

FISCAL NOTE

The purpose of this bill is create an Educational Savings Account Program.

Revenues:

The definition of eligible student is any elementary or secondary student who attended a public school in West Virginia the prior year and not an out of state school. We anticipate the number of accounts will initially be 2,000 with a total of 4,000 long term. These amounts are extrapolated using information from the Arizona program and the number of children under 18 per the 2000 census.

For 2,000 accounts, we estimate the amount that will need to be appropriated for deposit into the ESAs is \$7.6 million. Once the Program reaches maturity, we expect the amount to be \$15.2 million. The bill contemplates that there may be insufficient funding in §18-31-3(5). If full funding is not provided, the estimated amounts will reduce, but the estimated expenses are generally fixed.

The bill limits the amounts that may be deducted from ESAs for administration in §18-31-5(5) to a maximum of 3% annually. The 3% of the \$15 million to be appropriated would give a maximum amount of revenue of \$450,000. If the amount is the \$7.6 million, the revenue would be \$228,000. We do not anticipate that even the \$450,000 will be sufficient to cover the anticipated expenses. Also, the bill does not create a fund into which the revenue may be deposited, nor does the bill create a fund into which the moneys from the Department of Education may be deposited.

Expenses:

We anticipate the need for at least five employees in the State Treasurer's Office, with annual salaries and benefits estimated at \$345,000. This would include a director, accountant and three administrative staff. Treasurer is required to audit individual accounts on a random basis, as well as to establish the forms and policies required to operate the Program and to manage the contracting organizations.

For current expenses, we estimate basic annual current expenses at \$100,000, excluding the auditing firm and advertising. Beginning in fiscal year 2022, an auditing firm would be hired annually at an estimated cost of \$100,000 per year (Treasurer is required to audit the individual accounts at least annually). To ensure Program awareness, we estimate that advertising and materials publication will be \$100,000 in year 1 and \$20,000 thereafter.

The bill contemplates litigation in §18-31-9, as has happened in other states. The nature of the litigation may be quite varied. For example, the impact of Article X, Section 6 of the West Virginia Constitution as to public versus private use of state funds may be included. The outcomes of the litigation to date in other states are mixed. There

will need to be an appropriation to cover those expenses, even if the Attorney General provides the legal services. We estimate the litigation expenses at \$200,000.

The Treasurer is required to contract with private organizations to administer the ESA Program and to provide a payment system. We have no way of knowing what private organizations will charge for these services until the contracts have been executed. A couple of the issues we expect will make the program less attractive to bidders are that funds do not accumulate in the ESAs, per §18-31-3(a)(3), and the anticipation of uncertain funding. Account balances that do not accumulate will create low account balances, meaning less assets to manage. The insufficient funding contemplated in §18-31-3(5) will necessitate a per account fee. For purposes of this fiscal note, we estimate the cost to be around \$100 per account for \$400,000 annually, beginning in fiscal year 2021. For fiscal year 2020, we anticipate the cost to be \$50,000.

In §18-31-3(f), the bill provides that moneys “deposited in an ESA do not constitute taxable income to the parent or the ESA student.” While the state may be able to limit the taxability of the moneys by the State of West Virginia, we are unsure that the federal government will be as considerate. There will also be the need for specialty counsel for the creation and structure of the program and to consider any tax consequences. We estimate the cost of \$75,000 in year 1 and \$25,000 in year 2.

The cost of the parent review committee needs to be considered. The 7 members will come from different parts of the state. In §18-31-6(b)(A), the bill requires the members to represent at least 4 counties. The bill does not give the members any stipend. However, we believe they will be entitled to receive their expenses. Their lodging, meals and travel expenses are expected to be more during implementation in the amount of \$75,000 the first year and \$40,000 per year thereafter.

This amounts to total expenses of \$1,195,000 for year 1 and \$910,000 thereafter. All of these estimates are subject to increases due to inflation.

In the first year while creating the Program, dealing with potential litigation and bidding out the contracts, there will be no revenue until the ESAs are created and operating. An appropriation will be needed to cover the expenses.

Problems we found are that two accounts need to be created in the Treasurer’s Office. One account is to receive funds from the Department of Education and one to hold the administrative funds.

Effect of Proposal	Fiscal Year			
	2019	2020	2021	2021
1. Estimated Total Cost		945,000	930,000	985,000
Personal Services		345,000	345,000	345,000
Current Expenses		400,000	585,000	640,000
Other		200,000	-	-
2. Estimated Total Revenues			228,000	450,000

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