**COMMONWEALTH OF KENTUCKY STATE FISCAL NOTE STATEMENT**
**LEGISLATIVE RESEARCH COMMISSION**
**2018 REGULAR SESSION**

## MEASURE

2018 BR NUMBER **0073** **HOUSE** BILL NUMBER **134**

RESOLUTION NUMBER_____ AMENDMENT NUMBER _____

**SUBJECT/TITLE An ACT relating to opportunities in education and making an appropriation therefor.**

**SPONSOR Representative J. Carney**

## NOTE SUMMARY

FISCAL ANALYSIS: ☒ IMPACT ☐ NO IMPACT ☐ INDETERMINABLE IMPACT

LEVEL(S) OF IMPACT: ☒ STATE ☐ LOCAL ☐ FEDERAL

BUDGET UNIT(S) IMPACT: _____

FUND(S) IMPACT: ☒ GENERAL ☐ ROAD ☐ FEDERAL ☐ RESTRICTED AGENCY _____ ☐ OTHER

## FISCAL SUMMARY

| FISCAL ESTIMATES | 2017-2018 | 2018-2019 | 2019-2020 | ANNUAL IMPACT AT FULL IMPLEMENTATION |
|---|---|---|---|---|
| **REVENUES** | ($7,000,000) | ($21,000,000) | ($32,000,000) | (substantial negative impact) See explanation below |
| **EXPENDITURES** | | | | |
| **NET EFFECT** | ($7,000,000) | ($21,000,000) | ($32,000,000) | (substantial negative impact) See explanation below |

( ) indicates a decrease/negative

**MEASURE'S PURPOSE:** This proposal, if enacted, would create a new tax credit for taxable years beginning January 1, 2018, but before January 1, 2023, 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. To qualify for the credit, the taxpayer shall elect to claim a federal and Kentucky contribution deduction associated with the contributions made to qualified scholarship-granting organizations that does not exceed an amount equal to the total contribution for the taxable year less the amount of credit allowed by is 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 2018-2019 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 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.

**PROVISIONS/MECHANICS:**

Section 1 creates a new section of KRS Chapter 141 to establish a separate income tax credit for tuition assistance based on contributions made to a qualified scholarship-granting organization.

Section 2 creates a new section of KRS Chapter 141 to states the purpose and goals of the legislation and reporting by the Department of Revenue of metrics related to those goals.

Section 3 amends KRS 141.0205 to establish the order in which the credits may be taken.

Section 4 creates a new section of KRS 136.500 to 136.575 to allow financial institutions to take the tax credit against the tax imposed by KRS 136.505.

Section 5 creates a new section of KRS 136.500 to 136.575 in which the credits may be taken.

Section 6 creates a new section of KRS Chapter 136 to require the Kentucky Department of Education to publish a list of certified nonpublic schools and nonpublic schools seeking certification.

Section 7 amends KRS 131.020 to make a conforming change.

Section 8 amends KRS 131.135 to make a conforming change.

Section 9 amends KRS 131.190 to allow the Department of Revenue to provide the required data to the Legislative Research Commission without breaching confidentiality.

Sections 10 thru 13 amends KRS 131.618, 131.650, 131.990, and 141.389 to conform.

**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 2018 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 2018-2019, 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 2019-2020 - ($32 million)
FY 2020-2021 - ($40 million)
FY 2021-2022 - ($50 million)
FY 2022-2023 – ($43 million)
FY 2023-2024 – ($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.

**DATA SOURCE(S)**: **LRC**
**PREPARER**: **Charlotte Quarles** **NOTE NUMBER**: **0073** **REVIEW**: **JAB** **DATE**: **1/24/2018**