**TITLE AN ACT** relating to school choice.

**SPONSOR** Representative James Tipton

**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: SEEK, Legislative Research Commission (LRC)

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

FISCAL ESTIMATES	2020-2021	2021-2022	ANNUAL IMPACT AT FULL IMPLEMENTATION
REVENUES	(\$7,000,000)	(\$21,000,000)	(\$25,000,000)
EXPENDITURES		\$10,000	Indeterminable
NET EFFECT	(\$7,000,000)	(\$21,010,000)	(Indeterminable)

( ) indicates a decrease/negative

**PURPOSE OF MEASURE:** The legislation requires local school boards to adopt a nonresident pupil policy, amends KRS 157.350 to include nonresident students in the average daily attendance for SEEK beginning July 1, 2022, and prohibits students who transfer to a nonresident district from participating in interscholastic activities for one calendar year. The legislation also requires the Kentucky Department of Education to submit a report regarding the equitable transfer of local effort funds, and directs the LRC to establish the School Funding Task Force. This legislation also establishes the Education Opportunity Account Program (EOA program) and a related tax credit.

For taxable years beginning on or after January 1, 2021, but before January 1, 2026, the EOA program allows a tax credit for contributions made to Account Granting Organizations (AGO) for the purpose of providing funding for qualifying educational expenses of eligible students who participate in the EOA program. The credit may be claimed against individual income tax, corporation income tax, and limited liability entity tax. To qualify for the credit, the taxpayer, filing as an individual, shall elect to claim a federal and Kentucky contribution deduction associated with the contributions made to AGO that does 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 full amount of the credit has been used.

Only contributions to AGOs 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 AGO 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 cannot exceed \$25,000,000 annually.

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 of not more than 175% of the amount of household income necessary to establish eligibility for federal reduced-price meals program;
2. The student has previously received funds from an AGO under an EOA program; or
3. The student is a member of the household of an eligible student that is currently receiving funds from an AGO under an EOA program.

**FISCAL EXPLANATION:** In fiscal year (FY) 19, there were 388 nonresident students with no written agreement between their home district and the nonresident district where the student was enrolled. If this legislation is enacted, students that meet this criteria will be counted in the average daily attendance of the nonresident district beginning in FY 23. For illustration purposes, if 388 students were added to districts' average daily attendance proportionally statewide, SEEK expenditures would increase by \$2.03 million in FY 22. However, the annual increase to SEEK expenditures is indeterminable due to the various factors that change each year such as property assessments, average daily attendance, and student add-ons.

The fiscal impact to the LRC is the cost of reimbursements to members of the task force for travel to meetings. The measure does not require a specific number of meetings but assuming a total of three meetings being held during the 2021 Interim with varying mileage and hotel costs, the total cost is approximately \$10,000.

In relation to the tax credit, it is estimated that there will be an impact of (\$7,000,000) to the General Fund in FY 2021 related to the reduction of June 2021 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 2022, it is estimated that the maximum negative impact will be (\$21,000,000). At full implementation, the fiscal impact of the tax credit would be \$25,000,000, if the cap is reached each year.

**DATA SOURCE(S):** Kentucky Department of Education, LRC Staff  
**PREPARER:** Seth Dawson & Cynthia Brown **NOTE NUMBER:** 80 **REVIEW:** JAB **DATE:** 3/8/2021